



# Disadvantaged Business Enterprise (DBE) Program

access



# Table of Contents

<b>I. Policy</b> .....	4
A. Policy Statement (§26.3; 26.7; 26.21 and 26.23).....	4
B. Objectives (§ 26.1).....	4
<b>II. Applicability (§26.3 and 26.21)</b> .....	6
<b>III. Definitions (§26.5)</b> .....	7
<b>IV. Responsibilities For DBE Program Implementation</b> .....	12
A. DBE Liaison Officer (§26.25).....	12
B. Reconsideration Official (§26.53 (d) (2)).....	14
<b>V. Administrative Requirements</b> .....	15
A. DBE Financial Institutions (§26.27).....	15
B. DBE Directory (§26.31).....	15
C. Overconcentration (§26.33).....	16
D. Business Development Programs (§26.35; Appendix C & Appendix D).....	16
<b>VI. Establishing, Meeting And Counting Overall DBE Goals</b> .....	16
A. Methodology for Setting Overall DBE Goals (§26.45).....	17
1. Projecting Federally-Assisted Contract Expenditures for Goal Period.....	17
2. Establishing a Base Figure.....	18
3. Adjusting the Base Figure.....	18
4. Consultative Process.....	19
B. Transit Vehicle Manufacturer Certification (§26.49).....	19
C. Procedures for Meeting Goals and DBE Participation Objectives...	19
1. Race and Gender Neutral Measures.....	19
2. Race-Conscious Measures.....	20
D. Methodology for Setting Contract-Specific Goals (§26.51).....	20
E. Procedures to Evaluate Award of Contract with Contract-Specific Goals.....	21
1. Evaluation of Proposals.....	22
2. Evaluation of DBE Certification Status.....	22
3. Recommendation for Award.....	22

1.	Meeting Established Goals (§ 26.53(b)).....	24
2.	Demonstrating Good Faith Efforts (§ 26.53(a) & (c)).....	24
G.	Counting DBE Participation (§26.55) .....	25
1.	Evaluation of Proposals with DBE Goals.....	26
2.	Counting DBE Participation towards the Contract Goal.....	26
H.	Use of Set Asides or Quotas (§26.43 and 26.47).....	28
<b>VII.</b>	<b>Required Contract Provisions</b> .....	<b>28</b>
A.	Non-Discrimination Assurances (§26.13(a)).....	28
B.	Prompt Payment Provisions (§26.29).....	29
C.	Legal and Contract Remedies (§26.37; Appendix B).....	30
D.	Contractor Reporting Requirements (§26.55).....	31
1.	Notification of Reporting Responsibilities .....	31
2.	DBE Activity Reporting Forms.....	31
3.	Contractor Good Faith Efforts and Reporting Obligations.....	32
4.	DBE Substitution and Termination (§ 26.53(f)) .....	32
5.	Contractor’s Assurance Clause Regarding Non-Discrimination (§26.13(b)) .....	35
<b>VIII.</b>	<b>Certification Standards</b> .....	<b>36</b>
<b>IX.</b>	<b>Recordkeeping And Monitoring (§26.11 and 26.37)</b> .....	<b>36</b>
A.	Bidder’s List (§26.11(c) and 26.37).....	37
B.	Monitoring and Enforcement Mechanisms (§26.37).....	37
C.	Reporting to U.S. DOT (§26.11).....	38
D.	On-Site Performance Monitoring.....	38
E.	Written Certification .....	39
<b>X.</b>	<b>Public Participation &amp; Outreach Efforts (§26.45; 26.51 and 26.15)</b> ....	<b>39</b>
A.	Publication of Proposed Overall Goals .....	39
B.	Public Participation and Outreach .....	39
C.	Fostering Small Business Participation (§26.39).....	40
<b>XI.</b>	<b>Attachments</b> .....	<b>41</b>



# Disadvantaged Business Enterprise (DBE) Program

## I. Policy

### A. Policy Statement (§26.3; 26.7; 26.21 and 26.23)

Access Services (hereinafter referred to as “Access”) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations published under U.S. Department of Transportation (U.S. DOT) Title 49 CFR Part 26. Access receives Federal financial assistance from the Department of Transportation, Federal Transit Administration (FTA), and as a condition of receiving this assistance, Access has signed an assurance that it will comply with 49, CFR Part 26.

It is the policy of Access to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in Access’ U.S. DOT-assisted contracts. This Policy serves to outline specific actions, which will be taken by Access to create a level playing field and foster equal opportunity in all federally funded Access Services Provider contracting opportunities.

### B. Objectives (§ 26.1)

It is also our policy to:

1. Provide a level playing field by which DBEs can compete fairly for and perform in Access’ U.S. DOT-assisted contracting opportunities.
2. Ensure non-discrimination in the award and administration of all Access contracts and subcontracts.
3. Ensure that Access’ DBE Program is narrowly tailored in accordance with applicable law and current legal standards, including the Ninth Circuit Ruling in *Western States Paving vs. Washington State Department of Transportation*.
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs.
5. Help remove procurement and contracting barriers, which impede DBE participation.
6. Monitor and enforce contractor’s compliance in meeting established goal objectives and program requirements, including pre- and post-award good faith efforts criteria.

7. Assist in the development of DBEs to increase their ability to compete successfully in the market place outside Access's DBE Program.
8. Ensure Access' contractors and subcontractors take all necessary and reasonable steps to comply with these policy objectives.

As evidence of Access' commitment to pursue these objectives, the Executive Director has designated Access Services Manager, Training and Compliance, Alvina Narayan, to serve as Access's DBE Liaison Officer. The DBE Liaison Officer is responsible for implementing all aspects of the DBE program. Other Access executive and management personnel, especially those responsible for procurement and contracting, shall give their full cooperation to the DBE Liaison Officer and/or designee in the implementation of this Policy. The DBE Liaison Officer has direct access to the Executive Director for DBE related matters. Implementation of the DBE Program has the same priority with all other legal obligations incurred by Access within its financial assistance agreement with the U.S. DOT. Access will continue to carry out this Program until all funds from U.S. DOT financial assistance have been expended and will provide to U.S. DOT updates representing significant changes to the Program as necessary.

Access' DBE Policy Statement has been distributed to all Access personnel and to members of the DBE and non-DBE business contractors that perform or are interested in performing work on Access' U.S. DOT-assisted Service Provider contracts through the solicitation process and Access' website.

Through such efforts, Access will ensure U.S. DOT-assisted service provider contracting and procurement related processes promote equity in access, consideration and opportunity for DBEs in response to requirements set forth at 49 CFR Part 26; Participation of Disadvantaged Business Enterprises in U.S. DOT Programs, effective March 4, 1999 and subsequently issued U.S. DOT Directives and Federal Registers.



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Andre Colaiace  
Executive Director

7/25/18

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Date

## **II. Applicability (§26.3 and 26.21)**

Access is a direct recipient of Federal Section 5310 Grant Funds from the U.S. Department of Transportation (U.S. DOT), Federal Transit Administration (FTA). As a condition of funding assistance, and in accordance with federal regulations published at 49 CFR Part 26, Access is required to submit for approval, to the Federal Transit Administration, a Disadvantaged Business Enterprise Program, and an overall agency DBE goal which it agrees to implement in accordance with the prescribed regulations. This Program sets forth the policies and procedures to be implemented by Access to ensure that DBEs have an equitable opportunity to participate in Access' U.S. DOT-assisted Service Provider contracting opportunities.

In direct response to these legislative requirements, Access hereby establishes a DBE Program, which will:

1. Comply with federal regulations and financial assistance agreements;
2. Meet legal standards for unique and narrow program tailoring;
3. Ensure non-discrimination in the award of U.S. DOT-assisted contracts; and
4. Reaffirm commitment to fairness and the principles of equal opportunity.

In the event of any conflicts or inconsistencies between the Regulations and the Access's DBE Program with respect to U.S. DOT-assisted contracts, the Regulations shall prevail.

Access is currently implementing its DBE Program and corresponding Overall Agency DBE Goal utilizing strictly race-neutral measures, as Access has continued to demonstrate its responsiveness in meeting and/or exceeding its established Overall DBE goals.

Access is also effectively complying with directives and guidance received from U.S. DOT, specifically notices issued on March 23, 2006 and August 21, 2006 as a result of the Ninth Circuit ruling in *Western States Paving vs. Washington State Department of Transportation* requiring recipients to utilize strictly race-neutral measures.

### **III. Definitions (§26.5)**

The terms used in this Program are defined in 49 CFR Part 26.5. Some of the most common terms are defined below:

**Affirmative Action:** Positive activities undertaken by Access and its contractors to eliminate discrimination and effects of past discrimination and to ensure non-discriminatory practices in the future.

**Bidders List:** A list of all contractors that have expressed an interest in bidding on prime contracts and subcontracts on U.S. DOT-assisted projects.

**California Unified Certification Program (CUCP):** One-stop certification clearinghouse enabling applicants to apply once for DBE certification which will be honored by all U.S. DOT recipients in the state.

**Commercially Useful Function:** Work performed by a DBE firm in a particular transaction that, in light of industry practices and other relevant considerations, has a necessary and useful role in the transaction, i.e., the firm's role is not a superfluous step added in an attempt to obtain credit toward goals. If, in Access' judgment, the firm (even though an eligible DBE) does not perform a commercially useful function in the transaction, no credit toward the goal may be awarded.

**Compliance:** A contractor has correctly implemented the requirements of the DBE Program.

**Contracting Opportunity:** Any decision by Access or its contractors to institute a procurement action to obtain a product or service commercially (as opposed to inter-governmental actions).

**Contract:** A legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to construction and professional services) and the buyer to pay for them.

**Contractor:** One who participates, through a contract or subcontract (at any tier), in a U.S. DOT-assisted program.

**DBE Directory:** List of Certified firms, which is used by Access and its contractors to identify DBE potential prime contractors and subcontractors and suppliers. Access utilizes the online DBE Directory of the California Unified Certification Program.

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

**Disadvantaged Business Enterprise or DBE:** A for-profit small business concern:

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;
2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
3. Has been certified as Disadvantaged in accordance with 49 CFR 26.

**DOT-Assisted Contract:** A contract between a recipient and a contractor (at any tier) funded in whole or in part with U.S. DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land or improved real property.

**Goal:** A numerically expressed objective, which Access or its contractors are required to make good faith efforts to achieve in a race-conscious solicitation contract.

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

**Immediate Family Member:** Father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law and father-in-law.

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



**Manufacturer:** A firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by specifications.

**Noncompliance:** A contractor has not correctly implemented the requirements of the DBE program.

**Operating Administration or OA:** Any of the following agencies of the U.S. Department of Transportation (U.S. DOT): the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The “Administrator” of an operating administration includes his or her designees.

**Personal Net Worth:** The net values of the assets of an individual remaining after total liabilities are deducted. An individual’s personal net worth does not include: The individual’s ownership interest in an applicant or participative DBE firm or the individual’s equity in his or her primary place of residence. An individual’s personal net worth includes only his or her own share of assets jointly as a community property with the individual’s spouse.

**Primary Industry Classification:** The four-digit Standard Industrial Classification (SIC) code designation which best describes the primary business of a firm.

**Primary Recipient:** A recipient of U.S. DOT financial assistance who passes some or all of it on to another recipient.

**Principal Place of Business:** The business location where the individuals who manage the firm’s day to day operations spend most working hours and where top management’s business records are kept. If the offices from which management is directed and where business records are kept are in different locations, Access will determine the principal place of business for DBE program purposes.

**Program:** Any undertaking on Access’ part to use U.S. DOT financial assistance authorized by laws to which the DBE Program applies.

**Race-Conscious Measure or Program:** A program or portion thereof that focuses specifically on assisting only DBEs, by the development and inclusion of participation goals or best effort activities.

**Race-Neutral Measure or Program:** A program or portion thereof that, assists all small businesses regardless of ownership through community outreach and awareness programs to participate successfully in Access' procurement program. For the purposes of the DBE Program, "race neutral" includes gender neutrality.

**Regular Dealer:** A firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. Any supplementing of regular dealers' own distribution equipment shall be by a long-term lease agreement and not on an ad-hoc or contract by contract basis.

**Secretary:** The Secretary of Transportation or his/her designee.

**Set-Aside:** A contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms or on some other basis not related to qualifications or pricing.

**Small Business Administration or SBA:** The federal United States Small Business Administration.

**Small Business Concern:** With respect to firms seeking to participate as DBEs in U.S. DOT-assisted contracts, a business which meets the definition contained in Section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65 (b).

**Socially and Economically Disadvantaged Individual:** Any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

- (1) Found by Access to be a socially and economically disadvantaged individual on a case by case basis.
- (2) A member of any one or more of the following groups, members of which are rebuttably presumed to be social and economically disadvantaged:
  - (i) "Black Americans" which includes persons having origins in any of the Black racial groups of Africa;
  - (ii) "Hispanic Americans" which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
  - (iii) "Native Americans" which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;
  - (iv) "Asian-Pacific Americans" which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;
  - (v) "Subcontinent Asian Americans" which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
  - (vi) Women; and
  - (vii) Any additional group whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

**Subrecipient:** Any entity that receives U.S. DOT financial assistance through a primary recipient.

**Transit Vehicle:** A vehicle used by Access, e.g. railcar, bus or van, for the primary program purpose of public mass transportation; this definition does not include locomotives or ferry boats.

**Transit Vehicle Manufacturer or TVM:** A manufacturer of vehicles used by Access for the primary program purpose of public mass transportation (e.g. railcars, buses, and vans). The term does not apply to firms, which rehabilitate old vehicles, or to manufacturers of dealers in transit vehicles with respect to requirement of paragraph 26.49 of the Regulation.

**Tribally Owned Concern:** Any concern at least 51 percent owned by an Indian tribe as defined in this Program.

#### **IV. Responsibilities For DBE Program Implementation**

##### **A. DBE Liaison Officer (§26.25)**

The Executive Director, while maintaining ultimate responsibility for Access's DBE Program, has designated the Manager, Training and Compliance as the DBE Liaison Officer to implement all aspects of Access' DBE Program. The DBE Liaison Officer will have direct, independent access to the Executive Director concerning DBE program matters and will be assigned staff as necessary to fully administer the program in compliance with the provisions of 49 CFR Part 26. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

Access' DBE Liaison Officer is:

##### **DBE Liaison Officer Contact Information:**

Alvina Narayan, Manager, Training and Compliance

DBE Liaison Officer

Access Services

PO Box 5728, El Monte, CA, 91734

Phone: **213.270.6000**, e-mail: [narayan@accessla.org](mailto:narayan@accessla.org)

The DBE Liaison Officer is responsible for developing, implementing and monitoring the DBE Program, in coordination with other appropriate Agency personnel.

The DBE Liaison Officer's duties include, but are not limited to the following:

1. Analyze and revise DBE program policies and procedures as necessary.
2. Implement and monitor DBE Program, in coordination with Executive staff and Board of Directors.
3. Advise the Executive Director and Board of Directors on DBE matters and achievements.
4. Perform goal-setting analysis for establishing overall DBE goals and contract-specific goals as necessary, for DBE participation.
5. Conduct and coordinate outreach efforts to DBEs and community organizations to provide information of upcoming contract opportunities.
6. Participate at pre-proposal conferences to inform potential competitors of DBE requirements and availability.
7. Remove barriers, which may limit DBE participation by ensuring that Invitation for Bids (IFBs) and Request for Proposals (RFPs) do not contain unduly restrictive requirements.
8. Develop and implement technical assistance programs for DBEs, including resources and referrals to supportive services.
9. Arrange solicitations, presentation of bids or proposals and determine required quantities, specifications, and proposal delivery schedules, to facilitate a level playing field for DBEs.
10. Coordinate information and communication programs regarding contracting opportunities within a timely manner.
11. Investigate services and resources offered by banks and/or financial institutions owned and controlled by socially and economically disadvantaged individuals.
12. Ensure that, prior to approval of the substitution of any DBE sub-contractor, that prime contractor service providers evidence good faith efforts, to replace the DBE initially proposed, with another eligible DBE in a race-conscious contract.
13. Perform analysis of good faith efforts when the project goal is not achieved in a race-conscious solicitation contract with a contract specific goal.
14. Review service provider/contractor compliance with all DBE provisions including DBE goal commitments made within bids or proposal, throughout the performance of the contract; and, imposes administrative sanctions for non-compliance.

15. Maintain documentation as necessary to verify performance of activities included in this Program.
16. Gather and maintain statistical data and other information as required by U.S. DOT.
17. Actively support and participate in the establishment of a Uniform Certification Program as a non-certifying member Agency.
18. Analyzes Access's progress toward meeting established goal objectives and identify ways to improve progress.

**B. Reconsideration Official (§26.53 (d) (2))**

In instances where race-conscious contract goals are established, and an apparent successful proposer fails to satisfy the requirements for meeting the contract goal, or good faith efforts, Access will provide the proposer, prior to award of the contract, an opportunity for administrative reconsideration. The administrative reconsideration process will be facilitated by Access's Reconsideration Official who may be an outside consultant. The Reconsideration Official shall be another recipient agency's DBE Liaison Officer or an outside consultant as an independent, impartial party. To ensure integrity in the process, the Reconsideration Official will not have taken part in the original determination relative to the goal or good faith efforts of the subject procurement.

The process will provide an opportunity to the proposer for an in-person hearing with the Reconsideration Official, to discuss and submit written evidence/documentation of compliance with goal or good faith effort requirements as set forth in the solicitation.

Access will sufficiently document the basis for the reconsideration determination, and forward the final determination to the proposer within seven (7) working days of the hearing date. All parties shall be advised that the result of the reconsideration process is not administratively appealable to U.S. DOT.

Oversight of this process shall be performed jointly by Access' Executive Director and/or designee and the Reconsideration Official, who shall:

1. Ensure that all DBE administrative reconsideration procedural actions are consistent with 49 CFR 26.53 and 26.87 requirements and standards, and that program integrity is maintained at all times.

2. Maintain verbatim records of hearings conducted.
3. Provide determinations in writing to Access' DBE Liaison Officer.

## **V. Administrative Requirements**

### **A. DBE Financial Institutions (§26.27)**

Access shall thoroughly investigate the full extent of services offered by banks and/or financial institutions owned and controlled by socially and economically disadvantaged individuals within Access's jurisdiction and make the greatest feasible use of these institutions. Further, it is Access' commitment to encourage prime contractors to use such institutions as well. Please see Attachment 4 for a listing of available DBE financial institutions.

### **B. DBE Directory (§26.31)**

Access will utilize the California Unified Certification Program (CUCP) directory of DBE firms as the primary resources for establishing and achieving DBE participation goals and good faith effort requirements for Access' service provider contracts. The CUCP DBE Directory is organized according to type of firm specialty, to enable identification of businesses with capabilities relevant to a particular trade, industry or procurement. The CUCP DBE Directory includes the following information for each certified DBE:

1. Name, address and telephone numbers;
2. Type of work/service provided;
3. Contact persons; and
4. DBE certification status.

Access will refer to the CUCP DBE Directory prior to sending out contract specifications of a particular procurement, for purposes of establishing contract-specific goals when warranted to meet Access' overall goal, and, for identifying eligible DBEs interested in participating in service provider contracting opportunities.

The CUCP DBE Directory of certified DBE Firms can be assessed on-line at: [http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm).

### **C. Overconcentration (§26.33)**

Access has developed policies and procedures to address overconcentration of DBE utilization in certain types of work. This is to be accomplished through regular tracking of contract awards, and compliance monitoring, whereby Access will identify and directly respond to identified overconcentration within specific trades or specialty areas, by modifying contract goals as required. Currently, Access has not identified any types of work that have an overconcentration of DBE participation, which unduly burdens the opportunity of non-DBE firms to participate.

### **D. Business Development Programs (§26.35; Appendix C & Appendix D)**

Access acknowledges the role of Business Development and Mentor-Protégé Programs in its DBE Program designed to facilitate meeting the objectives of the U.S. DOT DBE Program. Access may consider enacting such programs in the future to assist DBEs in enhancing their firms' skills and abilities within their respective industries and to successfully compete for service provider contracts.

## **VI. Establishing, Meeting And Counting Overall Dbe Goals**

The DBE Liaison Officer shall establish an overall goal for the participation of DBEs in all budgeted contracts utilizing U.S. DOT federal financial assistance. Effective March 4, 2010, the FTA placed Access's overall DBE goal submittal on a new schedule, requiring a submission every three (3) years. Access was placed on schedule "C" requiring submittal on August 1, 2012 and every three years thereafter. However, Access will perform annual reviews consistent with the prescribed methodology of its Federal-aid contracting program and attainments made towards achieving the goal to determine if adjustments to the overall DBE goal are warranted. The overall goal shall be expressed as a percentage of the total amount of U.S. DOT funds Access anticipates expending within the overall goal period. Access' overall goal represents the amount of ready, willing and able DBEs that are available to participate in service provider contracting opportunities and, is reflective of the amount of DBE participation Access would expect, absent the effects of discrimination. Access intends to meet those goals to the maximum extent feasible through the race neutral



measures described herein. Access will further follow accountability mechanisms in instances where Access has failed to meet its overall goal for a given fiscal year. Access will thoroughly analyze why it fell short of meeting its overall goal for a given goal period and establish specific steps and milestones for correcting identified problems so that Access will meet its overall goal in subsequent years. Access will complete and submit its proposed plan to U.S. DOT within 90 days of the end of the fiscal year, as applicable to ensure compliance.

Access may perform an Availability Statistical Analysis Disparity Study to determine whether or not discrimination exists within Access' contracting program and the effects therein prior to implementing a race-conscious program or limited race-conscious program. Should the Availability Statistical Analysis and Disparity Study provide evidence that race-conscious measures are necessary to remedy underutilization (substantial disparity) of DBEs, Access may reinstitute the utilization of contract-specific goals to drive DBE participation or further enhance its use of race-neutral measures and strategies should the Availability Statistical Analysis Disparity Study demonstrate "substantial disparity" for only specific groups within the groups presumed to be socially disadvantaged by 49 CFR Part 26. Access may seek a waiver of limited application to implement a race-conscious program and reinstitute contract-specific goals for only those groups of underutilized DBEs (DBEs meeting "substantial disparity"). Race-conscious measures will not be implemented by Access until approval is received from U.S. DOT of its Overall Goal and Waiver request (as applicable).

## **A. Methodology for Setting Overall DBE Goals (§26.45)**

### **1. Projecting Federally-Assisted Contract Expenditures for Goal Period**

In conjunction with the preparation and adoption of Access' budget, the DBE Liaison Officer, in consultation with the appropriate divisions and departments responsible for contracting activities, will conduct a thorough analysis of the projected number, types of work, and dollar amounts of contracting opportunities that will be funded, in whole or in part, by U.S. DOT federal financial assistance for the goal period.

## **2. Establishing a Base Figure**

Once Access defines its contracting opportunities for the goal period, Access will establish a base figure following one of the methodologies, as an initial step in the goal setting process in accordance with 49 CFR Part 26.45.

Access will determine a base figure of relative availability of DBEs by:

1. Calculating the number of DBEs within respective areas of need, as contained within similar local area agencies DBE directories, and dividing it by the number of all comparable representative business firms.
2. Utilizing the Census Bureau's County Business Pattern database to identify available DBEs within North American Industry Classification System codes.
3. Comparing the number of firms performing similar work within the same geographic area.
4. Weighting the resultant figure based on the amount of federal funds Access is projected to award and/or expend on various industries.

## **3. Adjusting the Base Figure**

As a mandatory second step, Access will adjust the base figure based on other local evidence which Access determines relevant to its market, which may include, but is not limited to:

1. Demonstrated DBE capacity to perform work on Access's contracting opportunities;
2. Real market conditions;
3. Disparity studies conducted within the jurisdiction; and
4. Other relevant factors, including:
  - (i) The number, types and dollar value of service provider contracting opportunities projected to be financed with federal funds, and, to be awarded during the fiscal year.
  - (ii) The number of willing, ready and capable DBEs available to compete for such service provider contracts.
  - (iii) Other recipients' results of goal attainment in similar contracting opportunities and markets, and the reasons for the level of attainment.
  - (iv) The methods used by Access to increase DBE participation in U.S. DOT-assisted contracts.

- (v) The demographics and business activity of the geographical area in which Access will solicit bids or proposals.

#### **4. Consultative Process**

Prior to finalizing the overall DBE goal, Access will consult with local minority, women's and general contractor groups and community organizations to obtain feedback on the overall DBE goal and information concerning the availability of DBEs and non-DBEs and the effects of discrimination on opportunities for DBE to compete in Access projects.

Following the consultative process, Access will publish a notice of the proposed overall goal on the Access website, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at Access' principal office for 30 days following the date of the notice, and informing the public that Access and U.S. DOT will accept comments on the goals for 45 days from the date of the notice. See Attachment 2 for the Overall Goal Calculation and Race-Neutral/Race-Conscious Projections.

#### **B. Transit Vehicle Manufacturer Certification (§26.49)**

Access will require each Transit Vehicle Manufacturer to certify that they have established an overall DBE participation goal that has been approved by FTA before they can bid on any Access contracts. Expenditures for FTA-assisted transit vehicle procurements are not included in the funding base used to calculate Access's goal for DBE participation.

#### **C. Procedures for Meeting Goals and DBE Participation Objectives**

##### **1. Race and Gender Neutral Measures**

Access intends to wholly use race and gender neutral methods to achieve its overall goal. DBE participation that is obtained on contracts that have no specific DBE goal, or where prime contractors use a strictly competitive bidding process or do not consider the DBE's status as a DBE in awarding a subcontract shall be considered race and gender neutral DBE participation.

In addition, Access will use the following measures as appropriate:

- a. Reconfiguring large service provider contracts into smaller contracts when feasible, which would make service provider contracts more accessible to small business, and would not impose significant additional cost, delay or risk to Access;

- b. Identifying components of the work, which represents service provider subcontracting opportunities, and identifying the availability of DBE subcontractors to participate in proportion to the total available subcontractors. Service providers will be encouraged to consider subcontractors for components of the work for which there is a known supply of ready, willing, and able subcontractors, including DBE subcontractors, in preparing their proposals;
- c. Assisting in overcoming limitations in bonding and financing;
- d. Providing technical assistance in orienting small businesses to public service provider contracting procedures, use of the internet, and facilitating introductions to Access' and other U.S. DOT recipients' contracting activities;
- e. Providing outreach and communications programs on contract procedures and contract opportunities to ensure the inclusion of DBEs;
- f. Ensuring the distribution of the DBE Directories to the widest feasible universe of potential prime contractors; and
- g. Providing business development assistance.

## **2. Race-Conscious Measures**

In accordance with 49 CFR 26, Access will project how much of the overall goal can be achieved through race and gender-neutral measures and will only use race-conscious measures, such as contract-specific goals, to meet that portion of the overall goal which is not likely to be met utilizing race-neutral measures only after receiving approval from U.S. DOT. Access is currently implementing a strictly Race-Neutral DBE Program. Access shall monitor and adjust the estimated utilization of race-neutral and race-conscious methods as required in accordance with 49 CFR 26.51(f).

### **D. Methodology for Setting Contract-Specific Goals (§26.51)**

The DBE Liaison Officer and/or designee shall establish contract-specific DBE participation goals on particular service provider contracting opportunities to the extent that Access cannot achieve its overall goals with race and gender-neutral measures after approval is received from U.S. DOT. Where a contract-specific DBE goal has been established, the proposer must meet the contract-specific goal or demonstrate that they made sufficient good faith efforts to do so. A proposer shall be ineligible

for contract award if it does not meet the goal or demonstrate sufficient good faith efforts.

The following procedures will be followed in setting contract-specific goals for DBE participation, when necessary, to meet Access's overall DBE participation goal.

The DBE Liaison Officer will receive an advance notification form for all project/contract needs, with cost estimates and detailed scope of work from the designated Access department.

The DBE Liaison Officer and/or designee will determine whether a contract-specific goal should be established for the particular contract and, if so required, what the percentage goal should be based upon:

1. The projected portion of the overall goals which will be met by establishing contract-specific goals;
2. The progress toward achieving the overall DBE goal;
3. The full range of contracting activities identified within the proposed contract;
4. The availability of DBEs as prime contractors or subcontractors in the types of work involved in the performance of the proposed contract;
5. The unique conditions of the project which might affect the ability of a service provider to coordinate utilize or incorporate subcontractors or suppliers into the project.
6. The effect that the contract-specific goal might have on the time of completion; and
7. Any other relevant criteria.

#### **E. Procedures to Evaluate Award of Contract with Contract-Specific Goals**

Access shall award contracts to the lowest responsible bidder as required by California Public Contracts Code Section 20914 and 20916, where applicable. However, for such contracts, as well as for contracts awarded pursuant to a competitive negotiation (RFP or RFQ) procedure, a proposer which fails to demonstrate that it achieved the contract-specific DBE participation goal and fails to demonstrate that it made sufficient and substantive good faith efforts to do so, shall be deemed "non-responsive" and, therefore, shall be ineligible for award of the contract. This will only be applicable if and when Access received approval from U.S. DOT to implement race-conscious DBE goal setting.

### **1. Evaluation of Proposals**

After the submission deadline for proposals, the DBE Liaison Officer and/or designee shall evaluate all bids/proposals to determine whether the proposers submitted all of the information required by 49 CFR Part 26.53(b). The responsible proposer with the lowest apparent bid price, or the most highly ranked proposer, who also meets the contract-specific DBE goal or demonstrates sufficient and substantive good faith efforts shall be recommend for contract award. In the event the proposer with the lowest monetary bid price fails to meet the contract-specific goal or fails to demonstrate sufficient and substantive good faith efforts, or is otherwise unresponsive or not responsible, the DBE Liaison Officer and/or designee shall evaluate the proposer with the next lowest bid price. Should the DBE Liaison Officer and/or designee determine that additional information is needed to evaluate a proposer's submission with regard to the DBE requirements, the DBE Liaison Officer and/or designee shall request the proposer to submit the required information, or may contact the listed DBE(s) directly to request such.

### **2. Evaluation of DBE Certification Status**

The DBE Liaison Officer and/or designee shall require that the DBEs listed by proposers for participation in contracts with goals, be certified as eligible DBEs at time of proposal submission, in order for their participation to be counted towards meeting the established contract-specific DBE goal.

Access will accept certifications from all members of the Southern California Regional Reciprocity Council and any other U.S. DOT recipients, which certify DBEs, in accordance with 49 CFR Part 26.

### **3. Recommendation for Award**

Following the determination of the lowest responsive and responsible proposer, the DBE Liaison Officer and/or designee shall prepare a report on the lowest responsive and responsible proposer's compliance with the DBE requirements, to be submitted for presentation to the Board of Directors at the time the contract award is considered. The Board of Directors decision regarding contract award shall be final and binding for all parties, subject to compliance with Access' appeals procedures.

## **2. Administrative Reconsideration**

In the event that the DBE Liaison Officer and/or designee determines that the apparent selected contractor has not met the contract-specific goal and has not demonstrated sufficient and substantive good faith efforts, the DBE Liaison Officer and/or designee will notify the proposer in writing. The notification shall include the reasons for the determination and that the proposer has the right to submit further written documentation or appear before the designated Reconsideration Official, prior to the time that a recommendation for award of contract is presented to the Board of Directors. Access assures that the Reconsideration Official would not have played any role in the original determination. Access reserves the discretion to utilize the Regional Reciprocity Council as a resource in fulfilling this role. Proposers requesting reconsideration must make such request in writing to Access. The designated Reconsideration Official shall provide the proposer with a written decision on reconsideration, explaining the basis for its determination.

In the event that the Reconsideration Official finds that the proposer has not met the contract-specific goal, or, demonstrated sufficient and substantive good faith efforts, the DBE Liaison Officer and/or designee will deem said proposer non-responsive and evaluate the proposer submitting the next qualified proposal.

The result of the reconsideration process is not administratively appealable to U.S. DOT.

### **F. Meeting Established Goals or Demonstrating Good Faith Efforts**

The following sections outline the requirements of firms competing for Access service provider contracts to comply with either meeting the established contract-specific goal, documenting commitments for participation by DBE firms sufficient for this purpose, or documenting sufficient and substantive good faith efforts, in the event the goal is not met. Proposers, who fail to meet DBE goals, or demonstrate that sufficient good faith efforts were made, will be deemed non-responsive. This will only be applicable if and when Access received approval from U.S. DOT to implement race-conscious DBE goal setting.

## **1. Meeting Established Goals (§ 26.53(b))**

Each solicitation for which a contract goal has been established will require the proposer to submit the following information to Access at the time of proposal submission:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of the proposer's commitment to use a DBE subcontractor whose participation it submits to meet a contract goal, utilizing the *Access's DBE Responsive Requirement - List of Proposed DBEs Form*;
5. Written and signed confirmation from the DBE firm that it is participating in the contract as provided in the service provider's commitment; and
6. Written and signed confirmation that the proposed DBE has been certified in accordance with 49 CFR Part 26, at the time bid/proposal is submitted.
7. If the contract goal is not met, evidence of good faith efforts.

## **2. Demonstrating Good Faith Efforts (§ 26.53(a) & (c))**

The obligation of the proposer is to make good faith efforts to meet the established contract goal for DBE participation. The proposer can demonstrate that it has done so, either by meeting the contract goal or documenting good faith efforts.

If the amount of DBE participation proposed does not meet the contract-specific goal, the DBE Liaison Officer shall review and determine responsiveness of good faith efforts submitted by the proposer. The DBE Liaison Officer shall determine whether the proposer has performed the quality, quantity and intensity of efforts that demonstrates a reasonably active and aggressive attempt to meet the contract-specific goals in accordance with 49 CFR Part 26 Appendix A of the Regulations.

The following are examples of good faith efforts and types of documentation necessary to evidence such efforts:

1. Attend a pre-bid/pre-proposal meeting, if any, scheduled by Access to inform potential prime contractors and DBEs of subcontracting opportunities.



2. Identify portions of the work to be performed by subcontractors in which DBEs may participate.
3. Advertise in general circulation media, trade association publications, or disadvantaged focus media identifying specific subcontracting opportunities.
4. Provide written notice to a number of specific DBEs soliciting their interest in the contract. There should be sufficient number of such written invitations to DBE firms for trade subcontracts or material quotations so as to equal or exceed Access' established DBE goal for the project.
5. Document efforts to negotiate with DBEs for specific sub-contracts, including, at a minimum:
  - a) Names, addresses and telephone numbers of DBEs that were contacted
  - b) Description of the information provided to DBEs regarding the plans and specifications for portions of the work to be performed; and
  - c) A statement of why additional agreements with DBEs were not reached
6. Negotiate in good faith with interested DBEs, not rejecting them as unqualified without sound reasons based on a thorough investigation of their capabilities.
7. Assist interested DBEs in obtaining bonding, lines of credit, or insurance required by the contractor.
8. Use services of available DBE community organizations, disadvantaged contractor groups, local, state and federal DBE offices and other organizations that provide assistance in the recruitment and placement of DBEs.

Access will ensure that all information is complete and accurate and adequately documents the proposer's good faith efforts before Access commits to the performance of a contract by the proposer.

#### **G. Counting DBE Participation (§26.55)**

The DBE Liaison Officer shall require that the DBEs listed by proposers for participation in contracts with goals be certified as eligible DBEs at time of proposal submission in order for their participation to be counted towards meeting the established contract-specific goal for DBE participation.

Access will accept certifications from certifying member agencies of the CUCP, which certifies the eligibility of DBEs in accordance with 49 CFR Part 26.

This will only be applicable if and when Access received approval from U.S. DOT to implement race-conscious DBE goal setting.

### **1. Evaluation of Proposals with DBE Goals**

The DBE Liaison Officer shall evaluate all proposals and required information submitted by proposers to determine compliance with DBE provisions and formalize a recommendation for contract award. This information includes all efforts to either meet or exceed the established DBE goal or documented evidence of good faith efforts to meet the goal.

### **2. Counting DBE Participation towards the Contract Goal**

This section will address how DBE participation is counted toward Access's DBE goals, once a DBE is determined to be certified and eligible to participate in Access's DBE Program. The following guidelines apply in calculating DBE participation toward meeting established goals in accordance with 49 CFR 26.55:

- a) Only the work actually proposed to be performed by a DBE's own workforces will be counted towards the DBE goal. The cost of supplies, materials and equipment leases obtained by the DBE (except supplies and equipment the subcontractor purchases and/or leases from the prime contractor or its affiliate) may also be counted toward the DBE goal.
- b) When a DBE subcontracts part of the work of its contract scope to another firm, the value of the subcontracted work may be counted toward the DBE goal, only if the DBE subcontractor is itself a certified DBE. Work that a DBE subcontracts to a non-DBE firm does not count towards the DBE goal. A DBE should perform at least thirty percent (30%) of the total cost of its contract with its own workforce.
- c) In instances of joint venture, a proposer may only count toward its DBE goal, the portion of work proposed to be performed by the DBE partnering firm, which meets certification, ownership and control standards.

- d) A proposer may count toward its DBE goal, only expenditures to firms that are proposed to perform a commercially useful function on that contract. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing and supervising the work involved.
- e) A proposer may count toward its DBE goal, sixty percent (60%) of its expenditures for materials and supplies required under the contract and obtained from a DBE regular dealer, and, one hundred (100%) percent of such expenditures to a DBE manufacturer. For purposes of this section, a **manufacturer** is a firm that operates or maintains a factory or establishment that produces on the premises the materials and supplies obtained by the contractor. A **regular dealer** is a firm that owns, operates, or maintains a store, warehouse, or other establishment in which the materials or supplies required for performance of the contract are bought, kept in stock, and regularly sold to the public in the usual course of business.
- f) A proposer may count towards its DBE goal, fees and commissions paid to DBE firms that are not manufacturers or regular dealers, provided that the fees or commissions are determined to be reasonable and not excessive, as compared with fees customarily allowed for similar services.
- g) Special Provisions for Trucking – A proposer may count towards its goal, all transportation services provided by DBE trucking firms, who can demonstrate control of trucking operations for which it seeks credit, and, it owns, insures, and operates, using drivers it employs in the performance of the contract. The DBE trucking firm may lease trucks from another DBE firm, including an owner-operator who is certified as a DBE. The DBE receives credit for the total value of the transportation services which the leasee DBE provides on the contract. The DBE which leases trucks from a non-DBE is entitled to credit only for the fees or commissions it receives as a result of the lease arrangement.
- h) Prime contractors are advised not to count the participation of DBE subcontractors towards the prime contractor's DBE

achievements, until the amount being counted toward the goal has been paid to the DBE.

- i) In cases where DBE certification has ceased during the performance period of the contract, the prime contractor will continue to report the dollar value of the work performed to Access on the monthly DBE Paid Report (Form 103), however, Access will not count the participation towards its overall agency goal.

The DBE Liaison Officer will track the participation of DBEs in contract-specific goal contracts separately from the participation of DBEs that is considered race-neutral.

#### **H. Use of Set Asides or Quotas (§26.43 and 26.47)**

Access shall not permit the use of quotas for DBEs on U.S. DOT assisted contracts, in accordance with 49 CFR Part 26.43. Further, Access shall not set aside contracts for DBEs, except in limited and extreme circumstances, where no other method could reasonably be expected to redress egregious instances of discrimination.

### **VII. Required Contract Provisions**

#### **A. Non-Discrimination Assurances (§26.13(a))**

Access has signed the following assurances, applicable to all U.S. DOT assisted contracts and their administration:

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

This language will appear in financial assistance agreements with sub-recipients.

## **B. Prompt Payment Provisions (§26.29)**

Access has, by a contract clause, adopted a prompt payment provision on all U.S. DOT assisted contracts, pursuant to 49 CFR 26.29; "Prompt Payment Mechanisms for Recipients," to facilitate timely payment to all subcontractors. This provision, governing the payment to subcontractors (DBEs and non-DBEs), requires the prime contractor to issue payment to all subcontractors for satisfactory work performed, no later than seven (7) days from the prime contractor's receipt of payment from Access. A provision shall also apply to the disbursement of retention proceeds withheld by the prime contractor, requiring returning retainage payments to each subcontractor within seven (7) days, after the subcontractor's work is satisfactorily complete. These prompt payment provisions are required to be incorporated in all subcontract agreements issued by the prime contractor.

Failure to comply with these provisions or delay in payment without prior written approval from Access will constitute noncompliance, which will result in appropriate administrative sanctions, including, but not limited to, a penalty of one percent (1%) of the amount due per month for every month that payment is not made.

Prior to Access' issuance of progress payments, commencing with the second invoice, the prime contractor shall provide Access with a certificate, in the form provided, executed by the prime contractor, stating that all subcontractors have been paid all amounts due, in accordance with the work performed in a satisfactory manner by each subcontractor.

### **1. Prompt Progress Payments to Subcontractors**

Access will include a contract clause that will require the prime contractor to pay each subcontractor participating on the contract for satisfactory performance of its contract no later than 7 days from the receipt of each payment the prime contractor receives from Access. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of Access. This clause applies to both DBE and non-DBE subcontractors.

## **2. Payment of Retention Withheld from Subcontractor**

If Access elects to hold retainage from the prime contractor, Access will provide prompt and regular incremental acceptances of portions of the work on each contract and pay retainage to the prime based on these acceptances.

Access will include a contract clause that will require the prime to make prompt and full payment of any retainage owed to subcontractors for satisfactory completion of the subcontractors work within 30 days after subcontractor's work has been satisfactorily completed.

### **C. Legal and Contract Remedies (§26.37; Appendix B)**

Access will monitor compliance of U.S. DOT-assisted contracts with the requirements of 49 CFR Part 26 and the DBE Program. Access may impose such contract remedies as are available under federal, state and local law and regulations for non-compliance. Such remedies may include, but are not limited to, withholding of progress payments, contract retention, imposition of liquidated damages, and termination of the contract in whole or in part.

Access will bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that U.S. DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the U.S. DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in CFR 49 Part 26.109. Access will also consider similar action under Access' own legal authorities, including responsibility determinations in future contracts.

Complaints relative to Access' DBE Program implementation or other individual complaints may be forwarded to Access's DBELO at:

Access Services  
PO Box 5728, El Monte, CA, 91734  
Attn: Alvina Narayan

or the U.S. DOT at:  
U.S. Department of Transportation  
1200 New Jersey Ave., SE  
Washington, DC 20590  
Attn: Office of Civil Rights

Procurement protests related to DBE Program matters/component will be processed accordance with Access's Bid/Proposal protest procedures.

## **D. Contractor Reporting Requirements (§26.55)**

### **1. Notification of Reporting Responsibilities**

Prior to execution of all contracts containing DBE goals or contracts with race-neutral DBE requirements, the service provider shall be directed to the contract specification for Access' specific DBE reporting and record keeping requirements.

### **2. DBE Activity Reporting Forms**

Access will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award. For each monthly performance period, the Contractor shall submit a **Monthly DBE Subcontractors Paid Report Summary** (see Attachment 3), by the 15th of the following month. Failure to comply with these provisions by the designated due date, may result in financial penalty of \$500.00 per day beyond the due date, up to a maximum of \$5,000.00 per month.

The Monthly DBE Subcontractors Paid Report Summary includes the following information:

- a. Name of each DBE Subcontractor.
- b. General work assignment of each DBE Subcontractor.
- c. The specific portion of work executed by each DBE Subcontractor during the reporting period.
- d. The dollars committed to each DBE Subcontractor.
- e. The dollars paid to each DBE Subcontractor during the reporting period.
- f. The dollars paid to date for each DBE Subcontractor.
- g. The dollars paid to the DBE as a result of a change order or other cost modification.
- h. The dollars paid to date as a percentage of the total commitment to each DBE.
- i. Date of last progress payment
- j. Invoice amount & Invoice Date
- k. Invoice number corresponding to last payment to subcontractor
- l. Prime Contractor Signature under penalty of perjury that it has complied with all requirements of 49 CFR, Part 26 and prompt payment requirements of the California Public Contract Code.

### **3. Contractor Good Faith Efforts and Reporting Obligations**

On contract-specific DBE goals, during the term of the service provider contract, the service provider shall continue to make good faith efforts to ensure that DBEs have an opportunity to successfully perform in the contract, and that the service provider meets its DBE goal. These efforts shall include, but not be limited to, the following:

- (i.) Negotiating in good faith to attempt to finalize and execute a subcontract agreement with the DBEs committed to in the proposal.
- (ii.) Documenting efforts to seek out and utilize additional DBE suppliers, vendors and DBE subcontractors, when additional subcontractors are necessary and is authorized by Access.
- (iii.) Continuing to provide assistance to DBE subcontractors, vendors and suppliers in obtaining bonding, lines of credit, etc., if required by the contractor.
- (iv.) Notifying a DBE in writing of any potential problem and attempting to resolve the problem prior to formally requesting Access approval to substitute the DBE.
- (v.) Ensuring timely payment of all monies due and owing to DBE subcontractors, vendors and suppliers in accordance with prompt payment provisions.
- (vi.) Alerting Access in a timely manner of any problems anticipated in attaining the DBE participation goal committed to in the proposal.
- (vii.) Reviewing of the contractor's monthly progress reports to determine whether the utilization of DBE firms is consistent with the commitment of the service provider as stated in its bid or proposal.

### **4. DBE Substitution and Termination (§ 26.53(f))**

If a service provider requests a substitution of DBE subcontractors or suppliers, the service provider shall exercise good faith efforts to replace a DBE with another DBE subject to the approval of Access.

Access requires that a prime contractor not terminate a DBE subcontractor without Access' prior written consent. This includes, but is not limited to, instances in which a prime contractor seeks to perform work originally designated for a DBE subcontractor with its own forces or those of an affiliate, a non-DBE firm, or with another DBE firm.



Access will provide such written consent only if it agrees, for reasons stated in your concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this section, good cause includes the following circumstances:

- > The listed DBE subcontractor fails or refuses to execute a written contract;
- > The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided, however, that good cause does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;
- > The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, nondiscriminatory bond requirements;
- > The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- > The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- > The Prime contractor has determined that the listed DBE subcontractor is not a responsible contractor;
- > The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal;
- > The listed DBE is ineligible to receive DBE credit for the type of work required;
- > A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- > Other documented good cause that you determine compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

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

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

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

### **Good Faith Efforts when a DBE is replaced on a contract for Good Cause (26.53(g))**

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

Substitutions of an approved DBE subcontractor/subconsultant, or changes in any scope of work to be performed by any approved DBE subcontractors/subconsultants must be requested, in writing, by the contractor and must be approved by Access. The contractor shall complete and submit to Access the corresponding "Request for DBE Subcontractor/Supplier Substitution" form (Refer to Attachment 6). Access requires that the prime contractor to provide Access with copies of the new or amended subcontracts. If the candidate contractor to be substituted is not a DBE, Access also requires the prime contractor to submit documentation of their good faith efforts.

### **Failure to Secure Prior Approval**

If the prime contractor fails or refuses to comply in the time specified Access may take appropriate actions, including but not limited to those set forth in its Monitoring and Enforcement Mechanisms. Access will include these provisions in all applicable prime contracts.

### **Change in Contract Amount**

The dollar amount of Change Orders or any other contract modifications that increase or decrease the work area in which DBE's participation has been committed to in the proposal, shall be commensurately added to or subtracted from, the total contract base figure used to compute actual dollars paid to DBEs. Revised total contract dollar values shall be reflected in the monthly progress report submitted to Access.

In the event that the service provider is unable to meet the DBE goal or demonstrate good faith efforts or contracts with contract specific DBE goals, Access reserves the right to assess liquidated damages equal to the difference between the goal amount and the amount of DBE participation. The liquidated damages shall not apply if the contractor is able to demonstrate to the satisfaction of Access that good faith efforts had been made to attempt to meet the goal.

### **5. Contractor's Assurance Clause Regarding Non-Discrimination (§26.13(b))**

Access will ensure the following clause is placed in every U.S. DOT assisted service provider contract and subcontract:

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

## **VIII. Certification Standards**

In accordance with 49 CFR Part 26.81, Access is a non-certifying member agency of the California Unified Certification Program (CUCP).

As a non-Certifying member agency of the CUCP will recognize DBE certifications from CUCP Certifying Member Agencies.

## **IX. Recordkeeping and Monitoring (§26.11 and 26.37)**

Access has developed and maintains a recordkeeping system, which identifies and assesses DBE contract awards and service providers' progress in achieving DBE goals by verifying actual payments made to committed DBEs throughout the performance of the contract, including a running tally of actual DBE attainments. Any areas of identified non-compliance will be subject to administrative sanctions outlined in Section VII-C.

These records serve to document:

- a. Procedures adopted by Access to comply with the U.S. DOT regulations.
- b. Background documentation used to compile FTA reports which include the following data for each contract and subcontract award to a DBE:
  1. Type of contract;
  2. Name and address of each DBE;
  3. A current certification file for each DBE credited toward the goal;
  4. The dollar amount of each contract and subcontract; and
  5. Reports from service providers and supplier(s) with an accounting of actual expenditures to DBEs and the progress to date in meeting their DBE participation commitment.

A DBE may enter into subcontracts whose value may be counted toward its DBE goal. However, where a DBE subcontracts a significantly greater portion of the work than is usual according to industry practice, it is presumed not to be performing a commercially useful function and neither the value of the DBE contract nor lower tier subcontracts may be counted toward meeting the DBE goal. The DBE may present evidence to Access to rebut this presumption.

### **A. Bidder's List (§26.11(c) and 26.37)**

Access will create and maintain a bidder's list consisting of all firms proposing on prime contracts, and subcontracts on Access's U.S. DOT-assisted Service Provider contracts. For every firm, the following information will be maintained:

1. Firm Name;
2. Firm Address;
3. Firm Status as a DBE or non-DBE;
4. Type of Work of Firm;
5. Date Firm Established
6. Annual Gross Receipts

Access will maintain the confidentiality of any proprietary information in accordance with applicable California laws. This information will be requested of all bidders.

### **B. Monitoring and Enforcement Mechanisms (§26.37)**

Access shall monitor and enforce contractor's compliance with the prompt payment provisions as well as all other applicable provisions to ensure all contract terms and conditions are fully adhered to. Evidence of payment made to subcontractors must be provided by the prime contractor starting with the second request for payment/invoice. Credit toward overall or contract goals will only be given upon satisfactory evidence that payments were actually made to DBEs. Failure to comply with these provisions or delay in payment without prior written approval from Access will constitute noncompliance, which will result in appropriate administrative sanctions, up to and including withholding of payment to the prime contractor.

It is the contractor's responsibility to maintain records and documents of payments to DBEs for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of Access or U.S. DOT. This reporting requirement is also extended to any certified DBE subcontractor.

Access may perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals the dollar amounts stated in the report of proposed DBE participation at the inception of the contract.

### **C. Reporting to U.S. DOT (§26.11)**

Access will report DBE participation on a semi-annual basis (June 1 and December 1) each year, using the Uniform Report of DBE Awards/ Commitments and Payments (Attachment 6). These reports will capture DBE participation for U.S. DOT-assisted for contracts awarded and actual DBE attainments based on payments made to DBEs on U.S. DOT-assisted contracts that are on-going and closed within the respective reporting period. The June 1 report should include information from October 1 through March 31. The December 1 report should include information from April 1 through September 30.

Access will continue to provide reports about the Access' DBE Program to U.S. DOT-FTA as directed by the U.S. DOT operating administration. These reports will provide DBE participation information regarding Access' race and gender neutral contracts; race-conscious contracts; and the combined DBE participation on all federally assisted procurement activities.

Upon U.S. DOT request, Access will compile and submit ad hoc DBE contract award and progress reports for specific U.S. DOT grant-funded projects. Access shall also periodically submit DBE progress reports to the Board of Directors.

### **D. On-Site Performance Monitoring**

During the course of the contract containing a DBE goal, Access will conduct on-site monitoring to ensure that work committed to DBEs is actually being performed by the DBEs. This monitoring effort is fully incorporated into Access' DBE On-site Compliance field observation process. This observed work will be reconciled against the DBE subcontractor agreement(s) and Prime Contractor Form 103.

## **E. Written Certification**

To further ensure the integrity of the DBE Program's intent, Access will monitor every contract with a DBE goal, on paper and in the field and will include a written certification that this compliance monitoring effort took place in accordance with Access' DBE Compliance Close-Out Report Process

## **X. Public Participation & Outreach Efforts (§26.45; 26.51 and 26.15)**

### **A. Publication of Proposed Overall Goals**

Prior to submission of the proposed overall DBE goal to the U.S. DOT, Access will publish a notice of the proposed overall goal on the Access website. The notice will include:

1. A statement that the methodology and proposed overall goal for DBE participation in Access' U.S. DOT-assisted contracts are available for public inspection for a period of 30 days from the date of publication.
2. Notification that Access will accept public comments on the goal and rationale for a period of 45 days from the date of publication and provide instructions for the submission of such comments.
3. Provide the date when the plan will be considered by the Board of Directors.

Upon receipt, Access' DBE Liaison Officer will analyze the public comments, summarize the results and formulate modifications to the overall goal or methodology as warranted and forward such to the Executive Director. This will occur prior to final adoption of the overall DBE goal by the Board of Directors.

### **B. Public Participation and Outreach**

In addition to the provision of public notice regarding the overall DBE goal, Access will undertake specific efforts to foster public participation by consulting with and soliciting input from a variety of constituent groups representing minorities, women, general contractors, community groups, officials and other organizations reasonably expected to possess information regarding the availability of disadvantaged and non-disadvantaged businesses, the impacts and adverse effects of discrimination on DBE contracting, and Access' efforts to promote fair competition through the Access DBE contracting program.

Both the DBE Program and overall goal will be reaffirmed by public notice triennially, prior to formal adoption by Access' Board of Directors and submission to U.S. DOT/FTA.

### **C. Fostering Small Business Participation (§26.39)**

Effective February 28, 2012 Access has established a Small Business Element as a supplement to the existing DBE Program, to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors in direct response to regulatory requirements, 49 CFR Part 26.39 "Fostering Small Business Participation" (Federal Register/ Vol. 76, No. 19/ Friday, January 28, 2011/ Rules and Regulations).

While Access has historically utilized race and general neutral strategies to promote and advance Small Business participation efforts as a part of Access' DBE Program implementation efforts, this element of the program serves to unify in a singular location these important efforts.

For purposes of capturing Small Business utilization, Access adheres to the U.S. DOT's Small Business definition for what constitutes a Small Business Enterprise.

This Small Business Element includes, but is not limited to the following assertive, active and effective strategies:

- > Access will continue to conduct regular reviews of procurements, to assess opportunities for unbundling (breaking out scopes of work/ services to facilitate small business prime contracting opportunities). Access believes that including the participation of procurement staff in scheduled reviews will increase accountability of Access' procurement options and decisions and in doing so will ultimately improve contracting opportunities for Small Business Enterprises at the prime level.
- > Access Services' will institute an assertive professional development program in partnership with California Association of Coordinated Transportation (CalACT), University of the Pacific, UCLA Extension, National Transit Institute and the Transportation Safety Institute. This program includes the availability of nine (9) separate courses and



aims at the development of small business skills and awareness, which is essential to improve the quality and effectiveness of specialized transportation services in Los Angeles County.

- > Additionally, these training Sessions will serve to build capacities through low or no-cost training. They are subsidized by Access Services' CTSA program. Access is confident that this instrumental training medium will enable small business firms to join the growing family of LA County transit professionals that have found greater success through networking and unique training opportunities.
- > Access will actively implement the Small Business elements to foster small business participation as a requirement of good faith implementation of the Access' DBE program.
- > Access has submitted their Small Business Element to the appropriate U.S. DOT operating administration for approval as a part of their DBE program.

## **XI. Attachments**

### **Attachments:**

Attachment 1: Organizational Chart

Attachment 2: Overall Goal Calculation and Race-Neutral / Race-Conscious Projections

Attachment 3: 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs.

Attachment 4: List of DBE Financial Institutions

Attachment 5: Uniform Report of DBE Awards or Commitments and Payments

Rev. 7/25/2018

**Access Services**  
PO Box 5728  
El Monte, CA 91734  
[accessla.org](http://accessla.org)

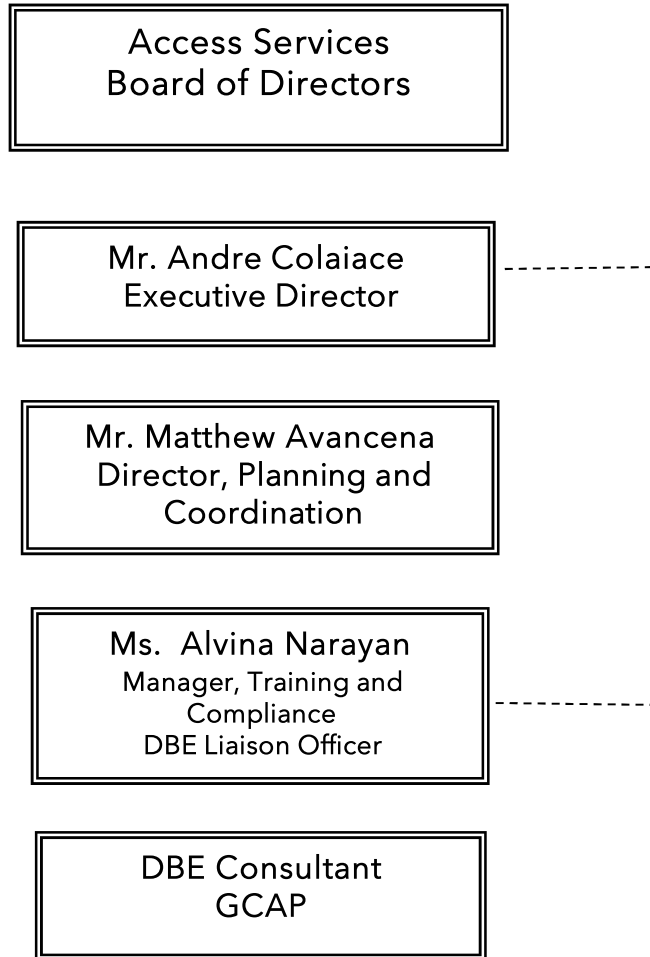
**access**

# ACCESS SERVICES

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## DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM ORGANIZATIONAL CHART



### DBE Liaison Officer Contact Information:

Alvina Narayan  
Manager, Training & Compliance  
DBE Liaison Officer  
Access Services  
PO Box 5728, El Monte, CA, 91734  
Phone (213) 270-6000 e-mail: [narayan@accessla.org](mailto:narayan@accessla.org)



**Federal Transit Administration (FTA)  
Overall Disadvantage Business Enterprise (DBE)  
Goal-Setting Methodology**

**Fiscal Federal Years (FFY) 2019-2021**

**August 1, 2018**

Submitted in fulfillment of: Title 49 Code of Federal Regulations Part 26

This analysis is prepared exclusively for Access Services; it is non-transferable and is not to be duplicated.

**access**



# Table of Contents

<b>II. Introduction</b> .....	3
<b>III. Background</b> .....	3
<b>IV. FTA-Assisted Contracting Program For FFY 2019-2021</b> .....	4
<b>V. Goal Methodology</b> .....	6
A. Step 1: Determination of a Base Figure (26.45).....	6
B. Step 2: Adjusting the Base Figure.....	7
1) Past DBE Goal Attainments.....	7
2) Disparity Study.....	8
3) Other Available Evidence.....	9
<b>VI. Proposed Overall DBE Goal</b> .....	9
<b>VII. Race-Neutral Implementation Measures</b> .....	10
<b>VIII. Public Participation And Facilitation</b> .....	12
<b>Attachment 1: Website notification</b> .....	13
<b>Attachment 2: Consultative Process Summary</b> .....	15

The header features a blue background with various white icons and dashed arrows. Icons include the word 'HOLLYWOOD', a factory, a skyscraper, a location pin, a palm tree, and a horse. Arrows indicate a flow or connection between these elements.

# DBE Goal Methodology

## II. Introduction

Access Services (Access) herein sets forth its Overall Disadvantaged Business Enterprise (DBE) Goal and corresponding federally prescribed goal-setting methodology for the three-year Federal Fiscal Year (FFY) goal period of 2019-2021 (October 1, 2018 through September 30, 2021), pursuant to Title 49 Code of Federal Regulations (CFR) Part 26 "Participation by Disadvantaged Business Enterprises in U.S. Department of Transportation Programs." The purpose of the DBE goal-setting process is to level the playing field so that DBEs can compete fairly for Department of Transportation-assisted contracts, however, the program must be narrowly tailored in accordance with applicable law.

## III. Background

Access is a recipient of U.S. Department of Transportation (USDOT), Federal Transit Administration (FTA), funding. As a condition of receiving this assistance, Access signed an assurance that it will comply with FTA's DBE requirements. In accordance with Title 49 CFR Part 26 provisions: Participation by DBEs in USDOT Programs, Access is required to develop and submit a Triennial Overall DBE Goal for its FTA-assisted projects.

Access does not have sub-recipients.

Access herein presents its Overall DBE Goal Methodology for FFY 2019-2021.

#### **IV. FTA-Assisted Contracting Program For FFY 2019-2021**

Since its founding in 1994, Access has operated as a coordinated paratransit system that provides seamless Americans with Disabilities Act paratransit on behalf of its now 45 fixed-route member agencies. This structure, which was encouraged by the original ADA paratransit regulations, provides an enormous benefit to paratransit customers in the Los Angeles County basin who are able to enjoy transfer-free paratransit services for their trips.

Los Angeles County spans over 4,700 square miles of which 1,950 square miles is Access' service area. This vast service area prompted Access in 1994 to assess the best method in delivering an efficient and effective coordinated ADA Complementary Paratransit service model. Due to the size of the service area, including taking into consideration aspects of implementing a coordinated ADA complementary system, six (6) service areas were established.

The inception of the six (6) service regions prompted six (6) different contractors with each service region competitively bid and procured.

The Prime contractor for each respective service area holds primary responsibility in administering and delivering ADA Complementary Paratransit services. The contractor is responsible for hiring drivers, reservations/dispatch personnel, call-takers, fleet, maintenance, and other support staff. The Prime contractor, to the extent possible can identify subcontracting opportunities. This service model has been proven effective in over 20 years that Access has operated, as it allows Access Services to efficiently manage ADA Complementary Paratransit services in Los Angeles County.

Table 1 represents Access's FTA-assisted contracting program, which consists of projects considered in preparing this goal methodology. These projects include multi-year transportation service contracts for the provision of ADA complementary paratransit services in each of the six-distinct service areas.

**Table 1**

Project Name and Description	Total Estimated Project Cost	Estimated FTA Dollar Share	Estimated FTA % Share
Antelope Valley Service – Transportation Service Contractor, ADA Complementary Paratransit Services	\$30,630,460	\$11,639,575	38.0%
Eastern Provider Service – Transportation Service Contractor, ADA Complementary Paratransit Services	\$224,896,050	\$85,460,499	38.0%
Southern Provider Service – Transportation Service Contractor, ADA Complementary Paratransit Services	\$244,920,150	\$93,069,657	38.0%
	<b>\$255,526,510</b>	<b>\$97,100,074</b>	<b>38.0%</b>

It has been very difficult to unbundle or reduce the contracts into smaller structures due to the size and scale of Access' operations and the financial investment that is required to operate one of the six service areas.

Access has not been able to identify DBE firms that are ready, willing, and/or able to provide the level of operational support for specialized services such as ADA Paratransit.

Table 2 provides a summary of the categories of work with estimated cost breakdown for each. Categories of work are groups utilizing comparable North American Industry Classification System (NAICS) codes for purposes of weighting the categories of work based on the engineer's estimates.

**Table 2**

NAICS Code	Category of Work	Estimated FTA Dollars by NAICS	Estimated FTA % by NAICS
485991	Special needs transportation	\$171,152,758	90.0%
541611	Administrative management and general management consulting services	\$19,016,973	10.0%
<b>TOTAL</b>		<b>\$190,169,730.80</b>	<b>100.0%</b>



## V. Goal Methodology

### A. Step 1: Determination of a Base Figure (26.45)<sup>1</sup>

To establish the Access Base Figure of the relative availability of DBEs relative to all comparable firms (DBE and non-DBE) available to bid or submit proposals on Access FTA-assisted contracting opportunities projected to be solicited during the triennial goal period, Access followed the prescribed federal methodology to determine relative availability. This was accomplished by assessing the California Unified Certification Program (CUCP) DBE Database of Certified Firms and the 2016 U.S. Census Bureau County Business Patterns Database within the Access market area, defined as Los Angeles County, for each of the categories of work defined in Table 2.

The Federal DBE program requires agencies to implement the DBE program based on information from the relevant geographic market area—the area in which the agency spends the substantial majority of its contracting dollars.

The Access local market for contracts consists of a geographic area that:

- > is where a large majority of contracting dollars is expended, and
- > is where a substantial number of contractors and subcontractors are located and available to submit bids or quotes.

The Access bidder's list was reviewed, and it confirms this market area.

In accordance with the formula listed below, the Base Figure is derived by:

- > dividing the number of ready, willing and able DBE firms identified for each NAICS work category by the number of all firms identified within the Access market area for each corresponding work category (relative availability),
- > weighting the relative availability for each work category by the corresponding work category weight from Table 2 (weighted ratio), and
- > adding the weighted ratio figures together.

$$\text{Base Figure} = \sum \frac{(\text{Number of Ready, Willing and Able DBEs})}{(\text{Number of All Ready, Willing and Able Firms})} \times \text{weighted ratio}$$

<sup>1</sup> 26.45 represents Title 49 CFR Part 26 regulatory goal setting methodology reference.

- > For the numerator: CUCP DBE Database of Certified Firms
- > For the denominator: 2016 U.S. Census Bureau County Business Patterns Database

A concerted effort was made to ensure that the scope of businesses included in the numerator were as close as possible to the scope included in the denominator.

The result of the Base Figure calculation is shown in Table 3 as follows:

**Table 3**

NAICS Code	Category of Work	Estimated FTA % by NAICS	DBEs	All Firms	Weighted Ratio
485991	Special needs transportation	90.0%	2	115	1.6%
541611	Administrative management and general management consulting services	10.0%	230	2,706	0.8%
<b>TOTAL</b>					<b>2.4%</b>

## Step 2: Adjusting the Base Figure

Upon establishing the Base Figure, Access reviewed and assessed other known evidence potentially impacting the relative availability of DBEs within the market area, in accordance with prescribed narrow tailoring provisions as set forth under 49 CFR Part 26.45: Step 2, DBE Goal Adjustment Guidelines.

Evidence considered in making adjustments to the Base Figure included Past DBE Goal Attainments and Other Evidence, as follows:

### 1) Past DBE Goal Attainments

Historical DBE participation attainments provide demonstrable evidence of DBE availability and capacity to perform on Access projects. The projects anticipated to be awarded during the triennial period are substantially similar to those awarded in the recent past. Access proceeded to calculate past DBE participation attainments for the three (3) federal fiscal years, for which DBE attainment data is available.

The table below reflects the demonstrated capacity of DBEs (measured by actual historical DBE participation attainments) on FTA-assisted contracts awarded by Access within the last three (3) federal fiscal years.

**Table 4**

Federal Fiscal Year (FFY)	FTA DBE Goal Attainment %
2014/2015	0.6%
2015/2016	1.2%
2016/2017	0.7%
<b>Median DBE Attainment Within the Last Three (3) Years</b>	<b>0.7%</b>

The median established for the past three years is lower than the Base Figure derived from Step 1; therefore, an adjustment to the Base Figure based on Access past DBE goal attainments has been made. The adjustment is calculated in accordance with FTA guidance by averaging the Base Figure with the median DBE Past Attainment, as shown below.

Base Figure (A)	2.4%
Median DBE Attainment (B)	0.7%
<b>Adjusted Base Figure [(A+B)/2]</b>	<b>1.5%</b>

**2) Disparity Study**

Access has reviewed the 2016 Caltrans Disparity Study and has determined that the type of work forms is significantly different from Access projects; therefore, Access will not be making adjustments to the base figure based on the Caltrans Disparity Study.

Access also reviewed the Los Angeles County Metropolitan Transportation Authority (LACMTA, or Metro) 2013 Disparity Study to determine if similarities in the contracting opportunities and market areas exist. Based on our review, we determined that the availability analysis was not similar to the procurements planned for Access upcoming triennial period. Therefore, Access plans to include a Race-Neutral goal only as part of our Proposed Overall Triennial Goal-Setting Methodology submittal for FFY 2019-FFY 2021. Access will continue to monitor our DBE participation

on FTA-funded contracts to determine if a disparity study is required to address any future disparities between the relative availability of DBE firms on Access federally funded contracting opportunities.

Access uses a strictly race-neutral DBE program since the Western States decision. If Access fails to reach its goal for one more complete federal fiscal years, Access will re-evaluate its DBE program to determine whether contract goals are necessary to achieve the overall goal. If after re-evaluation Access believes a race-conscious program is necessary, as required by Western States, Access will gather evidence to determine if discrimination in the transportation contracting industry is present. Access will make a determination at that time what type of evidence gathering is appropriate, based on DOT regulations and case law.

### **3) Other Available Evidence**

Access is not in possession of other information that would have an impact on the DBE goal assessment.

## **VI. Proposed Overall DBE Goal**

The Final Proposed Overall DBE Goal for FFY 2019-2021 for Access FTA-assisted contracts is 1.5%. The DBE Goal based on the federal share is a Race Neutral goal and Access will implement race neutral measures to achieve this goal, as generally described in the following section. As a part of the prescribed goal-setting methodology, Access must project the percentage of its Proposed Overall DBE Goal that can be met utilizing race-neutral and race-conscious measures.

### **Race-Conscious & Race-Neutral Projection**

The United States Department of Transportation (USDOT) regulations require that race-neutral methods be used to the maximum extent feasible to reach the DBE overall goal. Under the determination of the 9th circuit court in the Western States case, entities need to show the presence or absence of discrimination or its effects to use race-conscious methods.

Due to the emphasis on race-neutral methods, Access will continue to use the race-neutral measures listed below. Access will carefully monitor participation during the course of the goal period. At the conclusion of

each year during the goal period, Access will re-evaluate the effectiveness of the race-neutral measures and determine if it is necessary to institute a race conscious portion and contract specific goals.

Access intends to continue to use race-neutral methods to meet the overall DBE goal of 1.5% for FFY 2019-2021 in accordance with Title 49 CFR Part 26.51.

Race-Conscious & Race-Neutral Projections	
DBE Adjusted Base Figure	1.5%
<b>Race-Neutral Component</b>	<b>1.5%</b>
Race-Conscious Component	0.0%

**VII. Race-Neutral Implementation Measures**

Access is currently implementing a number of race- and gender-neutral remedies to outreach and promote the participation of DBEs and small businesses in the Access FTA-assisted contracting program. Access plans to continue or implement the following race-neutral measures for FFY 2019-2021 and will continue to explore other options for consideration based on Access success in meeting its overall DBE goals based on these efforts:

- > Access will encourage DBE and other small business contracting community to register and receive solicitation notices through its procurement website: [accessla.org/cms/view/current\\_opportunities](https://accessla.org/cms/view/current_opportunities)
- > Access will host and participate in workshops for the DBE and small business contracting community. Access will attend and participate in vendor fairs hosted by unrepresented groups and other public agencies.
- > Access will unbundle solicitations, provide pre-bid/pre-proposal conferences to afford networking opportunities for primes and subcontractors. Access will promote and encourage teaming opportunities between prospective prime contractors and the DBE and small business contracting community. Arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE and other small business participation. Structure solicitations to remove barriers such as the inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of

surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing).

- > Access will solicit DBEs and other small businesses participation by carrying out information programs through use of advertisement and other communication methods on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists of bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate).
- > As a supportive service to help develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses, Access will actively promote the small business conferences, programs, and support services offered by other agencies that have established DBE and other small business programs.
- > Access will advise its contracting community of the online directory of certified DBEs, found at the California Unified Certification Program website: [www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm).
- > Access will also advise the contracting community of the available small businesses certified by the California Department of General Services (DGS) and found at the following: [www.dgs.ca.gov/pd/Programs/eprocure.aspx](http://www.dgs.ca.gov/pd/Programs/eprocure.aspx).
- > Access will advise the DBE and small business community to participate in Caltrans' related bidding/proposal opportunities at [www.dot.ca.gov/hq/esc/oe/](http://www.dot.ca.gov/hq/esc/oe/). Access will also encourage DBEs and small businesses to seek the assistance and training through the U.S. Small Business Administration at [www.sba.gov](http://www.sba.gov).

## **Fostering Small Business Participation <sup>2</sup>**

Access has implemented several strategies to foster small business participation in its contracting process. These include the following:

- > Conducting “How to do Business with Access” and DBE workshops.
- > On larger prime contracts requiring the prime contractor to consider subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.
- > Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.
- > Ensuring that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.
- > Provide outreach to current Access contractors or past Access contractors who may qualify for DBE-certification by encouraging them to seek and obtain DBE-certification.

## **VII. Public Participation And Facilitation**

In accordance with Public Participation Regulatory Requirements of Title 49 CFR Part 26, minority, women, local business associations, and community organizations within the Access market area were consulted and provided an opportunity to review the triennial goal analysis and provide input.




Access issued a Public Notice on the Access website (Attachment 1), publishing the Draft Proposed FTA Overall DBE Goal-Setting Methodology for FFY 2019-2021. The notice informed the public that the proposed goal and rationale were available for inspection at the Access principal office during normal business hours and that Access would accept comments on the goal analysis until July 13, 2018.

<sup>2</sup>See Title 49 CFR Part 26 Section 26.39 “Fostering Small Business Participation.

Access reached out to a total of 15 local minority, women, and community business organizations to provide them information on the Access DBE program and specifically the Draft Proposed FTA Overall DBE Goal-Setting Methodology for FFY 2019-2021. Each organization was contacted multiple times by telephone and email. All comments received, and a summary of all contact made in an attempt to receive input as a part of this process can be found in Attachment 2.

## Attachment 1: Website notification

6/14/2018 DBE Program - Doing Business With Us - Access Services



[A](#) [A](#) [search Access](#)

[:: Doing Business With Us :: DBE Program](#)

[DBE Goal Notice](#)

[DBE Goal FFY 19-21](#)

The Disadvantaged Business Enterprise (DBE) Program is a federal program operating under the guidance of the United States Department of Transportation (U.S. DOT). Authorization for the program comes from 49 Code of Federal Regulations Part 26; "Participation by Disadvantaged Business Enterprises in U.S. Department of transportation (DOT) Financial Assistance Programs." As recipient of federal transportation funds, Access Services has established a DBE Program for its DOT-assisted projects.

The DBE Program creates a level playing field on which disadvantaged businesses can compete fairly. The Program ensures that qualified businesses have an equal opportunity to compete for, and participate in, the performance of all DOT-funded contracts and subcontracts. It also assures that all contracts and procurements will be administered without discrimination on the basis of race, color, sex, or national origin.

Pursuant to Race-Neutral DBE policy directives issued by the U.S. DOT in response to a recent Ninth Circuit U.S. Court of Appeals decision (*Western States Paving Co. v. Washington State Department of Transportation*), Access has implemented a wholly Race-Neutral DBE Program. Under a Race-Neutral DBE Program, Access may no longer advertise DOT-assisted contracts containing numeric race-conscious goals or require a Proposer to utilize DBEs as a condition of award. Race-neutral DBE participation includes any time a DBE obtains a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE goal.

Access continues to strongly encourage the participation of DBE firms in its DOT-assisted contracts.



# Federal Transit Administration Disadvantage Business Enterprise (DBE) Goal

## Federal Fiscal Years 2019-2021

NOTICE IS HEREBY GIVEN, that Access Services, (herein referred to as "Access") a Consolidated Transportation Service Agency for Los Angeles County (a public entity responsible for coordinating the operations for public, private non-profit paratransit providers in Los Angeles County), in accordance with 49 CFR Part 26.45(g), Access, as a recipient of U.S. Department of Transportation (DOT) assistance, announces a proposed Federal Transit Administration (FTA) Disadvantaged Business Enterprise (DBE) project overall project goal of 1.5% for the project period. This race-neutral goal represents the percentage of work to be performed by certified DBE firms on Access FTA-assisted projects during each federal fiscal year of the project period.

The methodology used to determine the proposed goal will be available for public inspection for thirty (30) days from the date of this notice, Monday-Friday from 9AM-5PM at the following location:

**Access Services, 3449 Santa Anita Ave, El Monte, CA 91731, 213.270.6000**

Or visit: *DBE Goal FFY 19-21*

The U.S. DOT and Access will accept comments on the proposed goal for 30 days from the date of this notice.

Written comments relative to the race-neutral goal, may be sent to Access Services DBE Liaison Officer, Alvina Narayan at the address above and/or emailed to [narayan@accessla.org](mailto:narayan@accessla.org). Written comments can also be sent directly to the FTA, Civil Rights Officer, Marisa Appleton, 200 W Adams Street, Suite 320, Chicago, IL 60606. Written comments at both locations will be accepted until **July 13, 2018**.

Dated in Los Angeles, California, 13th Day of June 2018.



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Andre Colaiace  
Executive Director

## Attachment 2: Consultative Process Summary

Organization	Outreach Summary, Comments, And Responses
<p>American Indian Chamber of Commerce of California</p>	<p>6/15 Sent initial email.            6/19 Sent voicemail.            6/21 Sent follow-up email.            6/25 Sent follow-up email. Received email from Tracy that due to impacted schedule with project deadlines, she will not be able to review goal methodology until next week.            6/29 Spoke to receptionist and provided contact information for follow-up.            7/3 Sent follow-up email.            7/6 Left voicemail.            7/12 Sent follow-up email.</p>
<p>Asian American Architects and Engineers Association</p>	<p>6/15 Sent initial email.            6/19 Spoke with receptionist and provided contact information for follow-up.            6/21 Sent follow-up email.            6/25 Sent follow-up email.            6/29 Spoke to receptionist and provided contact information for follow-up.            7/3 Sent follow-up email.            7/6 Spoke to receptionist and provided contact information for follow-up.            7/12 Sent follow-up email.</p>
<p>Asian Business Association</p>	<p>6/15 Sent initial email.            6/19 Spoke with Dennis. In his opinion, he feels that the goal is low in comparison to other agencies. He is concerned that current practices for procurements limit the small business from participating on bids. He suggests more mentor-protege type events in which a prime mentors a small business.</p> <p><b>Response:</b></p> <ul style="list-style-type: none"> <li>&gt; The Access goal was calculated following the US Department of Transportation recommended 2 Step process to determine the relative availability of ready, willing, and able DBEs for the projects anticipated to be awarded in the triennial period.</li> <li>&gt; Access understands the concern about the larger procurements, however it is difficult to unbundle paratransit operations. We encourage DBE and other small businesses to register and receive solicitation notices through its procurement website.</li> </ul>

Organization	Outreach Summary, Comments, And Responses
	<p>&gt; Access agrees to consider mentor-protégé and networking events for primes to work with small businesses. We will also host and participate in workshops for the DBE and small business contracting community and attend and participate in vendor fairs hosted by unrepresented groups and other public agencies to encourage DBE and small business participation.</p>
<p>Asian Business League – Southern California</p>	<p><b>6/15</b> Sent initial email.  <b>6/21</b> Sent follow-up email.  <b>6/25</b> Sent follow-up email.  <b>7/3</b> Sent follow-up email.  <b>7/12</b> Sent follow-up email.</p>
<p>California Native American Business Enterprise Center</p>	<p><b>6/15</b> Sent initial email.  <b>6/19</b> Left voicemail.  <b>6/21</b> Sent follow-up email.  <b>6/25</b> Sent follow-up email.  <b>6/29</b> Left voicemail.  <b>7/3</b> Sent follow-up email.  <b>7/6</b> Left voicemail.  <b>7/12</b> Sent follow-up email.</p>
<p>Chinese American Construction Professionals</p>	<p><b>6/15</b> Sent initial email.  <b>6/19</b> Left voicemail.  <b>6/21</b> Sent follow-up email.  <b>6/25</b> Sent follow-up email.  <b>6/29</b> Spoke to receptionist and provided contact information for follow-up.  <b>7/3</b> Sent follow-up email.  <b>7/6</b> Spoke with Simon and provided contact information for follow-up.  <b>7/12</b> Sent follow-up email.</p>
<p>Greater Los Angeles African American Chamber of Commerce</p>	<p><b>6/15</b> Sent initial email.  <b>6/19</b> Spoke to receptionist regarding triennial goal review. Due to an outreach event, the staff has not had a chance to review the goal methodology.  <b>6/25</b> Sent follow-up email.  <b>6/29</b> Spoke to receptionist and provided contact information for follow-up.  <b>7/3</b> Sent follow-up email.  <b>7/6</b> Spoke with Naomi and she said that Angela is currently out of the office and will not be returning until next Tuesday.  <b>7/12</b> Sent follow-up email.</p>

Organization	Outreach Summary, Comments, And Responses
Hispanic Engineers Business Corp	<p><b>6/15</b> Sent initial email.</p> <p><b>6/19</b> Phone number is no longer in service <b>626.683.9725</b></p> <p><b>6/21</b> Sent follow-up email.</p> <p><b>6/25</b> Sent follow-up email.</p> <p><b>6/29</b> Received undeliverable message for <i>mtrujillo@bizcnet</i></p>
L.A. Latino Chamber of Commerce	<p><b>6/15</b> Sent email. Received bounceback for <i>rsoriano@lalcc.org</i>.</p> <p><b>6/19</b> Spoke to Rosario. She said she will forward the goal methodology to the Board of Directors for review.</p> <p><b>6/21</b> Sent follow-up email.</p> <p><b>6/25</b> Sent follow-up email.</p> <p><b>6/29</b> Spoke to receptionist and she informed Access that Rolando is no longer with the Chamber and Edgar, who is fulfilling Rolando's duties, is only available Tuesday and Thursday.</p> <p><b>7/3</b> Sent follow-up email.</p> <p><b>7/6</b> Spoke with Moises about the DBE program and the purpose of the Triennial Goal Methodology. Access requested his email in order for him to review the methodology.</p> <p><b>7/12</b> Sent follow-up email.</p>
National Association of Minority Architects	<p><b>6/15</b> Sent initial email.</p> <p><b>6/21</b> Sent follow-up email.</p> <p><b>6/25</b> Sent follow-up email.</p> <p><b>7/3</b> Sent follow-up email.</p> <p><b>7/12</b> Sent follow-up email.</p>
National Association of Minority Contractors	<p><b>6/19</b> Left voicemail on cell number. Office number <b>323.565.2526</b> has been disconnected.</p> <p><b>6/21</b> Sent initial email. Received bounceback for <i>d@dysonelec.com</i></p> <p><b>6/25</b> Sent follow-up email.</p> <p><b>6/29</b> Left voicemail.</p> <p><b>7/3</b> Sent follow-up email.</p> <p><b>7/6</b> Left voicemail.</p> <p><b>7/12</b> Sent follow-up email.</p> <p><b>7/13</b> Sharon called to discuss her concern for the goal being so low. She believes that it is not helping the DBE program as well as participation on projects. She suggests that Access Services increase their distribution of their solicitations and consider using outside sources to advertise their projects like PlanetBids. She also suggests sending out procurements to the local organizations, so they can advertise to their members and community to increase participation.</p>

Organization	Outreach Summary, Comments, And Responses
	<p><b>Response:</b></p> <ul style="list-style-type: none"> <li>&gt; The Access goal was calculated following the US Department of Transportation recommended 2 Step process to determine the relative availability of ready, willing, and able DBEs for the projects anticipated to be awarded in the triennial period.</li> <li>&gt; Access encourages DBE and other small businesses to register and receive solicitation notices through its procurement website. We will consider sending solicitations for local organizations as well.</li> <li>&gt; Access hosts and participates in workshops for the DBE and small business contracting community and attends and participates in vendor fairs hosted by unrepresented groups and other public agencies to encourage DBE and small business participation.</li> </ul>
National Association of Women Business Owners	<p><b>6/15</b> Sent email via website portal.  <b>6/19</b> Left voicemail.  <b>5/21</b> Sent email via website portal.  <b>6/29</b> Left voicemail.  <b>7/6</b> Left voicemail.</p>
National Association of Women in Construction	<p><b>6/19</b> Phone number is no longer in service <b>310.306.5267</b>.  <b>6/21</b> Sent initial mail.  <b>6/25</b> Sent follow-up email.  <b>7/3</b> Sent follow-up email.  <b>7/12</b> Sent follow-up email.</p>
Society of Hispanic Professional Engineers	<p><b>6/15</b> Sent initial email.  <b>6/19</b> Left voicemail.  <b>6/21</b> Sent follow-up email.  <b>6/25</b> Sent follow-up email.  <b>6/29</b> Left voicemail. Received follow-up call and discussed impact on organization. CFO informed Access that the organization is a non-profit and its members do not participate on federally funded contracts and had no comment on the goal methodology.  <b>7/3</b> Sent follow-up email.  <b>7/12</b> Sent follow-up email.</p>
Women's Business Enterprise Council West	<p><b>6/15</b> Sent initial email.  <b>6/19</b> Left voicemail.  <b>6/21</b> Sent follow-up email.  <b>6/25</b> Sent follow-up email.  <b>6/29</b> Left voicemail.  <b>7/3</b> Sent follow-up email.  <b>7/6</b> Attempted to leave voicemail; however, inbox was full.  <b>7/12</b> Sent follow-up email.</p>

**Access Services**  
PO Box 5728  
El Monte, CA 91734  
[accessla.org](http://accessla.org)

**access**

MINORITY OWNED DEPOSITORY INSTITUTIONS and THEIR BRANCHES as of March 31, 2018  
 SORTED by STATE - ( Assets and Deposits in Thousands )

Institution/Branch Name	Location	ID	Chr Cls	Ent Type	Holding Company Name	Min Cd	Minority Ownership Dt	Established Dt	Assets (Thous \$)	Deposits (Thous \$)
ALAMERICA BK	BIRMINGHAM, AL	2877484	207	NMB	ALAMERICA BANCCORP	1	2002-10-24	2000-01-28	34,916	21,961
COMMONWEALTH NB CRICHTON BR	MOBILE, AL MOBILE, AL	578237 2627812	117	NAT	CNB BC	1	1976-02-19 1999-07-09	1976-02-19 1997-11-01	48,315	44,331
FRIEND BK DOTHAN BR GENEVA BR HARTFORD BR NEWTON BR	SLOCOMB, AL DOTHAN, AL GENEVA, AL HARTFORD, AL NEWTON, AL	244037 3642399 4724546 51730 3617043	207	NMB	SNB HOLD	5	2002-01-02 2007-03-12 2014-06-30 2015-01-01 2015-01-01	1905-10-01 2007-03-12 2014-06-30 1975-10-01 2007-06-15	125,604	113,473
AMERICAN CONTINENTAL BK ARCADIA BR CHINO HILLS BR SAN GABRIEL BR	CITY OF INDUSTRY, CA ARCADIA, CA CHINO HILLS, CA SAN GABRIEL, CA	3216316 4580694 4201690 3553570	207	NMB	AMERICAN CONTINENTAL BC	20	2015-03-31 2015-03-31 2015-03-31 2015-03-31	2003-10-06 2013-09-23 2008-03-06 2006-10-23	203,414	172,274
AMERICAN PLUS BK NA PASADENA BR ROWLAND HGTS BR	ARCADIA, CA PASADENA, CA ROWLAND HEIGHTS, CA	3623110 4852403 4094173	117	NAT		20	2008-11-01 2014-08-27 2009-08-15	2007-08-08 2014-08-27 2009-08-15	492,646	394,638
AMERICAS UNITED BK COMMERCE BR GLENDALE BR LANCASTER BR SANTA FE SPRINGS BR	GLENDALE, CA COMMERCE, CA GLENDALE, CA LANCASTER, CA SANTA FE SPRINGS, CA	3488980 702162 4811295 87962 384764	207	NMB		10	2007-01-11 2015-09-26 2012-12-31 2014-03-28 2015-09-26	2006-11-06 1983-06-16 2012-12-31 1967-03-31 1949-10-31	229,065	198,423
ASIAN PACIFIC NB ROWLAND HGTS RGNL OFF	SAN GABRIEL, CA ROWLAND HEIGHTS, CA	1462986 2641854	117	NAT		20	2004-02-03 2004-02-03	1990-07-25 1997-12-03	57,542	48,073
BANK OF HOPE ANNANDALE BR ARLINGTON HGTS BR BAYSIDE BR BRDWAY BR CENTREVILLE BR CERRITOS BR CITY CTR BR DALLAS BR DIAMOND BAR BR EDISON BR FASHION TOWN BR FEDERAL WAY BR FLUSHING-150TH BR FLUSHING-CROCHERON BR FLUSHING-UNION BR FORT LEE BR FORTH WORTH BR FULLERTON BR FULLERTON-BEACH BR GARDENA BR	LOS ANGELES, CA ANNANDALE, VA ARLINGTON HEIGHTS, IL BAYSIDE, NY LOS ANGELES, CA CENTREVILLE, VA CERRITOS, CA LOS ANGELES, CA DALLAS, TX DIAMOND BAR, CA EDISON, NJ LOS ANGELES, CA FEDERAL WAY, WA FLUSHING, NY FLUSHING, NY FLUSHING, NY FORT LEE, NJ NORTH RICHLAND HILLS, TX BUENA PARK, CA BUENA PARK, CA GARDENA, CA	671464 4201289 3511712 3441819 1470392 4970334 2635974 4362117 3305528 3848614 4184261 3254103 3580307 3924620 3924237 2176664 4554864 T3971101 2757764 2738165 1164141	207	NMB	HOPE BC	20	1989-11-10 2013-08-13 2013-08-13 2011-12-01 2006-06-30 2016-02-08 2016-07-30 2011-12-01 2016-07-30 2011-12-01 2016-07-30 2013-02-15 2016-07-30 2016-07-30 2011-12-01 2016-07-30 2016-07-30 2016-07-30 2011-12-01 2016-07-30 2016-07-30 2011-12-01 1989-11-10	1986-03-18 2010-06-02 2003-07-17 2005-09-28 1990-09-14 2016-02-08 2016-02-08 1997-11-21 1986-03-18 2004-11-17 2007-12-31 2010-08-13 2004-03-08 2006-02-10 2009-03-16 2008-06-23 1993-11-01 2008-09-15 2009-07-27 1998-11-12 1998-09-15 1987-10-15	14,500,918	11,522,249

GLENVIEW BR	GLENVIEW, IL	4660194				2013-05-02	2013-05-02			
GREAT NECK BR	GREAT NECK, NY	4184252				2011-12-01	2010-06-24			
HOUSTON-HARWIN BR	HOUSTON, TX	4754253				2016-07-30	2014-09-22			
HOUSTON-SPRING BR	HOUSTON, TX	5163357				2017-09-01	2017-09-01			
HUNTINGTON PARK BR	HUNTINGTON PARK, CA	2849856				2016-07-30	1999-09-15			
INLAND BR	COLTON, CA	3498738				2005-06-30	2005-06-30			
IRVINE CULVER BR	IRVINE, CA	3628058				2006-06-30	2006-06-30			
LA CRESCENTA BR	LA CRESCENTA, CA	4918840				2015-10-19	2015-10-19			
LA PALMA BR	LA PALMA, CA	3347117				2011-12-01	2001-09-14			
LAGRANGE BR	LAGRANGE, GA	4848406				2016-07-30	2015-03-31			
LYNNWOOD BR	LYNNWOOD, WA	3498765				2005-06-30	2005-06-30			
LYNNWOOD MKT BR	LYNNWOOD, WA	3930331				2013-02-15	2008-12-04			
MANHATTAN BR	NEW YORK, NY	3347078				2011-12-01	1990-11-18			
MAPLE BR	LOS ANGELES, CA	3466296				2016-07-30	2002-08-01			
MONTGOMERY BR	MONTGOMERY, AL	4877303				2016-07-30	2015-07-27			
NAPERVILLE BR	NAPERVILLE, IL	2931050				2013-08-13	2000-05-19			
NILES BR	NILES, IL	2489609				2013-08-13	1996-05-28			
NILES MKT BR	NILES, IL	3657973				2013-08-13	2006-08-25			
NORTH NORTHRIDGE BR	NORTHRIDGE, CA	3498710				2005-06-30	2005-06-30			
OAKLAND BR	OAKLAND, CA	3347126				2011-12-01	2000-08-15			
OLYMPIC WESTERN BR	LOS ANGELES, CA	3498587				2005-06-30	2005-06-30			
OLYMPIC-HOOVER BR	LOS ANGELES, CA	3498608				2005-06-30	2005-06-30			
OLYMPIC-VERMONT BR	LOS ANGELES, CA	2738174				2011-12-01	1998-09-28			
PALISADES PARK BR	PALISADES PARK, NJ	4706609				2016-07-30	2013-04-22			
RANCHO CUCAMONGA BR	RANCHO CUCAMONGA, CA	3555640				2016-07-30	2006-07-24			
ROWLAND HGTS-COLIMA BR	WALNUT, CA	3112306				2016-07-30	2001-04-02			
ROWLAND HGTS-NOGALES BR	ROWLAND HEIGHTS, CA	3263909				2011-12-01	2004-04-16			
SAN DIEGO BR	SAN DIEGO, CA	3498747				2005-06-30	2005-06-30			
SAN PEDRO MART BR	LOS ANGELES, CA	2455211				2016-07-30	1996-04-12			
SILICON VALLEY BR	SUNNYVALE, CA	2644547				2011-12-01	1997-12-23			
SKOKIE BR	SKOKIE, IL	5193336				2017-12-28	2017-12-28			
SOUTH NORTHRIDGE BR	NORTHRIDGE, CA	1411340				2016-07-30	1989-10-03			
TACOMA BR	LAKEWOOD, WA	3520424				2013-02-15	2005-06-30			
TORRANCE BR	TORRANCE, CA	3466287				2016-07-30	2002-07-01			
TORRANCE MKT BR	TORRANCE, CA	5011784				2016-06-10	2016-06-10			
WALL BR	LOS ANGELES, CA	2470072				2011-12-01	1996-06-07			
WEST GARDEN GROVE BR	GARDEN GROVE, CA	1369834				1989-11-10	1989-03-24			
WESTERN BEVERLY BR	LOS ANGELES, CA	1919677				1991-12-17	1991-12-17			
WESTERN-9TH BR	LOS ANGELES, CA	661960				2016-07-30	1983-07-07			
WILSHIRE BR	LOS ANGELES, CA	4310501				2016-07-30	2003-05-07			
WILSHIRE MANHATTAN BR	LOS ANGELES, CA	3254028				2016-07-30	2003-05-07			
WILSHIRE-HARVARD BR	LOS ANGELES, CA	3347096				2011-12-01	2000-06-30			
WOODSIDE BR	WOODSIDE, NY	2911116				2011-12-01	1986-11-03			
BANK OF THE ORIENT	SAN FRANCISCO, CA	777366	217	SMB	ORIENT BC	20	1992-09-22	1971-03-17	751,599	629,433
BANK OF THE ORIENT XIAMEN BR	XIAMEN, 0	778961					1992-09-22	1987-04-17		
HONOLULU DOWNTOWN BR	HONOLULU, HI	2988746					2000-10-14	2000-10-14		
MILLBRAE BR	MILLBRAE, CA	2961682					1999-11-15	1999-11-15		
OAKLAND BR	OAKLAND, CA	779463					1992-09-22	1981-02-05		
SAN FRANCISCO CHINATOWN BR	SAN FRANCISCO, CA	776864					1992-09-22	1972-12-01		
SAN FRANCISCO CLEMENT & 6TH	SAN FRANCISCO, CA	210368					1992-09-22	1975-02-26		
SAN FRANCISCO IRVING ST BR	SAN FRANCISCO, CA	2543556					1997-02-24	1997-02-24		
BANK OF WHITTIER NA	WHITTIER, CA	209362	117	NAT	GREATER PACIFIC BSHRS	20	2011-01-19	1982-12-20	57,449	46,377
RICHARDSON BR	RICHARDSON, TX	4395067					2011-06-23	2011-06-23		
BROADWAY FED BK FSB	LOS ANGELES, CA	26176	107	FSB		1	1988-12-31	1947-02-26	399,433	282,230
EXPOSITION BR	LOS ANGELES, CA	4020761					2008-06-30	2008-06-30		



INGLEWOOD BR	INGLEWOOD, CA	4020725			2008-06-30	2008-06-30		
CALIFORNIA BUS BK	IRVINE, CA	3390337	207 NMB		20	2015-03-31	2005-11-01	95,846 56,143
CALIFORNIA INTL BK NA WESTMINSTER BR	ROSEMEAD, CA WESTMINSTER, CA	3394380 5161090	117 NAT		20	2006-10-10 2016-09-19	2005-11-30 2005-11-30	51,506 28,803
CALIFORNIA PACIFIC BK FREMONT BR	SAN FRANCISCO, CA FREMONT, CA	50461 935166	207 NMB		20	1980-10-16 1982-06-07	1980-10-16 1982-06-07	72,924 41,392
CATHAY BK ALHAMBRA BR ARCADIA BR ARCADIA DUARTE BR BELLEVUE BR BENSONHURST BR BERKELEY RICHMOND BR BOSTON BR BROOKLYN BR CATHAY BK HONG KONG BR CERRITOS VALLEY BR CHICAGO BRDWAY BR CHICAGO CHINATOWN BR CHICAGO W CERMAK RD BR CHICAGO WESTMONT BR CHINATOWN PARK ROW BR CITY OF IND BR CITY OF IND COLIMA BR CUPERTINO OFF CUPERTINO WEST BR DIAMOND BAR BR DUBLIN BR EL MONTE BR ELMHURST BR FLUSHING BR FLUSHING ROOSEVELT BR FOUNTAIN VALLEY BR FREMONT BR HOUSTON BR IRVINE BARRANCA BR IRVINE BR IRVINE WALNUT BR KENT NORTH BR LAS VEGAS BR MILLBRAE BR MILPITAS BR MONTEREY PARK BR MONTEREY PARK CADIZ BR NEW JERSEY BR NEW YORK CHATHAM SQ BR NEW YORK CHINATOWN BR NEW YORK MID-TOWN BR NEW YORK SOHO BR NORTH FLUSHING BR NORTHTRIDGE BR OAKLAND BR ONTARIO BR ORANGE BR	LOS ANGELES, CA ALHAMBRA, CA ARCADIA, CA ARCADIA, CA BELLEVUE, WA BROOKLYN, NY RICHMOND, CA BOSTON, MA BROOKLYN, NY HONG KONG, 0 ARTESIA, CA CHICAGO, IL CHICAGO, IL CHICAGO, IL WESTMONT, IL NEW YORK, NY CITY OF INDUSTRY, CA CITY OF INDUSTRY, CA CUPERTINO, CA CUPERTINO, CA DIAMOND BAR, CA DUBLIN, CA EL MONTE, CA ELMHURST, NY FLUSHING, NY FLUSHING, NY FOUNTAIN VALLEY, CA FREMONT, CA HOUSTON, TX IRVINE, CA IRVINE, CA IRVINE, CA KENT, WA LAS VEGAS, NV MILLBRAE, CA MILPITAS, CA MONTEREY PARK, CA MONTEREY PARK, CA EDISON, NJ NEW YORK, NY NEW YORK, NY NEW YORK, NY NEW YORK, NY FLUSHING, NY NORTHTRIDGE, CA OAKLAND, CA ONTARIO, CA ORANGE, CA	595869 642062 1494811 3615722 3660955 4652760 2686912 985602 3190050 3603055 976963 2060174 209139 2636065 2689968 1164628 1966756 1413988 2231152 3498288 2887371 4098050 730268 2470380 2866237 810900 3627994 3498251 2968784 1438169 2257246 1992643 2917625 3589588 2262697 2257255 595168 1864124 2619572 1415807 2865717 960609 3509166 3628003 2063009 1949375 3684915 2111629	207 NMB	CATHAY GEN BC	20	1962-04-19 1985-12-30 2003-10-21 2017-10-27 2006-06-30 2014-03-17 2014-03-17 1998-04-08 2003-10-21 2002-06-27 2007-05-25 2003-10-21 2006-10-18 1991-12-15 2006-10-18 1987-08-27 2006-10-18 1997-05-18 2006-10-18 1998-04-17 2015-08-01 1987-07-20 1992-05-21 1992-05-21 2017-10-27 1989-11-06 1994-08-03 1994-08-03 2017-10-27 2005-06-30 2000-01-22 2000-01-22 2009-05-08 2009-05-08 2003-10-21 1980-03-18 2015-08-01 1995-01-17 1999-12-11 1999-12-11 2015-08-01 1984-11-09 2006-06-30 2006-06-30 2017-10-27 2005-06-30 2000-12-11 2000-12-11 2003-10-21 1990-02-22 1994-11-17 1994-11-17 2017-10-27 1992-09-14 2003-10-21 2000-06-01 2013-06-17 2007-06-26 1994-12-14 1994-12-14 1994-11-17 1994-11-17 1979-09-19 1979-09-19 2017-10-27 1990-12-08 2007-03-31 1997-10-06 2006-05-16 1989-10-27 1999-12-11 1997-04-11 2006-05-16 1986-05-17 2005-06-30 2005-06-30 2006-06-30 2006-06-30 2003-10-21 1993-07-09 1992-03-12 1992-03-12 2007-07-23 2007-07-23 2003-10-21 1993-10-12	15,452,899 12,802,003	

PLANO BR	PLANO, TX	3684924				2007-07-11	2007-07-11		
RANCHO CUCAMONGA BR	RANCHO CUCAMONGA, CA	5019276				2016-07-18	2016-07-18		
ROCKVILLE BR	ROCKVILLE, MD	2839008				2015-08-01	1999-07-12		
ROWLAND HGTS BR	ROWLAND HEIGHTS, CA	3627985				2006-06-30	2006-06-30		
SACRAMENTO BR	SACRAMENTO, CA	3509157				2005-06-30	2005-06-30		
SAN DIEGO BR	SAN DIEGO, CA	1439296				2003-10-21	1990-03-05		
SAN FRANCISCO BR	SAN FRANCISCO, CA	3553691				2006-05-01	2006-05-01		
SAN FRANCISCO CLEMENT BR	SAN FRANCISCO, CA	4463377				2012-12-01	2012-12-01		
SAN FRANCISCO PINE BR	SAN FRANCISCO, CA	602767				2017-10-27	1987-07-27		
SAN GABRIEL BR	SAN GABRIEL, CA	1864544				1991-05-22	1991-05-22		
SAN JOSE BR	SAN JOSE, CA	1435588				1989-12-18	1989-12-18		
SAN JOSE BROKAW BR	SAN JOSE, CA	2654872				2003-10-21	1998-02-11		
SEATTLE BR	SEATTLE, WA	3628012				2006-06-30	2006-06-30		
SOUTH FLUSHING BR	FLUSHING, NY	2727824				2006-05-16	1998-07-18		
TORRANCE BR	TORRANCE, CA	913164				2003-10-21	1985-04-02		
UNION CITY BR	UNION CITY, CA	3509139				2005-06-30	2005-06-30		
VALLEY STONEMAN BR	ALHAMBRA, CA	2515357				1996-11-18	1996-11-18		
WEST COVINA BR	WEST COVINA, CA	4588243				2013-12-19	2013-12-19		
WESTMINSTER BR	WESTMINSTER, CA	1211296				1988-06-14	1988-06-14		
COMMERCIAL BK OF CALIFORNIA	IRVINE, CA	3189063	207 NMB	NCAL BC	10	2015-03-31	2003-05-15	816,050	646,387
ANAHEIM RGNL OFF	ANAHEIM, CA	5193859				2018-01-16	2018-01-16		
COSTA MESA BR	COSTA MESA, CA	3439786				2016-05-01	2002-09-01		
LOS ANGELES RGNL BR	LOS ANGELES, CA	4151526				2016-05-01	2010-06-21		
SANTA MONICA RGNL BR	SANTA MONICA, CA	5036264				2016-07-18	2016-07-18		
SHERMAN OAKS BR	SHERMAN OAKS, CA	2734514				2016-05-01	1998-09-28		
COMMONWEALTH BUS BK	LOS ANGELES, CA	3337097	217 SMB	CBB BC	20	2015-03-31	2005-03-03	1,070,320	931,546
CARROLLTON BR	CARROLLTON, TX	5143256				2017-07-24	2017-07-24		
DALLAS BR	DALLAS, TX	4950073				2016-01-04	2016-01-04		
FULLERTON/BUENA PARK BR	BUENA PARK, CA	4860444				2015-04-20	2015-04-20		
IRVINE BR	IRVINE, CA	3777424				2015-03-31	2008-03-24		
LOS ANGELES S TOWNE AVE BR	LOS ANGELES, CA	3554009				2015-03-31	2006-08-09		
OLYMPIC BR	LOS ANGELES, CA	5143265				2017-07-05	2017-07-05		
SOUTH BAY BR	TORRANCE, CA	4758738				2015-03-31	2014-09-15		
COMMUNITY CMRC BK	CLAREMONT, CA	299868	207 NMB		10	2002-07-31	1976-10-01	214,231	126,344
MONTEREY PARK BR	MONTEREY PARK, CA	3516119				2005-06-30	2005-06-30		
OLYMPIC BR	LOS ANGELES, CA	1369049				2002-07-31	1985-04-01		
TARZANA BR	TARZANA, CA	5095300				2016-12-22	2016-12-22		
WOODLAND HILLS BR	WOODLAND HILLS, CA	392862				2002-07-31	1979-11-01		
CTBC BK CORP USA	LOS ANGELES, CA	996260	207 NMB	CTBC FNCL HOLD CO	34	1965-04-27	1965-04-27	3,298,105	2,769,672
BROOKLYN BR	BROOKLYN, NY	2131430				1997-08-30	1993-11-18		
CITY OF IND BR	CITY OF INDUSTRY, CA	2501163				1996-09-16	1996-09-16		
CUPERTINO BR	CUPERTINO, CA	2648620				1997-10-02	1997-10-02		
EDISON BR	EDISON, NJ	2648648				1997-11-01	1997-11-01		
FLUSHING BR	FLUSHING, NY	2048097				1997-08-30	1993-05-17		
IRVINE BR	IRVINE, CA	2507044				1996-10-07	1996-10-07		
MILPITAS BR	MILPITAS, CA	2492579				1996-08-19	1996-08-19		
MONTEREY PARK BR	MONTEREY PARK, CA	2335407				1995-09-05	1995-09-05		
ROWLAND HGTS BR	CITY OF INDUSTRY, CA	3628067				2006-06-30	2006-06-30		
SAN FRANCISCO BR	SAN FRANCISCO, CA	5213533				2018-03-19	2018-03-19		
SAN GABRIEL BR	SAN GABRIEL, CA	2729583				1998-09-08	1998-09-08		
SAN MARINO BR	SAN MARINO, CA	1429112				1983-04-08	1983-04-08		
EAST WEST BK	PASADENA, CA	197478	217 SMB	EAST WEST BC	34	1988-12-31	1972-06-01	35,593,787	30,801,703
99 ARTESIA BR	ARTESIA, CA	2325033				1995-07-31	1981-05-01		

99 MILPITAS BR	MILPITAS, CA	2747514	1998-10-13	1998-10-13
99 PLEASANTON BR	PLEASANTON, CA	4213451	2010-11-08	2010-11-08
99 RANCHO CUCAMONGA	RANCHO CUCAMONGA, CA	4475736	2013-02-07	2013-02-07
99 VAN NUYS BR	VAN NUYS, CA	3510386	2005-06-30	2005-06-30
ALHAMBRA MAIN ST BR	ALHAMBRA, CA	2324595	1995-07-31	1965-01-01
ALHAMBRA VALLEY BLVD BR	ALHAMBRA, CA	2325097	1995-07-31	1982-06-01
ANAHEIM BR	ANAHEIM, CA	3510537	2005-06-30	2005-06-30
ARCADIA E DUARTE BR	ARCADIA, CA	2325220	1995-07-31	1992-12-31
ARCADIA GOLDEN W AVE BR	ARCADIA, CA	3510359	2005-06-30	2005-06-30
ARCADIA-BALDWIN BR	ARCADIA, CA	3285143	2004-08-07	2004-08-05
ARTESIA BR	ARTESIA, CA	2719913	2009-11-07	1986-03-27
BALBOA BR	SAN FRANCISCO, CA	2719931	2009-11-07	1986-03-27
BELLAIRE BR	HOUSTON, TX	189352	2014-01-18	1987-04-15
BELLEVUE BR	BELLEVUE, WA	2737551	2009-11-07	1998-10-13
BEVERLY HILLS CMRL BKG CTR	BEVERLY HILLS, CA	2653893	2001-01-13	1998-02-09
BOONE RD BR	HOUSTON, TX	2994596	2014-01-18	1999-11-26
BOSTON BR	BOSTON, MA	2074256	2009-11-07	1993-08-11
BOWERY BR	NEW YORK, NY	714811	2009-11-07	1967-04-13
BROOKLYN 8TH AVE BR	BROOKLYN, NY	3653256	2009-11-07	2006-06-30
BROOKLYN AVE U BR	BROOKLYN, NY	3929746	2009-11-07	2008-12-23
CANAL ST NY CHINATOWN BR	NEW YORK, NY	2403669	2009-11-07	1990-12-15
CARSON BR	CARSON, CA	2794479	2003-03-15	1999-02-22
CERRITOS E S ST BR	CERRITOS, CA	646668	1999-05-29	1986-01-06
CHINO HILLS BR	CHINO HILLS, CA	3719321	2007-07-06	2007-07-06
CITY OF IND BR	CITY OF INDUSTRY, CA	1469734	2000-01-15	1990-09-04
CITY OF IND SOUTH AZUSA BR	CITY OF INDUSTRY, CA	1851610	2005-09-07	1990-11-06
CLEMENT BR	SAN FRANCISCO, CA	2719940	2009-11-07	1986-03-27
CUPERTINO BR	CUPERTINO, CA	2642075	1997-09-24	1997-09-24
DALY CITY BR	DALY CITY, CA	2720012	2009-11-07	1998-04-17
DIAMOND BAR BR	DIAMOND BAR, CA	2325202	1995-07-31	1989-10-01
DRIVE-IN FACILITY	HOUSTON, TX	219950	2014-01-18	1976-07-05
DULLES BR	SUGAR LAND, TX	2994608	2014-01-18	1999-03-12
EAST BR	HOUSTON, TX	1431571	2014-01-18	1944-04-01
EAST WEST BK HONG KONG BR 2	HONG KONG, O	3205972	2009-11-07	2003-07-25
EASTSIDE BELLEVUE BR	BELLEVUE, WA	3522071	2010-06-12	2005-06-30
EL MONTE BR	EL MONTE, CA	2459572	1996-04-29	1996-04-29
EL MONTE NORTH BR	EL MONTE, CA	170462	2003-03-15	1972-12-08
EL MONTE OPERS CTR	EL MONTE, CA	4979805	2008-07-11	2008-07-11
FLUSHING MAIN BR	FLUSHING, NY	229614	2009-11-07	1982-12-20
FLUSHING OFF BR	FLUSHING, NY	3929661	2009-11-07	2007-05-23
FREMONT BR	FREMONT, CA	2720058	2009-11-07	1995-04-07
FREMONT-MISSION BR	FREMONT, CA	3205169	2009-11-07	2003-07-30
GLENDALE BR	GLENDALE, CA	1168765	2000-01-15	1988-02-01
HARRY HINES BR	DALLAS, TX	2994541	2014-01-18	1998-06-01
IRVINE - CULVER BR	IRVINE, CA	2719922	2009-11-07	1996-05-15
IRVINE 99 CULVER BR	IRVINE, CA	3628263	2006-06-30	2006-06-30
IRVINE BR	IRVINE, CA	2818441	2005-09-07	1999-05-18
IRVINE JAMBOREE RD BR	IRVINE, CA	3595208	2007-03-16	2007-03-16
IRVINE WALNUT AVE BR	IRVINE, CA	3510470	2005-06-30	2005-06-30
IRVING BR	SAN FRANCISCO, CA	2719968	2009-11-07	1994-12-15
LA CHINATOWN-HILL BR	LOS ANGELES, CA	2719874	2009-11-07	1986-03-27
LAS VEGAS CMRL BKG CTR	LAS VEGAS, NV	4594114	2013-12-23	2013-12-23
LINCOLN HGTS BR	LOS ANGELES, CA	2324586	1995-07-31	1960-02-01
LOS ANGELES BR	ALHAMBRA, CA	2818599	2014-01-18	1999-06-01
LOS ANGELES CHINATOWN BR	LOS ANGELES, CA	2324607	1995-07-31	1973-01-01
LOS ANGELES SOUTH GRAND AVE	LOS ANGELES, CA	627461	2000-01-15	1978-07-03
MILAM BR	HOUSTON, TX	2994578	2014-01-18	1998-01-05
MILPITAS BR	MILPITAS, CA	3653238	2009-11-07	2006-06-30

MONTEBELLO BR	MONTEBELLO, CA	2324625			1995-07-31	1979-07-01		
MONTEREY PARK BR	MONTEREY PARK, CA	488970			2006-03-18	1982-04-02		
MONTEREY PARK GARVEY BR	MONTEREY PARK, CA	1193208			1999-05-29	1988-06-20		
MONTEREY PARK S ATLANTIC BR	MONTEREY PARK, CA	3115446			2005-09-07	2001-08-20		
NEWARK BR	NEWARK, CA	3659847			2006-06-29	2006-06-29		
NORIEGA BR	SAN FRANCISCO, CA	203865			2009-11-07	1975-12-22		
NORIEGA-1301 BR	SAN FRANCISCO, CA	2719986			2009-11-07	1986-03-27		
OAKLAND-WEBSTER BR	OAKLAND, CA	2720049			2009-11-07	1992-05-18		
ONTARIO BR	ONTARIO, CA	3599260			2006-06-30	2006-06-30		
PASADENA BR	PASADENA, CA	3719330			2007-08-30	2007-08-30		
PLANO BR	PLANO, TX	3473007			2014-01-18	2006-06-01		
PLEASANT HILL BR	DULUTH, GA	3374663			2009-11-07	2005-03-31		
QUINCY BR	QUINCY, MA	3207583			2009-11-07	2003-08-01		
RICHARDSON BR	RICHARDSON, TX	2650034			2014-01-18	1996-04-29		
ROLLING HILLS ESTATES BR	PALOS VERDES, CA	2325172			2006-06-30	1986-10-01		
ROSEMEAD BR	ROSEMEAD, CA	2325088			1995-07-31	1981-11-01		
ROWLAND HGTS BR	ROWLAND HEIGHTS, CA	2325211			1995-07-31	1992-12-10		
ROWLAND HGTS NOGALES ST BR	ROWLAND HEIGHTS, CA	3510416			2005-06-30	2005-06-30		
ROWLAND HTS-FAIRWAY BR	ROWLAND HEIGHTS, CA	3501638			2009-11-07	2005-06-30		
ROWLAND HTS-NOGALES BR	ROWLAND HEIGHTS, CA	2719892			2009-11-07	1994-09-13		
SACRAMENTO BR	SACRAMENTO, CA	2720320			2009-11-07	1992-05-18		
SAN DIEGO CLAIRMONT MESA BR	SAN DIEGO, CA	1864601			2014-01-18	1991-05-15		
SAN FERNANDO VALLEY CMRL BKG	ENCINO, CA	1450358			2000-01-15	1990-05-15		
SAN FRANCISCO STOCKTON BR	SAN FRANCISCO, CA	2325145			1995-07-31	1982-08-01		
SAN GABRIEL BR	SAN GABRIEL, CA	1369843			2005-09-07	1989-03-20		
SAN GABRIEL IN-STORE BR	SAN GABRIEL, CA	4126300			2002-02-19	2002-02-19		
SAN JOSE BR	SAN JOSE, CA	3378438			2005-09-07	2002-08-28		
SAN JOSE STORY BR	SAN JOSE, CA	3501535			2009-11-07	2005-06-30		
SAN MARINO BR	SAN MARINO, CA	2325163			1995-07-31	1984-12-01		
SAN MARINO HUNTINGTON DR BR	SAN MARINO, CA	301668			2005-09-07	1983-06-01		
SAN MATEO BR	SAN MATEO, CA	2720030			2009-11-07	1996-03-15		
SAN MATEO-NORFOLK BR	SAN MATEO, CA	3866681			2009-11-07	2008-04-22		
SEATTLE BR	SEATTLE, WA	4144676			2010-06-12	2010-06-12		
SEATTLE INTL DIST BR	SEATTLE, WA	1466863			2010-06-12	1990-07-17		
SF CHINATOWN-GRANT BR	SAN FRANCISCO, CA	2719959			2009-11-07	1986-03-27		
SF KEARNY BR	SAN FRANCISCO, CA	2719977			2009-11-07	1992-05-18		
SF MONTGOMERY BR	SAN FRANCISCO, CA	767161			2009-11-07	1937-05-01		
SF RICHMOND BR	SAN FRANCISCO, CA	3501058			2009-11-07	2005-06-30		
SF WA BR	SAN FRANCISCO, CA	770563			2009-11-07	1961-12-01		
SHALLOWFORD BR	ATLANTA, GA	1217195			2009-11-07	1988-08-08		
SILVERLAKE BR	LOS ANGELES, CA	2325042			1995-07-31	1981-05-01		
SOUTH PASADENA BR	SOUTH PASADENA, CA	2325109			1995-07-31	1982-07-01		
SPRING BR	HOUSTON, TX	2994587			2014-01-18	1999-04-15		
STOCKTON BR	SAN FRANCISCO, CA	204367			2009-11-07	1973-02-27		
SUGAR LAND BR	SUGAR LAND, TX	2375476			2014-01-18	1995-11-06		
TEMPLE CITY BR	TEMPLE CITY, CA	2719904			2009-11-07	1986-03-27		
TORRANCE BR	TORRANCE, CA	1873685			2000-01-15	1990-11-19		
TULLY BR	SAN JOSE, CA	847269			2009-11-07	1973-11-08		
VETERANS MEM BR	HOUSTON, TX	2994569			2014-01-18	1997-04-01		
VININGS BR	ATLANTA, GA	1158177			2009-11-07	1987-10-23		
WALNUT BR	WALNUT, CA	2739153			2005-09-07	1998-09-08		
WESTMINSTER BR	WESTMINSTER, CA	2325181			1995-07-31	1988-06-01		
EASTERN INTL BK	LOS ANGELES, CA	206772	207 NMB		1990-06-29	1985-02-27	112,022	92,741
LOS ANGELES BR	ALHAMBRA, CA	1462445			1990-06-29	1990-06-29		
EVERTRUST BK	PASADENA, CA	2297998	207 NMB	O-BANK CO	1998-07-08	1995-05-03	832,024	609,734
ALHAMBRA BR	ALHAMBRA, CA	2601371			1998-07-08	1997-05-12		

ARCADIA BR	ARCADIA, CA	3867642				2008-12-22	2008-12-22		
CERRITOS BR	CERRITOS, CA	4742821				2014-08-18	2014-08-18		
CITY OF IND BR	CITY OF INDUSTRY, CA	4504841				2013-04-18	1995-05-03		
CUPERTINO BR	CUPERTINO, CA	3842265				2008-09-08	2008-09-08		
IRVINE BR	IRVINE, CA	3514263				2005-06-30	2005-06-30		
FIRST CHOICE BK	CERRITOS, CA	3374878	207 NMB	FIRST CHOICE BC	20	2006-10-18	2005-08-18	947,475	759,208
ALHAMBRA BR	ALHAMBRA, CA	4201681				2009-12-31	2009-12-31		
ANAHEIM BR	ANAHEIM, CA	4736482				2014-08-01	2014-08-01		
CARLSBAD BR	CARLSBAD, CA	5193130				2017-12-22	2017-12-22		
CERRITOS BR	CERRITOS, CA	4758934				2014-09-15	2014-09-15		
ROWLAND HGTS BR	ROWLAND HEIGHTS, CA	4455505				2012-09-18	2012-09-18		
FIRST CMRL BK USA	ALHAMBRA, CA	2332910	207 NMB	FIRST FHC	34	2015-03-31	1997-05-20	524,904	403,972
ARCADIA BR	ARCADIA, CA	3366154				2015-03-31	2005-01-27		
CITY OF IND BR	ROWLAND HEIGHTS, CA	2691680				2015-03-31	1998-04-15		
FREMONT BR	FREMONT, CA	4282475				2015-03-31	2009-01-09		
IRVINE BR	IRVINE, CA	3366118				2015-03-31	2001-08-08		
SILICON VALLEY BR	SAN JOSE, CA	3366127				2015-03-31	2000-04-18		
FIRST GEN BK	ROWLAND HEIGHTS, CA	3386264	207 NMB		20	2009-03-12	2005-10-13	907,073	792,799
ARCADIA BR	ARCADIA, CA	3628450				2009-03-12	2006-06-30		
CERRITOS BR	ARTESIA, CA	5161063				2017-08-15	2017-08-15		
IRVINE BR	IRVINE, CA	4224260				2010-12-08	2010-12-08		
SAN GABRIEL BR	SAN GABRIEL, CA	4363002				2011-06-30	2011-06-30		
GATEWAY BK FSB	OAKLAND, CA	1493319	107 FSB		20	2015-03-31	1990-06-08	112,450	104,529
HANMI BK	LOS ANGELES, CA	657365	207 NMB	HANMI FC	34	2015-03-31	1982-12-15	5,302,500	4,389,060
ANNANDALE BR	ANNANDALE, VA	3831942				2015-03-31	2008-10-10		
ARLINGTON BR	ARLINGTON, TX	2399726				2015-03-31	1996-01-31		
AUSTIN BR	AUSTIN, TX	3298620				2015-03-31	2004-09-15		
CAROL STREAM BR	CAROL STREAM, IL	3508093				2015-03-31	2001-04-09		
CARROLLTON BR	CARROLLTON, TX	4010173				2015-03-31	2009-10-27		
CERRITOS-ARTESIA BR	ARTESIA, CA	2735230				2015-03-31	1998-10-01		
CHICAGO BR	CHICAGO, IL	3508011				2015-03-31	2000-12-18		
DALLAS BR	DALLAS, TX	1919006				2015-03-31	1989-05-11		
DIAMOND BAR BR	DIAMOND BAR, CA	3930500				2015-03-31	2009-02-26		
DOWNERS GROVE BR	DOWNERS GROVE, IL	2507352				2015-03-31	1988-12-30		
DOWNTOWN LOS ANGELES BR	LOS ANGELES, CA	659060				2015-03-31	1986-04-10		
EDISON BR	EDISON, NJ	3157062				2015-03-31	2001-02-06		
FASHION DIST BR	LOS ANGELES, CA	3254046				2015-03-31	2003-12-04		
FULLERTON BEACH BR	BUENA PARK, CA	3661028				2015-03-31	2006-06-30		
GARDEN GROVE BROOKHURST BR	GARDEN GROVE, CA	1400522				2015-03-31	1989-06-20		
GARDENA BR	GARDENA, CA	2989613				2015-03-31	2000-12-15		
GARLAND BR	GARLAND, TX	259657				2015-03-31	1984-08-20		
GLENVIEW BR	GLENVIEW, IL	5047288				2016-09-30	2016-09-30		
HOUSTON GESSNER BR	HOUSTON, TX	2225665				2015-03-31	1994-07-15		
HOUSTON HILLCROFT BR	HOUSTON, TX	3424456				2015-03-31	2006-02-15		
HOUSTON SPRING BR	HOUSTON, TX	2642897				2015-03-31	1997-12-15		
IRVINE BR	IRVINE, CA	3782718				2015-03-31	2008-05-30		
IRVINE BR	IRVINE, CA	3150812				2015-03-31	2001-09-17		
KOREATOWN GALLERIA BR	LOS ANGELES, CA	593173				2015-03-31	1981-08-10		
KOREATOWN PLAZA BR	LOS ANGELES, CA	1214420				2015-03-31	1988-05-16		
MANHATTAN BR	NEW YORK, NY	5169096				2017-10-27	2017-10-27		
NAPERVILLE WEST BR	NAPERVILLE, IL	2354725				2015-03-31	1987-05-21		
NORTHRIDGE BR	NORTHRIDGE, CA	3809884				2015-03-31	2008-07-28		
OLYMPIC - KINGSLEY BR	LOS ANGELES, CA	635961				2015-03-31	1977-09-15		

OLYMPIC BR	LOS ANGELES, CA	1440500			2015-03-31	1990-01-16		
PLANO BR	PLANO, TX	4010155			2015-03-31	2009-10-16		
ROWLAND HGTS BR	ROWLAND HEIGHTS, CA	2735267			2015-03-31	1998-10-01		
SAN DIEGO BR	SAN DIEGO, CA	2910103			2015-03-31	2000-04-12		
SAN FRANCISCO BR	SAN FRANCISCO, CA	638560			2015-03-31	1987-04-20		
SILICON VALLEY BR	SANTA CLARA, CA	3171255			2015-03-31	2003-02-11		
TORRANCE - DEL AMO BR	TORRANCE, CA	3262845			2015-03-31	2000-11-06		
VAN NUYS BR	VAN NUYS, CA	1387173			2015-03-31	1989-04-10		
VERMONT BR	LOS ANGELES, CA	667168			2015-03-31	1985-02-15		
WESTERN BR	LOS ANGELES, CA	1857546			2015-03-31	1991-03-28		
WILSHIRE-HOBART BR	LOS ANGELES, CA	4272131			2015-03-31	2010-04-01		
MEGA BK	SAN GABRIEL, CA	3690635	207 NMB		2015-03-31	2008-02-05	356,662	302,905
ARCADIA BR	ARCADIA, CA	5088704			2017-01-24	2017-01-24		
HACIENDA HGTS BR	HACIENDA HEIGHTS, CA	4437051			2015-03-31	2012-04-26		
IRVINE BR	IRVINE, CA	4319595			2015-03-31	2011-06-09		
ROWLAND HGTS BR	ROWLAND HEIGHTS, CA	4319607			2015-03-31	2011-06-30		
SAN GABRIEL BR	SAN GABRIEL, CA	5088692			2017-01-24	2017-01-24		
METROPOLITAN BK	OAKLAND, CA	534466	207 NMB	MET FC	2015-03-31	1983-09-01	167,950	142,579
OAKLAND CHINATOWN BR	OAKLAND, CA	2607823			1997-07-01	1997-07-01		
SAN FRANCISCO BR	SAN FRANCISCO, CA	2099370			1993-09-18	1993-09-18		
SAN JOSE BR	SAN JOSE, CA	1189014			1988-05-02	1988-05-02		
MISSION NB	SAN FRANCISCO, CA	519360	117 NAT	MNB HC	2015-03-31	1982-02-16	276,468	233,077
BERKELEY ELMWOOD BR	BERKELEY, CA	1451878			1990-05-19	1990-05-19		
SAN FRANCISCO SUTTER ST BR	SAN FRANCISCO, CA	3243769			2004-02-09	2004-02-09		
NEW OMNI BK NA	ALHAMBRA, CA	300063	117 NAT	CKH CAP	2015-03-31	1980-04-11	431,483	326,670
ROWLAND HGTS BR	ROWLAND HEIGHTS, CA	302160			1983-04-12	1983-04-12		
OPEN BK	LOS ANGELES, CA	3357219	207 NMB	OP BC	2015-03-31	2005-06-10	956,775	818,280
AROMA BR	LOS ANGELES, CA	4569934			2015-03-31	2013-10-16		
BUENA PARK BR	BUENA PARK, CA	4569952			2015-03-31	2013-12-10		
FASHION DIST BR	LOS ANGELES, CA	4579531			2015-03-31	2012-11-01		
GARDENA BR	GARDENA, CA	4569943			2015-03-31	2013-02-04		
OLYMPIC BR	LOS ANGELES, CA	4903396			2015-03-31	2014-07-14		
WESTERN BR	LOS ANGELES, CA	4903417			2015-09-29	2015-09-29		
PACIFIC ALLI BK	ROSEMEAD, CA	3546862	207 NMB		2015-03-31	2006-12-27	265,362	228,231
PACIFIC CITY BK	LOS ANGELES, CA	3212402	207 NMB	PACIFIC CITY FC	2015-03-31	2003-09-18	1,578,915	1,382,828
BAYSIDE BR	BAYSIDE, NY	5161577			2017-09-11	2017-09-11		
BUENA PARK BR	BUENA PARK, CA	4564126			2015-03-31	2013-09-13		
CERRITOS BR	ARTESIA, CA	3683561			2015-03-31	2007-06-30		
DOWNTOWN FASHION DIST BR	LOS ANGELES, CA	3683543			2015-03-31	2007-06-30		
FULLERTON BR	BUENA PARK, CA	3651672			2015-03-31	2007-10-18		
IRVINE BR	IRVINE, CA	4564117			2015-03-31	2013-03-28		
LITTLE TOKYO BR	LOS ANGELES, CA	5053403			2016-08-15	2016-08-15		
NEW JERSEY BR	FORT LEE, NJ	4890786			2015-08-10	2015-08-10		
OLYMPIC BR	LOS ANGELES, CA	3683534			2015-03-31	2007-06-30		
ROWLAND HGTS BR	ROWLAND HEIGHTS, CA	3554540			2015-03-31	2006-06-01		
TORRANCE BR	TORRANCE, CA	3683552			2015-03-31	2007-06-30		
WESTERN BR	LOS ANGELES, CA	5053412			2016-07-28	2016-07-28		
PACIFIC CMRC BK	LOS ANGELES, CA	3143805	217 SMB	PACIFIC CMRC BC	2015-03-31	2002-10-10	565,417	492,699
CHULA VISTA BR	CHULA VISTA, CA	3800621			2015-04-08	2008-07-10		
PASADENA BR	PASADENA, CA	4962188			2016-02-08	2016-02-08		

SAN DIEGO OFF	SAN DIEGO, CA	4612698			2013-12-31	2013-12-31		
WEST 6TH ST BR	LOS ANGELES, CA	3462074			2016-05-21	2006-11-07		
WEST LOS ANGELES OFF	LOS ANGELES, CA	3392117			2006-09-15	2005-09-30		
PREFERRED BK	LOS ANGELES, CA	1918344	207 NMB	20	1992-07-14	1991-12-23	3,783,478	3,261,789
ALHAMBRA BR	ALHAMBRA, CA	1992380			1992-08-11	1992-08-11		
ARCADIA BR	ARCADIA, CA	2818469			1999-04-22	1999-04-22		
CITY OF IND BR	CITY OF INDUSTRY, CA	3630471			2006-06-30	2006-06-30		
DIAMOND BAR BR	DIAMOND BAR, CA	3160174			2002-12-12	2002-12-12		
FLUSHING BR	FLUSHING, NY	3404869			2015-11-21	2006-02-28		
IRVINE BR	IRVINE, CA	3526501			2005-06-30	2005-06-30		
LOS ANGELES-CENTURY CITY BR	LOS ANGELES, CA	2410621			1996-02-20	1996-02-20		
PICO RIVERA BR	PICO RIVERA, CA	4086347			2008-06-30	2008-06-30		
SAN FERNANDO VALLEY RGNL OFF	TARZANA, CA	4908056			2015-03-31	2015-03-31		
SAN FRANCISCO-CA ST BR	SAN FRANCISCO, CA	4748391			2013-06-30	2013-06-30		
SAN FRANCISCO-RICHMOND BR	SAN FRANCISCO, CA	5210484			2017-12-31	2017-12-31		
TORRANCE BR	TORRANCE, CA	2251422			1994-10-28	1994-10-28		
PREMIER BUS BK	LOS ANGELES, CA	3459346	207 NMB PBB BC	20	2006-11-15	2006-07-25	639,416	473,901
BIG BEAR LAKE BR	BIG BEAR LAKE, CA	926360			2016-01-29	1981-09-28		
LUCERNE VALLEY BR	LUCERNE VALLEY, CA	1873498			2016-01-29	1991-07-15		
MALAGA COVE BR	PALOS VERDES ESTATES, CA	5023732			2016-07-11	2016-07-11		
PALOS VERDES BR	ROLLING HILLS ESTATES, CA	4971706			2012-10-09	2012-10-09		
RUNNING SPRINGS BR	RUNNING SPRINGS, CA	2507419			2016-01-29	1996-10-21		
ROYAL BUS BK	LOS ANGELES, CA	3835454	207 NMB RBB BC	34	2015-03-31	2008-11-18	1,712,483	1,428,074
ARCADIA BR	ARCADIA, CA	3651074			2016-02-20	2007-06-04		
CERRITOS BR	CERRITOS, CA	4416047			2016-02-20	2012-03-12		
DIAMOND BAR BR	DIAMOND BAR, CA	3536359			2016-02-20	2004-05-17		
MONTEREY PARK BR	MONTEREY PARK, CA	745169			2015-03-31	1983-08-08		
OXNARD BR	OXNARD, CA	3182082			2015-03-31	2003-04-02		
ROWLAND HGTS BR	ROWLAND HEIGHTS, CA	4304582			2015-03-31	2011-07-13		
SAN GABRIEL BR	SAN GABRIEL, CA	4154321			2015-03-31	2009-06-26		
SILVERLAKE BR	LOS ANGELES, CA	432067			2015-03-31	1968-03-01		
SPRING MNT RD BR	LAS VEGAS, NV	4298962			2015-03-31	2007-10-01		
TORRANCE BR	TORRANCE, CA	4154367			2015-03-31	2010-03-17		
WEST LOS ANGELES BR	LOS ANGELES, CA	3536368			2016-02-20	2006-10-01		
WESTLAKE VILLAGE HAMPSHIRE B	WESTLAKE VILLAGE, CA	3254037			2015-03-31	2003-04-18		
STATE BK OF INDIA CA	LOS ANGELES, CA	779968	207 NMB STATE BK OF INDIA	36	2015-03-31	1982-09-03	720,075	584,631
ARTESIA BR	ARTESIA, CA	1186910			2015-03-31	1988-03-31		
FREMONT BR	FREMONT, CA	4309868			2015-03-31	2011-03-25		
FRESNO BR	FRESNO, CA	3510283			2015-03-31	2005-06-30		
SAN DIEGO BR	SAN DIEGO, CA	3630686			2015-03-31	2006-06-30		
SAN JOSE BR	SAN JOSE, CA	2560777			2015-03-31	1997-02-26		
TUSTIN BR	TUSTIN, CA	4253233			2015-03-31	2011-03-07		
WASHINGTON DC BR	WASHINGTON, DC	4025113			2015-03-31	2009-11-23		
UNITED PACIFIC BK	CITY OF INDUSTRY, CA	609467	207 NMB	20	1983-05-25	1982-05-11	134,210	98,765
MONTEREY PARK BR	MONTEREY PARK, CA	2564896			1997-03-10	1997-03-10		
UNITI BK	BUENA PARK, CA	3076284	207 NMB UNITI FC	20	2015-03-31	2001-12-17	315,930	267,864
GARDEN GROVE BR	GARDEN GROVE, CA	3348002			2015-03-31	2005-04-11		
LOS ANGELES WILSHIRE BLVD BR	LOS ANGELES, CA	3520545			2015-03-31	2005-06-30		
UNIVERSAL BK	WEST COVINA, CA	208570	107 FSB	20	1993-08-17	1954-03-01	366,594	307,547
ARCADIA BR	ARCADIA, CA	4022046			2008-06-30	2008-06-30		
EAGLE ROCK BR	LOS ANGELES, CA	4022055			2008-06-30	2008-06-30		

MONTEREY PARK BR ROSEMEAD BR	MONTEREY PARK, CA ROSEMEAD, CA	4022064 4022091				2008-06-30 2008-06-30	2008-06-30 2008-06-30		
US METRO BK ANAHEIM BR GARDEN GROVE BR LOS ANGELES BR WILSHIRE BR	GARDEN GROVE, CA ANAHEIM, CA GARDEN GROVE, CA LOS ANGELES, CA LOS ANGELES, CA	3470154 5164813 5164804 5164831 5164822	207 NMB		20	2015-03-31 2016-12-31 2016-12-31 2017-08-28 2017-04-03	2006-09-15 2006-06-30 2006-06-30 2017-08-28 2006-06-30	329,888	276,822
NATIVE AMER BK NA BROWNING BR	DENVER, CO BROWNING, MT	664653 3591769	117 NAT	NATIVE AMER BC CO	30	1987-07-27 2007-04-02	1987-07-27 2007-04-02	92,743	81,209
INDUSTRIAL BK ANACOSTIA GATEWAY BR F ST BR FORESTVILLE BR JESSE H MITCHELL BR OXON HILL BR REEVES MUNI CTR BR U ST BR	WASHINGTON, DC WASHINGTON, DC WASHINGTON, DC DISTRICT HEIGHTS, MD WASHINGTON, DC OXON HILL, MD WASHINGTON, DC WASHINGTON, DC	536527 4114923 1878792 2214584 566720 2500308 1158645 536125	207 NMB	IBW FC	1	1959-12-31 2009-11-05 1991-02-14 1993-06-13 1972-06-30 1995-07-01 1986-07-29 1972-06-30	1934-08-18 2009-11-05 1991-02-14 1993-06-13 1966-05-31 1995-07-01 1986-07-29 1962-04-01	412,009	344,333
AXIOM BK NA BARTOW BR BRADENTON BR BRANDON BR GIBSONTON WAL-MART BR GOLDENROD WAL-MART BR GOLDWYN BR HAMLIN BR JACKSONVILLE BEACH WAL-MART JACKSONVILLE MAIN WAL-MART B JOHN YOUNG BR KIRKMAN WAL-MART BR KISSIMMEE WAL-MART BR LAKELAND BR LEESBURG WAL-MART BR MELBOURNE BR OCALA BR ORANGE PARK WAL-MART BR PALMETTO WAL-MART BR PLANT CITY BR PORT ORANGE WAL-MART BR SAINT CLOUD WAL-MART BR SANFORD WAL-MART BR TAMPA BR WINTER HAVEN WAL-MART BR	MAITLAND, FL BARTOW, FL BRADENTON, FL BRANDON, FL GIBSONTON, FL ORLANDO, FL ORLANDO, FL WINTER GARDEN, FL JACKSONVILLE, FL JACKSONVILLE, FL ORLANDO, FL ORLANDO, FL KISSIMMEE, FL LAKELAND, FL LEESBURG, FL MELBOURNE, FL OCALA, FL ORANGE PARK, FL PALMETTO, FL PLANT CITY, FL PORT ORANGE, FL SAINT CLOUD, FL SANFORD, FL TAMPA, FL WINTER HAVEN, FL	408875 4441320 4441366 4441302 4171467 4171476 3463008 5209518 4171403 4171421 5118900 4171449 4171289 4441311 4171319 5118889 4441393 4171355 4171560 5132175 4171524 4171337 4171373 5132193 4171542	117 NAT	AXIOM BSHRS	1	1988-12-31 2009-06-29 2009-06-15 2009-06-30 2008-06-30 2008-06-30 2006-08-09 2018-02-22 2008-06-30 2008-06-30 2017-04-19 2008-06-30 2008-06-30 2008-06-30 2009-10-28 2008-06-30 2017-04-27 2009-08-17 2008-06-30 2008-06-30 2017-05-11 2008-06-30 2008-06-30 2008-06-30 2008-06-30 2017-05-24 2008-06-30	1962-01-01 2009-06-29 2009-06-15 2009-06-30 2008-06-30 2008-06-30 2006-08-09 2018-02-22 2008-06-30 2008-06-30 2017-04-19 2008-06-30 2008-06-30 2008-06-30 2009-10-28 2008-06-30 2017-04-27 2009-08-17 2008-06-30 2008-06-30 2017-05-11 2008-06-30 2008-06-30 2008-06-30 2008-06-30 2017-05-24 2008-06-30	579,426	448,865
BAC FL BK	CORAL GABLES, FL	725732	207 NMB		10	1973-10-12	1973-10-12	2,159,760	1,754,162
BANESCO USA CORAL BR HATO REY BR HIALEAH BR NORTH LAUDERDALE BR WESTON BR	CORAL GABLES, FL DORAL, FL HATO REY, PR HIALEAH, FL POMPANO BEACH, FL WESTON, FL	3402913 3978780 4303455 5170234 4401043 4984452	207 NMB		10	2011-06-23 2011-06-23 2011-06-23 2017-10-30 2012-05-05 2012-05-10	2006-01-10 2009-07-20 2010-09-01 2017-10-30 2012-05-05 2012-05-10	978,953	868,840
CENTRAL BK	TAMPA, FL	3468450	207 NMB	CENTRAL FNCL HOLD	20	2011-04-06	2007-02-26	150,342	130,721



CONTINENTAL NB	MIAMI, FL	837037	117 NAT	CONTINENTAL BC	10	1974-05-10	1974-05-10	469,305	420,010
DORAL BR	DORAL, FL	4950831				2016-01-28	2016-01-28		
DOWNTOWN BR	MIAMI, FL	988331				1981-09-08	1981-09-08		
HIALEAH BR	HIALEAH, FL	927732				1984-09-05	1984-09-05		
SWEETWATER/FIU BR	MIAMI, FL	836535				1982-01-26	1982-01-26		
EXECUTIVE NB	MIAMI, FL	1002430	117 NAT	EXECUTIVE BKG CORP	10	2008-12-31	1972-06-02	413,793	368,288
SOUTH MIAMI BKG CTR	MIAMI, FL	2507727				2008-12-31	1996-10-07		
TAMIAMI BR	MIAMI, FL	1167245				2008-12-31	1988-02-22		
INTERAMERICAN BK FSB	MIAMI, FL	221775	107 FSB		10	1988-12-31	1976-01-01	204,922	176,798
HIALEAH BR	HIALEAH, FL	4168328				2008-06-30	2008-06-30		
KENDALL BR	MIAMI, FL	4168319				2008-06-30	2008-06-30		
WEST MIAMI BR	WEST MIAMI, FL	4168300				2008-06-30	2008-06-30		
WEST PALM BEACH BR	WEST PALM BEACH, FL	4168298				2008-06-30	2008-06-30		
INTERCONTINENTAL BK	WEST MIAMI, FL	3122828	207 NMB	INTERCONTINENTAL BSHRS LLC	10	2012-01-01	2002-06-21	164,817	144,058
INTERNATIONAL FNC BK	MIAMI, FL	867632	207 NMB		10	2012-08-06	1983-11-30	503,312	426,006
BRICKELL BR	MIAMI, FL	2179861				2012-08-06	1994-03-14		
WESTCHESTER BR	MIAMI, FL	681034				2012-08-06	1986-10-06		
OCEAN BK	MIAMI, FL	663834	207 NMB	OCEAN BSHRS	10	2014-06-02	1982-12-09	3,753,128	3,220,556
AIRPORT W BR	MIAMI, FL	2268756				2014-06-02	1995-02-06		
BIRD RD BR	MIAMI, FL	849339				2014-06-02	1985-08-19		
BRICKELL BR	MIAMI, FL	1167898				2014-06-02	1987-08-17		
CORAL GABLES OFF	CORAL GABLES, FL	2133742				2014-06-02	1993-12-08		
CORAL WAY BR	MIAMI, FL	1167900				2014-06-02	1987-10-07		
DORAL BR	MIAMI, FL	4401007				2014-06-02	2011-10-22		
DOWNTOWN FT LAUDERDALE BR	FORT LAUDERDALE, FL	2718578				2014-06-02	1998-07-27		
DOWNTOWN MIAMI BR	MIAMI, FL	2626879				2014-06-02	1997-10-27		
KENDALL DRIVE BR	MIAMI, FL	3201125				2014-06-02	2003-06-23		
MIAMI BEACH BR	MIAMI BEACH, FL	2570048				2014-06-02	1997-04-21		
MIAMI LAKES BR	HIALEAH, FL	2595144				2014-06-02	1997-06-23		
MILLER BR	MIAMI, FL	3017858				2014-06-02	2001-03-30		
PALM SPRINGS BR	HIALEAH, FL	933733				2014-06-02	1985-11-18		
PINECREST BR	PINECREST, FL	5047587				2016-10-03	2016-10-03		
TAFT BR	HOLLYWOOD, FL	2781787				2014-06-02	1999-02-02		
WEST BR	MIAMI, FL	2092232				2014-06-02	1992-12-08		
WEST FLAGLER BR	MIAMI, FL	811439				2014-06-02	1986-12-08		
WEST HIALEAH BR	HIALEAH, FL	1428786				2014-06-02	1984-07-19		
WESTON BR	WESTON, FL	3118997				2014-06-02	2002-05-15		
PLUS INTL BK	MIAMI, FL	3049729	207 NMB		10	2008-01-01	2001-09-14	75,006	60,609
SUNSTATE BK	MIAMI, FL	2791085	207 NMB		36	2007-03-07	1999-03-15	244,695	204,718
CORAL GABLES BR	CORAL GABLES, FL	3640902				2007-03-07	2003-08-26		
CUTLER BAY BR	MIAMI, FL	3640890				2007-03-07	2003-02-10		
TOTALBANK	MIAMI, FL	790534	207 NMB	BANCO SANTANDER SA	33	2014-07-14	1974-03-05	2,969,958	2,079,307
19TH ST DRIVE-THRU BR	MIAMI, FL	2455668				2014-07-14	1994-06-30		
AVENTURA BR	MIAMI, FL	868134				2014-07-14	1984-09-10		
BIRD RD BR	MIAMI, FL	1832552				2014-07-14	1990-04-25		
BRICKELL BR	MIAMI, FL	4333658				2014-07-14	1996-09-24		
CORAL GABLES BR	MIAMI, FL	4353571				2014-07-14	2011-10-24		
CORAL WAY BR	MIAMI, FL	4723996				2014-07-14	2014-07-14		
DORAL BR	MIAMI, FL	4333667				2014-07-14	2008-04-14		
DORAL PLAZA	DORAL, FL	4563147				2014-07-14	2013-10-01		

DORAL POINT	DORAL, FL	4575597				2014-07-14	2013-10-28		
HIALEAH BR	HIALEAH, FL	4337919				2014-07-14	2005-08-08		
MAIN OFF	MIAMI, FL	942333				2014-07-14	1983-04-21		
NORTH MIAMI BR	MIAMI, FL	758132				2014-07-14	1985-11-22		
PALMETTO BAY BR	PALMETTO BAY, FL	643434				2014-07-14	1959-02-18		
PINECREST BR	MIAMI, FL	4396046				2014-07-14	2012-04-03		
RED SUNSET BR	MIAMI, FL	4329222				2014-07-14	2011-08-29		
SOUTH BEACH BR	MIAMI BEACH, FL	4329400				2014-07-14	2011-08-01		
WEST KENDALL BR	MIAMI, FL	4329398				2014-07-14	2009-02-09		
WEST MIAMI BR	MIAMI, FL	4415527				2014-07-14	2012-06-11		
US CENTURY BK	MIAMI, FL	3146150	207 NMB		10	2003-09-02	2002-10-28	1,100,854	898,985
AVENTURA BR	NORTH MIAMI BEACH, FL	4442073				2005-09-15	2005-09-15		
BIRD RD BR	MIAMI, FL	4442064				2009-05-13	2009-05-13		
BRICKELL BR	MIAMI, FL	4441982				2005-06-03	2005-06-03		
CORAL GABLES BR	CORAL GABLES, FL	4441991				2003-12-05	2003-12-05		
CORAL WAY BR	MIAMI, FL	4442112				2004-11-24	2004-11-24		
COUNTY CLUB OF MIAMI BR	MIAMI, FL	4441964				2004-05-28	2004-05-28		
DADELAND BR	MIAMI, FL	4442028				2006-08-01	2006-08-01		
DOWNTOWN BR	MIAMI, FL	4441973				2006-04-03	2006-04-03		
EAST HIALEAH BR	HIALEAH, FL	4441629				2004-02-04	2004-02-04		
FLAGLER BR	MIAMI, FL	4442037				2004-07-15	2004-07-15		
GRANADA BR	MIAMI, FL	4442000				2008-10-01	2008-10-01		
HIALEAH BR	HIALEAH, FL	4441601				2009-05-06	2009-05-06		
HIALEAH GARDEN BR	HIALEAH, FL	4441638				2007-07-02	2007-07-02		
HOLLYWOOD BR	HOLLYWOOD, FL	4441647				2005-02-28	2005-02-28		
KEY BISCAYNE BR	MIAMI, FL	4442055				2005-02-15	2005-02-15		
LITTLE HAVANA BR	MIAMI, FL	4441656				2007-03-31	2007-03-31		
MERRICK PARK BR	MIAMI, FL	4442046				2007-12-19	2007-12-19		
MIAMI LAKES BR	HIALEAH, FL	4441610				2007-11-28	2007-11-28		
MILAM DAIRY BR	MIAMI, FL	4442082				2009-12-01	2009-12-01		
MILLER BR	MIAMI, FL	4442121				2008-06-19	2008-06-19		
SOUTH BEACH BR	MIAMI BEACH, FL	4442019				2007-02-06	2007-02-06		
TAMIAMI BR	MIAMI, FL	4442091				2008-10-31	2008-10-31		
WEST KENDALL BR	MIAMI, FL	4442130				2008-11-10	2008-11-10		
CARVER ST BK	SAVANNAH, GA	370833	207 NMB	CARVER FC	1	1959-12-31	1947-06-04	41,098	33,589
SKIDWAY RD BR	SAVANNAH, GA	3685369				2007-12-11	2007-12-11		
CITIZENS TR BK	ATLANTA, GA	680130	217 SMB	CITIZENS BSHRS CORP	1	1959-12-31	1921-06-18	416,134	366,294
EAST POINT BR	EAST POINT, GA	1362880				1987-10-06	1987-10-06		
EUTAW OFF	EUTAW, AL	3174948				2003-03-03	2003-03-03		
MACON RD BR	COLUMBUS, GA	3638459				2007-08-29	2007-08-29		
PANOLA RD BR	LITHONIA, GA	1396139				1998-01-31	1989-04-26		
ROCKBRIDGE PLAZA OFF	STONE MOUNTAIN, GA	2491992				1998-01-31	1996-07-19		
THIRD AVE NORTH BR	BIRMINGHAM, AL	768775				2003-03-01	1956-01-01		
WEST SIDE OFF	ATLANTA, GA	927330				1972-06-30	1955-08-01		
EMBASSY NB	LAWRENCEVILLE, GA	3482045	117 NAT	EMBASSY BSHRS	20	2012-01-01	2007-03-05	120,331	104,103
FIRST IC BK	DORAVILLE, GA	2877840	207 NMB	FIRST IC CORP	20	2006-03-31	2000-01-31	410,908	333,142
CARROLLTON BR	CARROLLTON, TX	5209572				2017-05-30	2017-05-30		
DULUTH BR	DULUTH, GA	3539314				2006-11-08	2006-11-08		
JOHNS CREEK BR	JOHNS CREEK, GA	3650947				2007-06-22	2007-06-22		
NORCROSS BR	NORCROSS, GA	5209581				2017-09-22	2017-09-22		
SUGARLOAF BR	SUWANEE, GA	3374793				2006-03-31	2005-06-02		
SUWANEE BR	SUWANEE, GA	5209611				2009-06-01	2009-06-01		

METRO CITY BK	DORAVILLE, GA	3437456	207 NMB	METROCITY BSHRS	20	2008-09-01	2006-04-04	1,302,167	1,101,378
BAYSIDE BR	BAYSIDE, NY	5063484				2016-10-27	2016-10-27		
CENTREVILLE OFF	CENTREVILLE, VA	4745699				2014-08-11	2014-08-11		
DALLAS BR	DALLAS, TX	3657759				2016-09-23	2000-12-01		
DULUTH BR	DULUTH, GA	3566646				2008-09-01	2007-02-05		
EAST COBB BR	MARIETTA, GA	5218275				2018-01-24	2018-01-24		
FORT LEE BR	FORT LEE, NJ	5046085				2016-08-29	2016-08-29		
GRAND PRAIRIE BR	GRAND PRAIRIE, TX	3656275				2016-09-23	2007-10-29		
JOHNS CREEK BR	DULUTH, GA	3651757				2008-09-01	2007-09-28		
MONTGOMERY BR	MONTGOMERY, AL	4876454				2015-07-06	2015-07-06		
NORCROSS BR	NORCROSS, GA	3832426				2012-03-03	2007-10-27		
OPELIKA BR	OPELIKA, AL	4397306				2012-03-19	2012-03-19		
PEACHTREE CORNERS BR	NORCROSS, GA	5189795				2017-11-08	2017-11-08		
SUGARLOAF BR	SUWANEE, GA	4310369				2011-07-11	2011-07-11		
SUWANEE BR	SUWANEE, GA	3846674				2008-09-01	2008-08-08		
NOA BK	DULUTH, GA	3832127	207 NMB	NOA BC	20	2014-12-13	2008-11-06	336,058	281,884
DORAVILLE BR	DORAVILLE, GA	4156231				2014-12-13	2010-06-17		
JOHNS CREEK BR	JOHNS CREEK, GA	4725954				2014-12-13	2014-07-01		
SUGARLOAF BR	SUWANEE, GA	5162051				2017-08-14	2017-08-14		
QUANTUM NB	SUWANEE, GA	2354387	117 NAT	QUANTUM CAP CORP	20	2001-01-22	1995-12-27	460,287	405,421
BUCKHEAD BR	ATLANTA, GA	5014169				2016-07-01	2016-07-01		
QUANTUM NB BR	ALPHARETTA, GA	3403406				2006-01-11	2006-01-11		
STATE BK OF GA	FAYETTEVILLE, GA	3650442	207 NMB		31	2007-11-05	2007-11-05	90,742	75,306
TOUCHMARK NB	ALPHARETTA, GA	3645840	117 NAT	TOUCHMARK BSHRS	20	2012-11-28	2008-01-28	385,525	318,254
FINANCE FACT	HONOLULU, HI	827560	207 NMB		20	2015-03-31	1952-05-14	561,037	476,307
HILO BR	HILO, HI	831464				2015-03-31	1968-06-03		
HONOLULU EAST MANOA BR	HONOLULU, HI	4150873				2015-03-31	2009-02-01		
HONOLULU KAHALA BR	HONOLULU, HI	978864				2015-03-31	1961-05-08		
HONOLULU KALIHI BR	HONOLULU, HI	778167				2015-03-31	1959-04-22		
HONOLULU KAPAHULU BR	HONOLULU, HI	828062				2015-03-31	1958-02-19		
HONOLULU KAPIOLANI BR	HONOLULU, HI	2136042				2015-03-31	1991-11-12		
HONOLULU NORTH KING BR	HONOLULU, HI	4150864				2015-03-31	2009-01-01		
KAHULUI BR	KAHULUI, HI	981163				2015-03-31	1972-06-30		
KAILUA BR	KAILUA, HI	710765				2015-03-31	1958-11-07		
KEAHAO KONA BR	KAILUA-KONA, HI	2459152				2015-03-31	1991-03-01		
LIHUE BR	LIHUE, HI	906465				2015-03-31	1961-09-18		
LILIHA BR	HONOLULU, HI	3866775				2015-03-31	2008-10-03		
PEARL CITY BR	PEARL CITY, HI	715461				2015-03-31	1967-06-19		
HAWAII NB	HONOLULU, HI	915065	117 NAT	HAWAII NAT BSHRS	20	1994-01-12	1960-09-19	636,350	574,967
AIRPORT BR	HONOLULU, HI	848462				1994-01-12	1962-05-01		
BISHOP ST BR	HONOLULU, HI	2136163				1994-01-12	1992-06-30		
HAWAII KAI BR	HONOLULU, HI	999766				1994-01-12	1962-06-01		
HILO BR	HILO, HI	1000267				1994-01-12	1970-01-01		
KAHULUI BR	KAHULUI, HI	540663				1995-05-20	1982-03-01		
KAILUA BR	KAILUA, HI	850269				1994-01-12	1965-10-01		
KAIMUKI BR	HONOLULU, HI	851864				1994-01-12	1966-10-01		
KALIHI BR	HONOLULU, HI	727763				1994-01-12	1969-10-01		
KAPIOLANI BR	HONOLULU, HI	4056023				2009-09-21	2009-09-21		
KIHEI BR	KIHEI, HI	2305446				1995-05-20	1995-05-20		
KING ST BR	HONOLULU, HI	790169				1994-01-12	1972-08-07		
PEARL CITY BR	PEARL CITY, HI	2577720				1997-05-17	1997-05-17		
PUAINAKO BR	HILO, HI	3141119				2002-07-24	2002-07-24		

OHANA PACIFIC BK	HONOLULU, HI	3447772	207 NMB		20	2015-03-31	2006-06-01	151,661	133,834
AMERICAN METRO BK CHINATOWN BR	CHICAGO, IL CHICAGO, IL	2533043 3512157	207 NMB	AMERICAN METRO BC	20	1999-03-03 2002-04-01	1997-01-29 2002-04-01	66,874	47,314
FARMERS ST BK	ELMWOOD, IL	921936	207 NMB	ELMWOOD BSHRS	5	2013-12-02	1864-12-06	51,746	46,081
ILLINOIS-SERVICE FS&LA CHATAM BR	CHICAGO, IL CHICAGO, IL	250476 4152149	107 SAL		1	1988-12-31 2008-06-30	1934-01-01 2008-06-30	135,333	122,953
INTERNATIONAL BK OF CHICAGO BELLWOOD BR CENTRAL AVE BR DES PLAINES BR PORT JERVIS BR SOUTH CHINATOWN BR STONE PARK BR	CHICAGO, IL BELLWOOD, IL WILMETTE, IL DES PLAINES, IL PORT JERVIS, NY CHICAGO, IL STONE PARK, IL	2006024 3514272 4394967 4351652 4423728 3514245 3514281	207 NMB	IBC BC	20	1992-10-26 2005-06-01 2012-03-24 2011-10-29 2012-06-11 1998-01-20 2000-10-02	1992-10-26 2005-06-01 2012-03-24 2011-10-29 2012-06-11 1998-01-20 2000-10-02	579,218	503,158
MILLENNIUM BK	DES PLAINES, IL	3547896	207 NMB	MILLENNIUM BC	20	2015-03-31	2007-07-02	97,368	68,766
PACIFIC GLOBAL BK 3233 S ASHLAND OFF SOUTH ARCHER BR	CHICAGO, IL CHICAGO, IL CHICAGO, IL	2360904 3444771 3366622	217 SMB	PGB HOLD	20	1998-07-01 2006-03-08 2003-10-01	1995-11-13 2006-03-08 2003-10-01	190,859	169,407
URBAN PARTSHP BK BELLWOOD BR BRONZEVILLE OFF CHATHAM MOTOR BR CHATHAM OFF GREATER GRAND CROSSING BR LOOP OFF MIDTOWN BR	CHICAGO, IL BELLWOOD, IL CHICAGO, IL CHICAGO, IL CHICAGO, IL CHICAGO, IL CHICAGO, IL DETROIT, MI	4184186 4673279 4673288 2042200 77730 2297626 4673297 4723923	207 NMB		1	2015-03-31 2015-03-31 2015-03-31 2015-03-31 2015-03-31 2015-03-31 2015-03-31 2015-03-31	2010-08-21 2011-11-20 2011-12-27 1975-01-06 1964-12-14 1994-12-28 2011-10-11 2012-04-11	458,899	411,423
FNNB BK COLONIAL PLAZA OFF	NEWTON, IA NEWTON, IA	242949 2111384	217 SMB	UNITED IA BSHRS	5	2011-05-10 2011-05-10	1932-03-28 1973-06-27	82,715	73,383
PINNACLE BK 1301 SOUTH CTY RD BR	MARSHALLTOWN, IA TOLEDO, IA	365745 4196228	217 SMB	IOWA RIVER BC	30	2012-11-29 2012-11-29	1927-05-05 2008-06-30	196,548	163,162
CBW BK	WEIR, KS	71859	207 NMB	CB BSHRS CORP	20	2011-01-01	1892-01-01	43,941	35,227
METRO BK	LOUISVILLE, KY	2496081	207 NMB	LOUISVILLE DEVELOPMENT BANCO	1	2012-02-22	1997-01-07	27,627	22,227
LIBERTY B&TC 1314 N 5TH ST BR CANAL ST BR CARMICHAEL BR CHICAGO HOMAN AVE BR FOREST PARK BR FRANKLIN BR GENERAL DEGAULLE BR GENTILLY BR GREENWELL SPRINGS BR LIVINGSTON BR NEW ORLEANS E BR NORTH ELM ST BR PERKINS BR	NEW ORLEANS, LA KANSAS CITY, KS NEW ORLEANS, LA MONTGOMERY, AL CHICAGO, IL FOREST PARK, IL NEW ORLEANS, LA NEW ORLEANS, LA NEW ORLEANS, LA NEW ORLEANS, LA BATON ROUGE, LA JACKSON, MS NEW ORLEANS, LA TUSKEGEE, AL BATON ROUGE, LA	283438 2357641 1478307 5104444 4479529 4971724 2491835 3725201 127738 3291153 4101389 345635 1897168 3725180	207 NMB	LIBERTY FNCL SVC	1	1972-11-16 2008-01-26 2009-04-01 2017-01-23 2013-02-16 2015-06-15 2001-10-13 1996-07-29 1974-09-19 2004-07-12 2010-01-04 1981-09-17 2015-03-14 1996-07-29	1972-11-16 1995-07-20 1990-09-29 2017-01-23 2013-02-16 2015-06-15 1996-06-07 1996-07-29 1974-09-19 2004-07-12 2010-01-04 1981-09-17 1991-10-12 1996-07-29	602,669	551,905

TROOST BR	KANSAS CITY, MO	4971715				2015-06-01	2015-06-01		
UNIVERSITY BR	BATON ROUGE, LA	2181891				1994-03-26	1994-03-26		
WOODWARD BR	DETROIT, MI	3990036				2009-11-07	2009-11-07		
HARBOR BK OF MD	BALTIMORE, MD	533124	207 NMB	HARBOR BSHRS CORP	1	1982-09-13	1982-09-13	269,102	226,283
INNER HARBOR EAST OFF	BALTIMORE, MD	2241414				1994-09-17	1994-09-17		
PIMLICO OFF	BALTIMORE, MD	445629				1987-07-13	1951-11-05		
RANDALLSTOWN BR	RANDALLSTOWN, MD	998228				2002-04-15	1974-11-15		
RESEARCH PARK BR	BALTIMORE, MD	3676312				2007-06-29	2007-06-29		
RIVERDALE BR	RIVERDALE, MD	2424776				1994-06-01	1994-06-01		
SCIENCE & TECH EAST BR	BALTIMORE, MD	2647230				1997-07-07	1997-07-07		
LEADER BK NA	ARLINGTON, MA	3109146	117 NAT	LEADER BC	20	2015-03-31	2002-05-08	1,287,300	933,429
ARLINGTON CENTER BR	ARLINGTON, MA	3355064				2015-03-31	2004-09-20		
ARLINGTON HGTS BR	ARLINGTON, MA	4496414				2015-03-31	2012-12-12		
BURLINGTON BR	BURLINGTON, MA	4220226				2015-03-31	2010-09-08		
CENTRAL SQUARE BR	CAMBRIDGE, MA	3372959				2015-03-31	2005-06-29		
EAST ARLINGTON BR	ARLINGTON, MA	2954321				2015-03-31	2003-11-19		
NORTHERN AVE BR	BOSTON, MA	5003387				2015-05-29	2015-05-29		
PLEASANT ST BR	BELMONT, MA	3697371				2015-03-31	2008-01-14		
ONEUNITED BK	BOSTON, MA	935308	207 NMB		1	1982-08-02	1982-08-02	661,242	377,667
CORPORATE BR	LOS ANGELES, CA	166773				2003-01-01	1948-12-01		
GARDENA BR	GARDENA, CA	1856129				2001-05-01	1991-01-19		
GROVE HALL BR	DORCHESTER, MA	4445355				2007-05-21	2007-05-21		
LADERA HEIGHTS BR	LOS ANGELES, CA	1856099				2001-05-01	1991-01-19		
LYNWOOD BR	LYNWOOD, CA	2653110				2001-05-01	1998-01-16		
MIAMI BR	MIAMI, FL	2847889				1999-09-11	1999-09-11		
ROXBURY BR	BOSTON, MA	43409				1982-11-22	1982-11-22		
STOCKER BR	LOS ANGELES, CA	2460934				2001-05-01	1992-04-22		
FIRST INDEPENDENCE BK	DETROIT, MI	254849	207 NMB	FIRST INDEP CORP	1	1970-05-14	1970-05-14	259,093	205,946
7 MILE OFF	DETROIT, MI	2042321				1985-03-06	1985-03-06		
GARFIELD BR	CLINTON TOWNSHIP, MI	4877965				2014-06-16	2014-06-16		
CAMBRIDGE ST BK	CAMBRIDGE, MN	338851	207 NMB		5	2008-06-25	1914-02-19	71,619	63,103
CAMBRIDGE MILL RIDGE OFF	CAMBRIDGE, MN	3670178				2008-06-25	2001-03-20		
CAMBRIDGE OFF	CAMBRIDGE, MN	3143355				2008-06-25	2002-09-16		
CAMBRIDGE RIVER HILLS OFF	CAMBRIDGE, MN	3670196				2008-06-25	2001-03-15		
MILL RIDGE COMMONS BR	CAMBRIDGE, MN	3661318				2008-06-25	2001-03-20		
RIVER HILLS BR	CAMBRIDGE, MN	3661309				2008-06-25	2001-03-15		
WOODLANDS NB	HINCKLEY, MN	980951	117 NAT	MILLE LACS BC	30	1999-11-01	1908-10-01	189,460	163,045
ANCIENT TRADERS BR	MINNEAPOLIS, MN	3926473				2009-03-02	2009-03-02		
CLOQUET OFF	CLOQUET, MN	3542145				2005-12-07	2005-12-07		
ONAMIA GRAND MARKET OFF	ONAMIA, MN	3378036				2004-02-17	2004-02-17		
ONAMIA OFF	ONAMIA, MN	876559				1999-11-01	1907-08-03		
STURGEON LAKE OFF	STURGEON LAKE, MN	772156				1999-11-01	1915-03-17		
ZIMMERMAN OFF	ZIMMERMAN, MN	11154				2010-05-10	1978-11-27		
HOPE FCU	JACKSON, MS	2342816	103 FCU		39	2007-06-01	1995-08-24	282,479	246,706
CENTRAL BK OF KANSAS CITY	KANSAS CITY, MO	751852	207 NMB	CENTRAL BSHRS	5	2003-05-30	1950-08-10	155,846	126,269
TRUMAN RD BR	KANSAS CITY, MO	600558				2003-05-30	1973-02-14		
PEOPLES BK	SENECA, MO	2396592	207 NMB	PBS BSHRS	30	1999-04-12	1996-03-15	186,098	166,820
JOPLIN BR	JOPLIN, MO	5116090				2017-03-23	2017-03-23		
LOMA LINDA BR	JOPLIN, MO	4487850				2012-09-07	2012-09-07		

EAGLE BK	POLSON, MT	3346633	207 NMB	SALISH KOOTENAI BC	30	2007-10-04	2006-07-24	69,546	62,514
CITY NB OF NJ HARLEM BR NEWARK SOUTH SIDE BR	NEWARK, NJ NEW YORK, NY NEWARK, NJ	567905 3366293 2766494	117 NAT	CITY NAT BSHRS CORP	1	1973-06-11 2005-06-30 1973-06-11	1973-06-11 2005-06-30 1973-06-11	229,980	208,411
INDUS AMER BK HICKSVILLE BR JERSEY CITY BR PARSIPPANY SUPERMARKET BR PLAINSBORO BR	EDISON, NJ HICKSVILLE, NY JERSEY CITY, NJ PARSIPPANNY, NJ PLAINSBORO, NJ	3369959 3925056 3726178 3657357 4873323	207 NMB	IA BC	20	2007-10-04 2008-12-08 2007-10-27 2007-10-04 2014-09-15	2005-12-19 2008-12-08 2007-10-27 2006-10-12 2014-09-15	223,530	180,000
KEB HANA BK USA NA FIFTH AVE BR FLUSHING BR	FORT LEE, NJ NEW YORK, NY NEW YORK, NY	609609 3219595 4901374	117 NAT	HANA FNCL GRP	20	1986-09-16 2003-10-03 2015-09-04	1986-09-16 2003-10-03 2015-09-04	204,064	157,778
CENTINEL BK OF TAOS TAOS-NORTHSIDE BR	TAOS, NM TAOS, NM	800853 235156	207 NMB	CENTINEL BSHRS	10	1969-03-01 1977-10-13	1969-03-01 1977-10-13	239,809	218,122
MY BK ALBUQUERQUE BR LOS LUNAS BR MOUNTAINAIR BR RIO COMMUNITIES BR	BELEN, NM ALBUQUERQUE, NM LOS LUNAS, NM MOUNTAINAIR, NM BELEN, NM	1972298 2836173 2430816 2700667 2816090	217 SMB	BETHLEHEM FC	10	2000-06-27 2000-06-27 2000-06-27 2000-06-27 2000-06-27	1992-07-01 1999-06-21 1996-03-11 1998-05-18 1999-05-10	157,756	136,839
ALTERNATIVES FCU	ITHACA, NY	865384	103 FCU		39	2008-01-01	1979-01-12	105,967	94,730
EASTBANK NA	NEW YORK, NY	98717	117 NAT	EVERGREEN HOLD LLC	20	2015-06-01	1984-11-26	192,879	152,645
FIRST AMER INTL BK 59TH AVE BR BOWERY BR EAST BRDWAY BR ELMHURST BR FLUSHING CTR BR FLUSHING SOUTH BR GRAND ST BR	BROOKLYN, NY BROOKLYN, NY NEW YORK, NY NEW YORK, NY ELMHURST, NY FLUSHING, NY FLUSHING, NY NEW YORK, NY	2857794 3248193 3080526 3350498 3657320 3472756 3204247 3373152	207 NMB	FIRST AMER INTL CORP	20	1999-11-15 2004-01-15 2002-01-11 2005-04-28 2006-07-26 2006-09-25 2003-07-28 2005-08-08	1999-11-15 2004-01-15 2002-01-11 2005-04-28 2006-07-26 2006-09-25 2003-07-28 2005-08-08	889,278	650,296
LUMBEE GUARANTY BK BLOOM AVE BR FAIRMONT OFF FALCON VILLAGE BR FAYETTEVILLE RD BR HOPE MILLS BR MAXTON BR PEMBROKE BR PINE ST BR RAEFORD BR RED SPRINGS BR RED SPRINGS BR ROWLAND BR ST PAULS BR WEST 5TH ST BR	PEMBROKE, NC FAYETTEVILLE, NC FAIRMONT, NC FAYETTEVILLE, NC LUMBERTON, NC HOPE MILLS, NC MAXTON, NC PEMBROKE, NC LUMBERTON, NC RAEFORD, NC RED SPRINGS, NC RED SPRINGS, NC ROWLAND, NC SAINT PAULS, NC LUMBERTON, NC	651121 3624126 2637491 3624117 3294136 1872419 554325 3545119 1368202 3545098 3281882 2140393 2140405 1872428 3294127	207 NMB		30	1971-12-22 2007-08-08 1997-12-02 2007-08-08 1997-09-08 1991-06-17 1995-11-17 2012-04-06 1989-02-09 2012-04-06 2016-01-22 1995-11-04 1995-11-04 1991-06-17 1998-12-15	1971-12-22 2007-08-08 1997-12-02 2007-08-08 1997-09-08 1991-06-17 1985-02-05 2006-07-14 1989-02-09 2006-07-14 1998-12-14 1993-12-31 1993-12-31 1991-06-17 1998-12-15	315,607	272,515
MECHANICS & FARMERS BK CHAPEL HILL BLVD BR CHARLOTTE BR	DURHAM, NC DURHAM, NC CHARLOTTE, NC	332224 577324 278425	207 NMB	M&F BC	1	1959-12-31 1972-06-30 1972-06-30	1908-03-01 1954-01-15 1962-03-01	254,628	232,281

GREENSBORO BR	GREENSBORO, NC	474928			2008-03-29	1971-11-02			
RALEIGH BR	RALEIGH, NC	394428			1972-06-30	1923-01-01			
ROCK QUARRY RD BR	RALEIGH, NC	455020			1977-06-23	1977-06-23			
WINSTON-SALEM BR	WINSTON SALEM, NC	174424			1981-09-19	1981-09-19			
TURTLE MTN ST BK	BELCOURT, ND	3626184	207 NMB		30	2015-03-31	2007-12-03	28,251	25,265
ALLNATIONS BK	CALUMET, OK	146056	217 SMB	ALLNATIONS BC	30	2011-01-01	1922-05-16	50,572	44,112
SHAWNEE BR	SHAWNEE, OK	3349728				2011-03-01	2011-03-01		
BANK OF CHEROKEE CTY	HULBERT, OK	815754	217 SMB	GRANDVIEW BSHRS	30	1991-12-12	1908-12-01	101,457	91,950
PARK HILL BR	PARK HILL, OK	2627223				1997-09-12	1997-09-12		
PLAZA BR	TAHLEQUAH, OK	3159561				2000-04-24	2000-04-24		
BANK OF CMRC	STILWELL, OK	322850	207 NMB	PEOPLES CMRL BC	30	1998-06-23	1931-01-01	80,196	63,665
KEYS BR	PARK HILL, OK	3633315				1998-06-23	1995-01-17		
STILWELL BR	STILWELL, OK	441452				1998-06-23	1972-02-14		
BANK OF GRAND LAKE	GROVE, OK	3286999	207 NMB	TOWNSEND HC	10	2007-10-04	2005-06-09	166,272	144,761
BANK2	OKLAHOMA CITY, OK	64552	217 SMB	CHICKASAW BANC HOLD CO	30	1959-12-31	1903-01-01	138,087	117,572
F&M BK	EDMOND, OK	163857	207 NMB	F&M BSHRS	30	2008-09-01	1902-01-01	448,858	399,730
CRESCENT BR	CRESCENT, OK	3363180				2011-10-24	2005-05-11		
EAST OKLAHOMA BR	GUTHRIE, OK	2748221				2008-09-01	1998-11-19		
KINGFISHER BR	KINGFISHER, OK	4414427				2012-06-09	2012-06-09		
PIEDMONT BR	PIEDMONT, OK	2721970				2011-10-24	1998-08-10		
SOUTH DIVISION BR	GUTHRIE, OK	3285040				2008-09-01	2004-12-21		
WATERLOO BR	EDMOND, OK	3916876				2008-10-15	2008-10-15		
YUKON BR	YUKON, OK	1357466				2011-10-24	1989-01-13		
FIRST NB&TC	SHAWNEE, OK	396253	117 NAT		30	1992-05-05	1984-10-29	218,274	180,766
FIRE LAKE BR	SHAWNEE, OK	3037838				2001-05-04	2001-05-04		
GRANITE BR	GRANITE, OK	2403276				2006-07-29	1993-05-28		
HOLDENVILLE BR	HOLDENVILLE, OK	3628816				2000-01-20	2000-01-20		
LAWTON QUANAH PARKER BR	LAWTON, OK	895158				2006-07-29	1915-01-01		
LAWTON SHERIDAN BR	LAWTON, OK	3675089				2007-02-20	2007-02-20		
MANGUM BR	MANGUM, OK	3082520				2006-07-29	2000-06-30		
FIRSTBANK	ANTLERS, OK	296456	217 SMB	FIRST ANTLERS BC	30	2014-03-31	1901-01-01	322,797	277,954
ANTLERS DRIVE-THU	ANTLERS, OK	295954				2014-03-31	1977-03-21		
ATOKA BR	ATOKA, OK	1922051				2014-03-31	1990-10-09		
COALGATE BR	COALGATE, OK	3357349				2014-03-31	2006-05-03		
HUGO BR	HUGO, OK	4222051				2014-03-31	2011-09-02		
KIOWA BR	KIOWA, OK	4441946				2014-03-31	2013-06-26		
FORT GIBSON ST BK	FORT GIBSON, OK	186856	207 NMB	THREE RIVERS BSHRS	30	1973-05-21	1973-05-21	70,525	64,945
OKLAHOMA ST BK	VINITA, OK	285759	207 NMB	OKLAHOMA ST BSHRS	30	2003-03-10	1938-07-13	147,012	130,202
LANGLEY BR	LANGLEY, OK	3182895				2003-03-10	2002-07-26		
MONKEY ISLAND BR	AFTON, OK	3956229				2009-07-06	2009-07-06		
PEOPLES BK	WESTVILLE, OK	539452	207 NMB	PEOPLES CMRL BC	30	1998-06-23	1903-02-03	47,183	34,653
WEST SILOAM BR	WATTS, OK	1407857				1998-06-23	1983-12-12		
SECURITY ST BK OF OK	WEWOKA, OK	52951	207 NMB	SECURITY BSHRS CORP	5	1998-06-23	1911-12-05	228,463	204,838
FAIRFAX BR	FAIRFAX, OK	183154				2013-06-14	1933-01-01		
HOLDENVILLE BR	HOLDENVILLE, OK	1429916				2015-02-07	1987-01-30		

MAUD BR SEMINOLE BR	MAUD, OK SEMINOLE, OK	1432363 3179019				2015-02-07 2002-11-14	1988-08-19 2002-11-14		
ASIAN BK 815-837 ARCH ST BR CASTOR AVE BR	PHILADELPHIA, PA PHILADELPHIA, PA PHILADELPHIA, PA	2785477 3700918 5191770	217 SMB	ASIAN FNCL	20	2011-01-01 2011-01-01 2017-12-15	1999-06-09 2008-02-08 2017-12-15	194,463	148,005
NOAH BK FLUSHING BR FORT LEE BR LEMOINE BR OAK LANE BR PALLISADE PARK BR UPPER DARBY BR	ELKINS PARK, PA FLUSHING, NY FORT LEE, NJ FORT LEE, NJ PHILADELPHIA, PA PALISADES PARK, NJ UPPER DARBY, PA	3388165 2954303 3340686 4796066 3307465 3600728 3298433	207 NMB		20	2011-06-07 2011-06-07 2011-06-07 2014-12-18 2011-06-07 2011-06-07 2011-06-07	2006-07-17 2000-08-25 2005-03-02 2014-12-18 2004-11-12 2007-03-22 2004-09-29	386,968	331,041
UNITED BK OF PHILADELPHIA PROGRESS PLAZA OFF WADSWORTH OFF	PHILADELPHIA, PA PHILADELPHIA, PA PHILADELPHIA, PA	1945247 375315 904014	207 NMB	UNITED BSHRS	1	1993-01-05 1999-09-23 1999-09-24	1992-03-23 1968-11-22 1958-12-15	59,100	55,827
SOUTH CAROLINA CMNTY BK	COLUMBIA, SC	2794732	207 NMB	SCCB FINANCIAL CORP	1	1999-03-27	1999-03-27	52,284	46,451
CITIZENS SVG B&T CLARKSVILLE HWY BR WINCHESTER RD BR	NASHVILLE, TN NASHVILLE, TN MEMPHIS, TN	55635 2706306 3603952	207 NMB	CSB&T BC	1	1959-12-31 1998-06-13 2007-05-15	1904-01-04 1998-06-13 2007-05-15	101,278	90,844
TRI-STATE BK OF MEMPHIS LAMAR AIRWAYS BR WHITEHAVEN BR	MEMPHIS, TN MEMPHIS, TN MEMPHIS, TN	515054 1438057 2312097	207 NMB		1	1959-12-31 1990-02-05 1994-06-27	1946-12-16 1990-02-05 1994-06-27	91,169	77,882
AMERICAN FNB ALHAMBRA BR AMARGOSA BR ARLINGTON BR CARROLLTON BR CITY OF IND BR FIRST COLONY BR GARLAND BR HARRY HINES BR HARWIN BR KATY BR LAS VEGAS BR LEGACY BR LONG POINT BR PAHRUMP BR PLANO BR RICHARDSON BR	HOUSTON, TX ALHAMBRA, CA AMARGOSA VALLEY, NV ARLINGTON, TX CARROLLTON, TX CITY OF INDUSTRY, CA MISSOURI CITY, TX GARLAND, TX DALLAS, TX HOUSTON, TX KATY, TX LAS VEGAS, NV PLANO, TX HOUSTON, TX PAHRUMP, NV PLANO, TX RICHARDSON, TX	2694681 5037001 3622252 2254731 4131809 5015120 2996572 2425595 3486605 2996590 3846553 3824038 3665129 3665138 3814749 4346199 2996581	117 NAT	AFNB HOLD	20	2002-02-25 2016-08-04 2011-09-30 2011-09-30 2010-03-10 2016-07-15 2002-02-25 2011-09-30 2006-08-21 2002-02-25 2008-11-10 2011-09-30 2007-05-01 2007-04-16 2011-09-30 2011-10-01 2002-02-25	1998-05-18 2016-08-04 2007-07-25 1994-11-10 2010-03-10 2016-07-15 1998-05-18 1996-03-06 2006-08-21 1998-08-03 2008-11-10 2008-09-29 2007-05-01 2007-04-16 2008-08-22 2011-10-01 1998-05-18	1,468,332	1,286,922
BANK OF SOUTH TX HEBBRONVILLE BR KINGSVILLE BR KINGSVILLE MOTOR BK BR MISSION BR PHARR BR	MCALLEN, TX HEBBRONVILLE, TX KINGSVILLE, TX KINGSVILLE, TX MISSION, TX PHARR, TX	49858 3450914 992253 871554 4877844 4661623	207 NMB		10	2015-03-31 2015-03-31 2015-03-31 2015-03-31 2015-07-01 2015-03-31	1986-07-08 2006-06-12 1931-01-01 1981-01-19 2015-07-01 2014-04-01	130,661	105,838
CITIZENS ST BK RIO GRANDE CITY BR	ROMA, TX RIO GRANDE CITY, TX	804860 3835409	207 NMB		10	2015-03-31 2015-03-31	1978-05-15 2008-11-07	82,673	70,315
COMMERCE BK	LAREDO, TX	625159	207 NMB	INTERNATIONAL BSHRS CORP	10	1984-09-30	1982-03-31	545,876	455,640



SAUNDERS AVE BR	LAREDO, TX	3350694			2005-05-09	2005-05-09			
SOUTH LAREDO BR	LAREDO, TX	2994091			2002-01-01	1998-03-03			
WELBY COURT BR	LAREDO, TX	2994112			2002-01-01	2000-03-27			
FALCON INTL BK	LAREDO, TX	564557	207 NMB	FALCON BSHRS	10	1988-05-18	1986-12-10	1,153,609	1,014,581
BANDERA RD BR	HELOTES, TX	3783902				2008-06-02	2008-06-02		
BIBB AVE BR	EAGLE PASS, TX	3586439				2007-02-27	2007-02-27		
BROWNSVILLE MAIN BR	BROWNSVILLE, TX	5088487				2017-01-23	2017-01-23		
BUDA BR	BUDA, TX	3378719				2005-08-22	2005-08-22		
CALLE DEL NORTE BR	LAREDO, TX	3297593				2016-12-10	2002-11-04		
DEL RIO CHEVROLET DR BR	DEL RIO, TX	3461554				2006-07-17	2006-07-17		
DEL RIO MAIN ST BR	DEL RIO, TX	3392836				2005-11-10	2005-11-10		
DOWNTOWN BR	LAREDO, TX	2978336				1997-02-24	1997-02-24		
EAGLE PASS MAIN BR	EAGLE PASS, TX	3192782				2015-06-01	2003-06-02		
EAST BR	LAREDO, TX	2978345				2000-05-01	2000-05-01		
FALCON INTL BK GUADALAJARA R	GUADALAJARA, 0	3448797				2005-08-12	2005-08-12		
FALCON INTL BNK MONTERREY BR	MONTERREY, 0	5104891				2002-07-16	2002-07-16		
HIGHWAY 83 BR	MCALLEN, TX	3656293				2007-10-31	2007-10-31		
HILLSIDE BR	LAREDO, TX	3036514				2001-03-05	2001-03-05		
MCALLEN 6301 10TH ST BR	MCALLEN, TX	3724839				2008-03-28	2008-03-28		
MCPHERSON BR	LAREDO, TX	3622243				2007-07-26	2007-07-26		
SAN DARIO BR	LAREDO, TX	3383807				2016-12-10	2004-09-06		
STONE OAK BR	SAN ANTONIO, TX	2994206				2001-09-08	1997-06-15		
FIRST ST BK	SHALLOWATER, TX	524766	207 NMB	SOUTH TX BSHRS	20	2015-03-31	1960-10-08	108,005	91,152
AMHERST BR	AMHERST, TX	359856				2015-03-31	1925-02-01		
GOLDEN BK NA	HOUSTON, TX	536059	117 NAT		20	1991-05-17	1985-02-22	821,052	657,014
CHAMPIONS BR	HOUSTON, TX	2301475				1995-02-15	1995-02-15		
HARWIN BR	HOUSTON, TX	3968026				2009-03-25	2009-03-25		
LEGACY BR	PLANO, TX	3657562				2006-12-29	2006-12-29		
RICHARDSON BR	RICHARDSON, TX	2650267				1996-08-08	1996-08-08		
SUGAR LAND BR	SUGAR LAND, TX	2336981				1995-08-07	1995-08-07		
GREATER ST BK	MCALLEN, TX	518877	207 NMB	GREATER ST BSHRS CORP	10	2015-03-31	1974-01-01	78,982	71,965
FALFURRIAS BR	FALFURRIAS, TX	4234205				2015-03-31	2011-01-03		
HEBBRONVILLE BR	HEBBRONVILLE, TX	3637434				2015-03-31	1979-12-31		
WESLACO BR	WESLACO, TX	4587956				2015-03-31	2013-12-02		
INTERNATIONAL BK OF CMRC	BROWNSVILLE, TX	230759	207 NMB	INTERNATIONAL BSHRS CORP	10	1984-10-09	1984-10-09	969,813	781,472
4520 E 14TH ST BR	BROWNSVILLE, TX	231251				1993-10-01	1981-07-06		
630 E ELIZABETH ST BR	BROWNSVILLE, TX	3202038				2003-07-14	2003-07-14		
ALTON GLOOR BR	BROWNSVILLE, TX	3367487				2005-06-14	2005-06-14		
CENTRAL BLVD BR	BROWNSVILLE, TX	2129222				1993-12-01	1993-12-01		
HARLINGEN WALMART BR	HARLINGEN, TX	3536283				1998-04-08	1998-04-08		
PORT ISABEL BR	PORT ISABEL, TX	1418004				1993-10-01	1989-10-30		
SOUTH DIXIELAND RD BR	HARLINGEN, TX	2512226				1996-06-28	1996-06-28		
SOUTH PADRE ISLAND BR	SOUTH PADRE ISLAND, TX	1842047				1993-10-01	1990-02-12		
SUNRISE MA BR	BROWNSVILLE, TX	3536274				2000-07-22	2000-07-22		
SUNSHINE BR	HARLINGEN, TX	1460517				1990-06-30	1990-06-30		
WEST ALTON GLOOR BR	BROWNSVILLE, TX	3536201				2001-04-28	2001-04-28		
INTERNATIONAL BK OF CMRC	ZAPATA, TX	382069	207 NMB	INTERNATIONAL BSHRS CORP	10	1984-02-06	1984-02-06	451,733	319,446
ALICE MAIN ST BR	ALICE, TX	3424399				2005-03-21	2005-03-21		
FREER BR	FREER, TX	3367599				2005-06-20	2005-06-20		
HEBBRONVILLE BR	HEBBRONVILLE, TX	3298590				2004-09-27	2004-09-27		
HOUSTON ST BR	BEEVILLE, TX	3665482				2007-03-16	2007-03-16		
INGRAM PK ML BR	SAN ANTONIO, TX	3761263				2002-06-27	2002-06-27		

KINGSVILLE BR	KINGSVILLE, TX	3465413			2005-09-19	2005-09-19		
KINGSVILLE BR	KINGSVILLE, TX	3629082			2007-08-13	2007-08-13		
PALMS CRNG BR	MCALLEN, TX	3761133			2008-02-22	2008-02-22		
RIO GRANDE CITY BR	RIO GRANDE CITY, TX	1460553			1990-06-30	1990-06-30		
RIO GRANDE HEB INSTORE BR	RIO GRANDE CITY, TX	3463905			2006-08-04	2006-08-04		
RIO GRANDE WALMART BR	RIO GRANDE CITY, TX	3537516			2001-11-13	2001-11-13		
ROMA BR	ROMA, TX	2255279			1994-11-30	1994-11-30		
INTERNATIONAL BK OF CMRC	LAREDO, TX	1001152	207 NMB	INTERNATIONAL BSHRS CORP	10	1978-07-27	1966-09-02	8,567,947 6,236,035
10405 RR 2222 BR	AUSTIN, TX	3383030			2005-09-15	2005-09-15		
11002 CULEBRA BR	SAN ANTONIO, TX	3622195			2007-07-23	2007-07-23		
12625 NORTH IH 35 BR	AUSTIN, TX	3468889			2006-09-01	2006-09-01		
2065 E MAIN ST BR	UVALDE, TX	3424371			2005-11-28	2005-11-28		
2135 MAIN ST BR	EAGLE PASS, TX	3614903			2007-06-25	2007-06-25		
2305 DEL RIO BR	EAGLE PASS, TX	3266731			2004-04-19	2004-04-19		
2800 NOLANA BR	MCALLEN, TX	3486481			2001-06-13	2001-06-13		
3119 SE MILITARY DR BR	SAN ANTONIO, TX	3383049			2005-09-15	2005-09-15		
455 SOUTH BIBB ST BR	EAGLE PASS, TX	3185953			2003-04-11	2003-04-11		
5706 KIRBY MOTOR BR	HOUSTON, TX	3664467			2002-07-01	2002-07-01		
ALAMO BR	ALAMO, TX	3260485			2004-01-15	2004-01-15		
ALAMO HEIGHTS BR	SAN ANTONIO, TX	3529203			2000-01-04	2000-01-04		
ALIEF BR	HOUSTON, TX	341253			1997-11-06	1970-10-05		
ALTON IN-STORE JUNIORS SUPRM	ALTON, TX	4723464			2014-07-02	2014-07-02		
ANGLETON BR	ANGLETON, TX	1876903			1997-03-08	1991-07-13		
ARANSAS PASS BR	ARANSAS PASS, TX	3530012			2001-03-26	2001-03-26		
ASH BR	MCALLEN, TX	3529865			1996-01-13	1996-01-13		
BANDERA RD BR	HELOTES, TX	3281127			2004-07-06	2004-07-06		
BANQUITO OUTLET SHOPPES BR	LAREDO, TX	5116054			2017-03-16	2017-03-16		
BASTROP BR	BASTROP, TX	4064297			2010-02-08	2010-02-08		
BAY CITY BR	BAY CITY, TX	1469369			1994-09-01	1990-08-31		
BEE CAVE BR	BEE CAVE, TX	4723455			2014-06-23	2014-06-23		
BUSINESS BKG CTR MOTOR BK	LAREDO, TX	799452			1980-08-08	1980-08-08		
CALLAGHAN BR	SAN ANTONIO, TX	1866360			1991-06-22	1991-06-22		
CASTLE HILLS BR	SAN ANTONIO, TX	1971572			1992-06-26	1992-06-26		
CEDAR PARK BR	CEDAR PARK, TX	3430569			2006-03-01	2006-03-01		
CESAR CHAVEZ BR	AUSTIN, TX	4050133			2010-01-25	2010-01-25		
CRYSTAL FALL PKWY BR	LEANDER, TX	3906895			2009-02-02	2009-02-02		
DEL RIO BR	DEL RIO, TX	3355091			2005-05-16	2005-05-16		
DEL RIO WALMART BR	DEL RIO, TX	3530094			2002-05-15	2002-05-15		
DOMAIN MALL BR	AUSTIN, TX	3706611			2008-02-12	2008-02-12		
DOWNTOWN AUSTIN BR	AUSTIN, TX	3281136			2004-07-06	2004-07-06		
DOWNTOWN BR	HOUSTON, TX	3529669			2000-07-31	2000-07-31		
EAGLE PASS BR	EAGLE PASS, TX	586353			2002-01-01	1890-01-01		
EAGLE PASS MAIN ST BR	EAGLE PASS, TX	3301977			2004-10-06	2004-10-06		
EAST BR	EAGLE PASS, TX	2421243			2002-01-01	1995-12-18		
EAST TRAVIS BR	SAN ANTONIO, TX	1866342			1991-06-22	1991-06-22		
EDINBURG MCCOLL BR	EDINBURG, TX	3486463			2006-10-18	2006-10-18		
EDINBURG UNIV BR	EDINBURG, TX	3622207			2007-07-23	2007-07-23		
EDINGBURG BR	EDINBURG, TX	1460508			1990-06-30	1990-06-30		
EL BANQUITO DE MAR BR	LAREDO, TX	2406259			1996-02-15	1996-02-15		
EL BANQUITO DOWNTOWN	LAREDO, TX	1990407			1992-06-29	1992-06-29		
EL BANQUITO HGS BR	LAREDO, TX	3531206			2002-06-30	2002-06-30		
EL BANQUITO MINES RD BR	LAREDO, TX	3531279			1998-09-30	1998-09-30		
EL BANQUITO N BR	LAREDO, TX	3531215			2002-06-30	2002-06-30		
EL BANQUITO S BR	LAREDO, TX	2598266			1997-03-10	1997-03-10		
ELDRIDGE PKWY BR	HOUSTON, TX	3446917			2006-05-08	2006-05-08		
EVERHART RD BR	CORPUS CHRISTI, TX	3228506			2003-12-17	2003-12-17		
FREEPORT BR	FREEPORT, TX	1960316			1997-03-08	1992-04-11		

GALLERIA MALL BR	HOUSTON, TX	3761160	2001-04-07	2001-04-07
GULFGATE CTR MALL BR	HOUSTON, TX	3266740	2004-04-30	2004-04-30
HEB IN-STORE MISSION BR	MISSION, TX	3207332	2002-10-18	2002-10-18
HIDALGO BRIDGE ST BR	HIDALGO, TX	3372490	2005-06-10	2005-06-10
HIGHWAY 6 BR	SUGAR LAND, TX	3312209	2004-12-13	2004-12-13
INWOOD BR	SAN ANTONIO, TX	3445639	2006-04-18	2006-04-18
JACKSON & JACKSON BR	MCALLEN, TX	4497112	2013-03-11	2013-03-11
JACKSON AVE BR	MCALLEN, TX	3529883	1998-10-21	1998-10-21
KATY GRAND PKWY S BR	KATY, TX	3384523	2005-09-21	2005-09-21
KIRBY DRIVE BR	HOUSTON, TX	780357	1997-11-06	1942-04-20
LA PLAZA BR	MCALLEN, TX	1479434	1990-06-30	1990-06-30
LAKE JACKSON BR	LAKE JACKSON, TX	1960334	1997-03-08	1992-04-11
LAREDO BR	LAREDO, TX	3255061	2004-03-15	2004-03-15
LAREDO HWY 83 BR	LAREDO, TX	3467668	2006-08-16	2006-08-16
LEAGUE CITY BR	DICKINSON, TX	3381942	2005-09-06	2005-09-06
LOOP 410 BR	SAN ANTONIO, TX	3548875	2006-12-18	2006-12-18
LULING BR	LULING, TX	828455	2002-01-01	1933-12-30
MAIN BR	MCALLEN, TX	1459650	1990-06-30	1990-06-30
MARBLE FALLS BR	MARBLE FALLS, TX	481458	2002-01-01	1925-01-01
MCALLEN 23RD ST BR	MCALLEN, TX	3381960	2005-08-22	2005-08-22
MCALLEN BR	MCALLEN, TX	1444058	1990-04-04	1990-04-04
MEDICAL CTR BR	SAN ANTONIO, TX	4809818	2015-01-30	2015-01-30
MILITARY DR BR	SAN ANTONIO, TX	3582767	2007-02-20	2007-02-20
MISSION BR	MISSION, TX	1460535	1990-06-30	1990-06-30
N 10TH ST BR	MCALLEN, TX	1460526	1990-06-30	1990-06-30
NOLANA BR	MCALLEN, TX	2512217	1996-06-28	1996-06-28
NORTHWEST BLVD BR	CORPUS CHRISTI, TX	3281118	2004-07-06	2004-07-06
NORTHWEST MILITARY HWY BR	SAN ANTONIO, TX	2517481	1996-11-22	1996-11-22
PALMA VISTA BR	MISSION, TX	2523660	1996-10-02	1996-10-02
PALMHURST BR	PALMHURST, TX	3352438	2005-04-20	2005-04-20
PENITAS BR	PENITAS, TX	3935028	2009-04-29	2009-04-29
PHARR BR	PHARR, TX	1460544	1990-06-30	1990-06-30
PHARR I RD BR	PHARR, TX	3301995	2004-10-15	2004-10-15
PLANTATION BR	LAREDO, TX	3531260	1998-03-31	1998-03-31
PLAZA DEL SOL MALL BR	DEL RIO, TX	3935037	2009-05-06	2009-05-06
PORT LAVACA BR	PORT LAVACA, TX	978060	1994-09-01	1909-05-12
PORTLAND BR	PORTLAND, TX	3463790	2006-07-24	2006-07-24
RICHMOND BR	HOUSTON, TX	2340429	1997-11-06	1995-09-22
RICHMOND BR	RICHMOND, TX	2014337	1997-03-08	1993-02-01
ROCKPORT BR	ROCKPORT, TX	1830062	1995-02-01	1991-02-01
ROUND ROCK BR	ROUND ROCK, TX	3281145	2004-07-06	2004-07-06
S TENTH ST BR	MCALLEN, TX	1460496	1990-06-30	1990-06-30
SAN ANTONIO BR	SAN ANTONIO, TX	1002663	1989-05-01	1983-12-01
SAN ANTONIO BR	SAN ANTONIO, TX	2994055	2002-01-01	1999-03-01
SAN DARIO BR	LAREDO, TX	2524612	1996-11-26	1996-11-26
SAN DARIO BR MALL NO 2	LAREDO, TX	3664515	2002-07-17	2002-07-17
SAN ISIDRO BR	LAREDO, TX	3180266	2003-03-06	2003-03-06
SAN JUAN BR	SAN JUAN, TX	3394607	2005-11-24	2005-11-24
SAN MARCOS BR	SAN MARCOS, TX	2994037	2002-01-01	1998-03-02
SCHERTZ FM 3009 BR	SCHERTZ, TX	3424380	2005-11-21	2005-11-21
SHARYLAND BR	MISSION, TX	4600761	2014-01-02	2014-01-02
SINTON BR	SINTON, TX	405061	2007-03-17	1909-02-01
SOUTH PARK MEADOWS BR	AUSTIN, TX	3664485	2007-05-11	2007-05-11
SOUTH PK M BR	SAN ANTONIO, TX	3529212	2002-05-29	2002-05-29
SOUTH SHORELINE BR	CORPUS CHRISTI, TX	895457	1995-02-01	1983-05-16
SOUTH STAPLES BR	CORPUS CHRISTI, TX	1193169	1995-02-01	1988-02-03
SOUTH TX BLVD BR	WESLACO, TX	1872231	1996-06-28	1987-01-17
STONE OAK BR	SAN ANTONIO, TX	331665	1995-09-09	1983-06-01

UVALDE MAIN ST BR	UVALDE, TX	3303663				2004-10-27	2004-10-27		
VICTORIA BR	VICTORIA, TX	3531194				2000-08-31	2000-08-31		
WALDRON BR	CORPUS CHRISTI, TX	3930470				2009-03-16	2009-03-16		
WALMART BR	EDINBURG, TX	3529922				1998-03-04	1998-03-04		
WALMART INST BR	LAREDO, TX	3531233				2001-03-28	2001-03-28		
WALMART INST LP 20 BR	LAREDO, TX	3531251				2003-03-06	2003-03-06		
WALZEM BR	SAN ANTONIO, TX	2232430				1994-08-15	1994-08-15		
WESLACO TX BLVD BR	WESLACO, TX	3372502				2005-06-10	2005-06-10		
LONE STAR NB	PHARR, TX	842460	117 NAT	LONE STAR NAT BSHRS TX	10	2003-10-15	1983-01-24	2,181,516	1,902,437
BROWNSVILLE BOCA CHICA BR	BROWNSVILLE, TX	3450325				2005-06-23	2005-06-23		
BROWNSVILLE BR	BROWNSVILLE, TX	3506053				2003-10-15	2000-08-25		
CORPORATE OFF BR	MCALLEN, TX	4054832				2009-09-14	2009-09-14		
DHR MED BR	MCALLEN, TX	3922699				2009-01-29	2009-01-29		
EDINBURG BR	EDINBURG, TX	3506204				2003-10-15	2002-10-01		
HARLINGEN BR	HARLINGEN, TX	3506231				2003-10-15	2003-05-14		
HIDALGO BR	HIDALGO, TX	3252622				2004-02-09	2004-02-09		
HUEBNER BKG CTR	SAN ANTONIO, TX	4503741				2013-02-05	2013-02-05		
LA PLACITA BR	MCALLEN, TX	4351595				2011-10-14	2011-10-14		
MAIN ST BR	MCALLEN, TX	4054823				2009-09-04	2009-09-04		
MED POINT BR	MCALLEN, TX	3506240				2003-11-01	2003-11-01		
MISSION BR	MISSION, TX	2994774				2003-10-15	1997-04-14		
MISSION MED BR	MISSION, TX	3365607				2005-06-27	2005-06-27		
NOLANA BR	MCALLEN, TX	3794690				2008-03-10	2008-03-10		
NORTH MCALLEN BR	MCALLEN, TX	2449911				2003-10-15	1996-04-15		
PALMVIEW BR	PALMVIEW, TX	3295311				2004-05-12	2004-05-12		
PHARR S CAGE BR	PHARR, TX	4195230				2010-09-13	2010-09-13		
PORT ISABEL MOTOR BK	PORT ISABEL, TX	3450343				2006-05-15	2006-05-15		
RIO GRANDE CITY BR	RIO GRANDE CITY, TX	2994783				2003-10-15	2000-08-01		
RIO GRANDE CITY WEST BR	RIO GRANDE CITY, TX	4236188				2011-01-03	2011-01-03		
ROMA BR	ROMA, TX	3336689				2005-01-31	2005-01-31		
SAN ANTONIO MED BR	SAN ANTONIO, TX	4195221				2010-08-24	2010-08-24		
SOUTH MCALLEN BR	MCALLEN, TX	2246718				2003-10-15	1994-06-13		
SOUTH PADRE ISLAND BR	SOUTH PADRE ISLAND, TX	3450334				2006-05-15	2006-05-15		
STONE OAK BKG CTR	SAN ANTONIO, TX	4540045				2013-08-14	2013-08-14		
WESLACO BR	WESLACO, TX	3302527				2004-04-26	2004-04-26		
WESLACO NORTH BR	WESLACO, TX	4351607				2011-10-25	2011-10-25		
ZARZAMORA BR	SAN ANTONIO, TX	4366870				2011-12-12	2011-12-12		
ONE WORLD BK	DALLAS, TX	3296859	207 NMB	ONE WORLD HOLD	20	2007-03-31	2005-04-04	85,913	73,095
RIO BK	MCALLEN, TX	956750	207 NMB	RIO FNCL SVC	10	2015-03-31	1985-02-11	334,647	299,077
BROWNSVILLE BR	BROWNSVILLE, TX	3542257				2015-03-31	2005-11-07		
HARLINGEN BR	HARLINGEN, TX	4520757				2015-03-31	2013-06-03		
JACKSON AVE BR	MCALLEN, TX	3657133				2015-03-31	2007-11-07		
NORTH MCALLEN BR	MCALLEN, TX	2991344				2015-03-31	1996-10-01		
PALMVIEW BKG CTR	MISSION, TX	3542266				2015-03-31	2002-05-20		
SAN JUAN BR	SAN JUAN, TX	3542275				2015-03-31	2002-04-15		
WESLACO BR	WESLACO, TX	3962408				2015-03-31	2009-08-17		
SOUTHWESTERN NB	HOUSTON, TX	2625724	117 NAT	SWNB BC	20	2003-07-22	1997-11-03	410,628	347,444
AUSTIN BR	AUSTIN, TX	3745414				2007-09-25	2007-09-25		
DALLAS RGNL OFF	RICHARDSON, TX	5213355				2017-10-16	2017-10-16		
PLANO BR	PLANO, TX	3540552				2005-10-26	2005-10-26		
RICHARDSON BR	RICHARDSON, TX	3540570				2006-01-01	2006-01-01		
SUGAR LAND BR	SUGAR LAND, TX	3351646				2005-04-28	2005-04-28		
STATE BK OF TX	DALLAS, TX	1157415	207 NMB	SBT BSHRS	20	1989-03-10	1987-10-19	798,948	637,696

CHICAGO DEVON BR	CHICAGO, IL	2426471				2014-10-25	1991-08-11		
GARLAND BR	GARLAND, TX	1443284				1990-03-30	1990-03-30		
IRVING BR	IRVING, TX	3951354				2009-07-06	2009-07-06		
OHARE FACILITY BR	CHICAGO, IL	3507564				2017-01-28	2000-12-21		
RICHARDSON BR	RICHARDSON, TX	3540909				1998-11-16	1998-11-16		
TEXAS NB	MERCEDES, TX	497954	117	NAT	MNB VENT	2007-03-02	1920-11-26	262,691	231,305
EDINBURG BR	EDINBURG, TX	3767180				2007-07-16	2007-07-16		
MCALLEN BR	MCALLEN, TX	4721947				2014-06-09	2014-06-09		
MISSION/SHARY BR	MISSION, TX	5137705				2017-06-16	2017-06-16		
WESLACO BR	WESLACO, TX	4865355				2015-06-01	2015-06-01		
UNITED BK OF EL PASO DEL NOR	EL PASO, TX	2942823	217	SMB	SOUTHWEST UNITED BSHRS	2001-05-01	2001-05-01	229,914	184,840
GATEWAY WEST BR	EL PASO, TX	3025198				2001-05-01	2001-05-01		
MAIN BR	EL PASO, TX	4440239				2012-09-26	2012-09-26		
NORTH ZARAGOZA BR	EL PASO, TX	3663732				2007-11-26	2007-11-26		
UNITY NB OF HOUSTON	HOUSTON, TX	853251	117	NAT		1989-02-01	1985-08-02	91,263	80,779
MISSOURI BR	MISSOURI CITY, TX	2987084				1998-03-19	1998-03-19		
WALLIS ST BK	WALLIS, TX	283867	207	NMB	WALLIS BSHRS	2012-02-08	1956-05-09	634,660	538,739
ALMEDA CROSSING BR	HOUSTON, TX	4099600				2012-02-08	2010-02-26		
DALLAS BR	DALLAS, TX	4506238				2013-04-29	2013-04-29		
FULSHEAR BR	FULSHEAR, TX	1947755				2012-02-08	1992-03-02		
GALLERIA BR	HOUSTON, TX	4873024				2015-06-01	2015-06-01		
KEMPWOOD BR	HOUSTON, TX	4639079				2014-02-03	2014-02-03		
MEADOWS BR	STAFFORD, TX	2799102				2012-02-08	1997-12-29		
NORTHWEST BR	HOUSTON, TX	4255518				2012-02-08	2011-03-04		
RICHARDSON BR	RICHARDSON, TX	5046692				2016-10-03	2016-10-03		
SAN ANTONIO BR	SAN ANTONIO, TX	3312197				2012-02-08	2004-12-13		
WALL ST BR	LOS ANGELES, CA	4904508				2015-10-01	2015-10-01		
ZAPATA NB	ZAPATA, TX	218261	117	NAT	ZAPATA BSHRS	1979-06-29	1961-11-16	84,840	73,966
MOVEMENT BK	DANVILLE, VA	722227	207	NMB		1959-12-31	1919-09-08	46,042	38,697
OLD DOMINION NA	NORTH GARDEN, VA	3610718	117	NAT		2015-03-31	2007-07-23	185,484	140,449
SCOTTSVILLE BR	NORTH GARDEN, VA	3895485				2015-03-31	2009-01-20		
UNIBANK	LYNNWOOD, WA	3487947	207	NMB	U&I FNCL CORP	2007-01-11	2006-11-01	282,106	238,812
BELLEVUE BR	BELLEVUE, WA	4420343				2012-04-02	2012-04-02		
FEDERALWAY BR	FEDERAL WAY, WA	4368034				2011-03-01	2011-03-01		
TACOMA MKT BR	LAKESWOOD, WA	4207067				2010-01-11	2010-01-11		
BAY BK	GREEN BAY, WI	2329200	207	NMB	BAY BC	2015-03-31	1995-08-21	89,675	70,392
WEST MASON ST BR	GREEN BAY, WI	4977481				2015-11-12	2015-11-12		
COLUMBIA S&LA	MILWAUKEE, WI	596277	207	SAL		1988-12-31	1924-01-01	23,741	21,604
ANZ GUAM	HAGATNA, GU	1852569	207	NMB	AUSTRALIA & NEW ZEALAND BKG	2015-03-31	1991-01-11	347,839	298,912
FAGATOGO AMER SAMOA MAIN BR	PAGO PAGO, AS	709675				2015-03-31	1979-08-17		
PAGO PAGO AMER SAMOA PWR BR	PAGO PAGO, AS	2750466				2015-03-31	1992-10-05		
PAGO PAGO MAIN ISLAND MBL BR	PAGO PAGO, AS	3623080				2015-03-31	2006-06-30		
PAGO PAGO MOBILE CANNERY BR	PAGO PAGO, AS	3623071				2015-03-31	2006-06-30		
TAFUNA BR	PAGO PAGO, AS	709273				2015-03-31	1983-09-01		
TAMUNING HARMON BUS CTR BR	TAMUNING, GU	2695099				2015-03-31	1995-05-30		
BANK OF GUAM	HAGATNA, GU	711472	207	NMB	BANKGUAM HC	1980-06-04	1972-12-11	1,825,225	1,326,249

BANK OF GUAM ANDERSEN FAC BR	YIGO, GU	2459303			1992-11-02	1992-11-02		
BANK OF GUAM CHALAN PIAO BR	CHALAN PIAO, MP	3511084			1988-08-28	1988-08-28		
BANK OF GUAM CHUUK BR	CHUUK, 0	3624078			2006-06-30	1980-11-01		
BANK OF GUAM DEDEDO BR	DEDEDO, GU	710970			1980-06-04	1975-05-29		
BANK OF GUAM HARMON BR	DEDEDO, GU	4328476			2008-06-30	2008-06-30		
BANK OF GUAM JOETEN SUPER BR	SAIPAN, MP	3511105			2000-02-28	2000-02-08		
BANK OF GUAM KOLONIA POHNPE	POHNPEI, 0	717773			1984-04-02	1984-04-02		
BANK OF GUAM KOSRAE BR	KOSRAE, 0	4328524			2009-10-30	2009-10-30		
BANK OF GUAM MAJURO BR	MAJURO, 0	440969			1980-11-01	1969-05-26		
BANK OF GUAM MANGILAO BR	MANGILAO, GU	1946440			1992-01-17	1992-01-17		
BANK OF GUAM MERIZO BR	MERIZO, GU	3359802			1998-04-24	1998-04-24		
BANK OF GUAM NAVAL STATION B	SANTA RITA, GU	2459330			1992-10-15	1992-10-15		
BANK OF GUAM PALAU BR	PALAU, 0	712675			1984-04-02	1984-04-02		
BANK OF GUAM ROTA BR	ROTA, MP	716879			1985-03-01	1985-03-01		
BANK OF GUAM SAN FRANCISCO B	SAN FRANCISCO, CA	715676			1983-03-25	1983-03-25		
BANK OF GUAM TAMUNING BR	TAMUNING, GU	711070			1980-06-04	1978-11-13		
BANK OF GUAM TINIAN FAC BR	TINIAN, MP	1940662			1980-11-01	1980-11-01		
BANK OF GUAM TUMON BR	TUMON, GU	1847604			1984-06-06	1984-06-06		
BANK OF GUAM UPPER TUMON BR	UPPER TUMON, GU	3359790			2006-06-30	1997-01-10		
BANK OF GUAM YAP BR	YAP, 0	4328515			2009-09-18	2009-09-18		
BANK OF GUAM YIGO BR	YIGO, GU	2459312			1993-02-02	1993-02-02		
SAIPAN GARAPAN BR	SAIPAN, MP	1940671			1980-11-01	1950-06-19		
BANKPACIFIC	HAGATNA, GU	364270	207 SAL	20	1999-06-08	1954-07-07	139,685	97,136
AGAT BR	AGAT, GU	4022493			2008-06-30	2008-06-30		
DEDEDO BR	DEDEDO, GU	4022505			2008-06-30	2008-06-30		
GARAPAN BR	GARAPAN, MP	4022523			2008-06-30	2008-06-30		
KOROR BR	TGERONGEL HAMLET, 0	4022532			2008-06-30	2008-06-30		
TAMUNING BR	TAMUNING, GU	4022514			2008-06-30	2008-06-30		

#### Summary Data

Total number of banks	151
Total assets (thousands)	\$148,237,233
Total deposits (thousands)	\$122,600,981

By minority code (Min Cd)	Count
1 African American	23
5 Caucasian Women	6
10 Hispanic American	29
20 Asian or Pacific Islander Am	62
30 Native Am or Alaskan Native Am	18
31 Multi-Racial Americam	1
32 Min Board & Serving African Am Community	0
33 Min Board & Serving Hispanic Community	1
34 Min Board & Serving Asian or Pacific Islander Community	7
35 Min Board & Serving Native Am or Alaskan Native Am Community	0
36 Min Board & Serving Multi-Racial Community	2
39 Low Income Credit Union	2
Total	151

By Federal Reserve membership status	
Member - Federally chartered	29
Member - State chartered	15
Nonmember	107

Total

151

Charter Class (Chr Cls) Code

Each charter class is composed of three separate digits:

First digit - Chartering authority

0 = Not applicable

1 = Federal (or National)

2 = State

Second digit - Federal Reserve System membership

0 = Not applicable or Nonmember

1 = Member

Third digit - primary insurer

0 = Not applicable or uninsured

1 = Federal Deposit Insurance Corp/Bank Insurance Fund

2 = FDIC/Savings Association Insurance Fund

3 = National Credit Union Share Insurance Fund

4 = State

5 = Other

6 = FDIC/BIF and FDIC/SAIF

7 = Deposit Insurance Fund (DIF) - the FDIC merged BIF & SAIF Mar 30, 2006 to form DIF

Entity Type (Ent Type)

NAT = National Bank

SMB = State Member Bank

NMB = Non-member Bank

FSB = Federal Savings Bank

SSB = State Savings Bank

SAL = Savings & Loan Association

FCU = Federal Credit Union

CRU = Credit Union

**ELECTRONIC CODE OF FEDERAL REGULATIONS****e-CFR data is current as of July 17, 2018**

Title 49 → Subtitle A → Part 26

Title 49: Transportation

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**PART 26—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS**

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**Contents****Subpart A—General**

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

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

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

**Subpart C—Goals, Good Faith Efforts, and Counting**

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

**Subpart D—Certification Standards**

- §26.61 How are burdens of proof allocated in the certification process?
- §26.63 What rules govern group membership determinations?
- §26.65 What rules govern business size determinations?
- §26.67 What rules determine social and economic disadvantage?
- §26.69 What rules govern determinations of ownership?
- §26.71 What rules govern determinations concerning control?
- §26.73 What are other rules affecting certification?

**Subpart E—Certification Procedures**

- §26.81 What are the requirements for Unified Certification Programs?
- §26.83 What procedures do recipients follow in making certification decisions?
- §26.85 Interstate certification.



- §26.86 What rules govern recipients' denials of initial requests for certification?
- §26.87 What procedures does a recipient use to remove a DBE's eligibility?
- §26.88 Summary suspension of certification.
- §26.89 What is the process for certification appeals to the Department of Transportation?
- §26.91 What actions do recipients take following DOT certification appeal decisions?

### Subpart F—Compliance and Enforcement

- §26.101 What compliance procedures apply to recipients?
- §26.103 What enforcement actions apply in FHWA and FTA programs?
- §26.105 What enforcement actions apply in FAA programs?
- §26.107 What enforcement actions apply to firms participating in the DBE program?
- §26.109 What are the rules governing information, confidentiality, cooperation, and intimidation or retaliation?

Appendix A to Part 26—Guidance Concerning Good Faith Efforts

Appendix B to Part 26—Uniform Report of DBE Awards or Commitments and Payments Form

Appendix C to Part 26—DBE Business Development Program Guidelines

Appendix D to Part 26—Mentor-Protégé Program Guidelines

Appendix E to Part 26—Individual Determinations of Social and Economic Disadvantage

Appendix F to Part 26—Uniform Certification Application Form

Appendix G to Part 26—Personal Net Worth Statement

AUTHORITY: 23 U.S.C. 304 and 324; 42 U.S.C. 2000d, *et seq.*; 49 U.S.C. 47107, 47113, 47123; Sec. 1101(b), Pub. L. 105-178, 112 Stat. 107, 113.

SOURCE: 64 FR 5126, Feb. 2, 1999, unless otherwise noted.

[↑ Back to Top](#)

### Subpart A—General

[↑ Back to Top](#)

#### §26.1 What are the objectives of this part?

This part seeks to achieve several objectives:

- (a) To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;
- (b) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- (c) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- (d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- (e) To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- (f) To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients.
- (g) To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- (h) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

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

[↑ Back to Top](#)

#### §26.3 To whom does this part apply?

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

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

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

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

(b) [Reserved]

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

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

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

[↑ Back to Top](#)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(vi) Women;

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

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

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

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

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

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

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

[↑ Back to Top](#)

### **§26.7 What discriminatory actions are forbidden?**

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

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

[↑ Back to Top](#)

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

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

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

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

[72 FR 15617, Apr. 2, 2007]

[↑ Back to Top](#)

### **§26.11 What records do recipients keep and report?**

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

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

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

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

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

(i) Firm name;

(ii) Firm address;

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

(iv) Age of the firm; and

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

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

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

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

(1) Women;

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

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

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

[↑ Back to Top](#)

### **§26.13 What assurances must recipients and contractors make?**

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

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

(1) Withholding monthly progress payments;

(2) Assessing sanctions;

(3) Liquidated damages; and/or

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

[79 FR 59593, Oct. 2, 2014]

[↑ Back to Top](#)

### **§26.15 How can recipients apply for exemptions or waivers?**

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

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

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

(2) Your application must show that—

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

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

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

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

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

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

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

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

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

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

[↑ Back to Top](#)

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

[↑ Back to Top](#)

### **§26.21 Who must have a DBE program?**

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

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

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

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

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

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

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

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

[↑ Back to Top](#)

### **§26.23 What is the requirement for a policy statement?**

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

[↑ Back to Top](#)

### **§26.25 What is the requirement for a liaison officer?**

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

[↑ Back to Top](#)

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

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

[↑ Back to Top](#)

### **§26.29 What prompt payment mechanisms must recipients have?**

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

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

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

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

(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

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



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

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

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

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

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

[68 FR 35553, June 16, 2003]

[↑ Back to Top](#)

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

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

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

[76 FR 5096, Jan. 28, 2011]

[↑ Back to Top](#)

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

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

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

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

[↑ Back to Top](#)

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

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

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

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

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

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

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

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

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

[↑ Back to Top](#)

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

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

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

(c) This mechanism must provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. In your reports of DBE participation to the Department, you must display both commitments and attainments.

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

[↑ Back to Top](#)

### **§26.39 Fostering small business participation.**

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

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

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

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

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

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

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

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

[76 FR 5097, Jan. 28, 2011]

[↑ Back to Top](#)

## Subpart C—Goals, Good Faith Efforts, and Counting

[↑ Back to Top](#)

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

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

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

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

[↑ Back to Top](#)

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

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

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

[↑ Back to Top](#)

### §26.45 How do recipients set overall goals?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(i) Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs. The consultation must include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it must occur before you are required to submit your methodology to the operating administration for review pursuant to paragraph (f) of this section. You must document in your goal submission the consultation process you engaged in. Notwithstanding paragraph (f)(4) of this section, you may not implement your proposed goal until you have complied with this requirement.

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

(2) At your discretion, you may inform the public that the proposed overall goal and its rationale are available for inspection during normal business hours at your principal office and for a 30-day comment period. Notice of the comment period must

include addresses to which comments may be sent. The public comment period will not extend the August 1st deadline set in paragraph (f) of this section.

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

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

[↑ Back to Top](#)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[↑ Back to Top](#)

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

(a) If you are an FTA recipient, you must require in your DBE program that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the

requirements of this section. You do not include FTA assistance used in transit vehicle procurements in the base amount from which your overall goal is calculated.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[79 FR 59594, Oct. 2, 2014]

[↑ Back to Top](#)

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

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

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

(1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by

means such as those provided under §26.39 of this part.

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

(3) Providing technical assistance and other services;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(2) If, during the course of any year in which you are using contract goals, you determine that you will exceed your overall goal, you must reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals



does not result in exceeding the overall goal. If you determine that you will fall short of your overall goal, then you must make appropriate modifications in your use of race-neutral and/or race-conscious measures to allow you to meet the overall goal.

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

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

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

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

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

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

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

[↑ Back to Top](#)

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

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

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

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

- (1) Award of the contract will be conditioned on meeting the requirements of this section;
- (2) All bidders or offerors will be required to submit the following information to the recipient, at the time provided in paragraph (b)(3) of this section:
  - (i) The names and addresses of DBE firms that will participate in the contract;
  - (ii) A description of the work that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract;
  - (iii) The dollar amount of the participation of each DBE firm participating;

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

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

(vi) If the contract goal is not met, evidence of good faith efforts (see Appendix A of this part). The documentation of good faith efforts must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract; and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[↑ Back to Top](#)

## **§26.55 How is DBE participation counted toward goals?**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(5) The DBE may also lease trucks from a non-DBE firm, including from an owner-operator. The DBE that leases trucks equipped with drivers from a non-DBE is entitled to credit for the total value of transportation services provided by non-DBE leased trucks equipped with drivers not to exceed the value of transportation services on the contract provided by DBE-owned trucks or leased trucks with DBE employee drivers. Additional participation by non-DBE owned trucks equipped with drivers

receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the appropriate DOT operating administration.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

[↑ Back to Top](#)

## Subpart D—Certification Standards

[↑ Back to Top](#)

### §26.61 How are burdens of proof allocated in the certification process?

(a) In determining whether to certify a firm as eligible to participate as a DBE, you must apply the standards of this subpart.

(b) The firm seeking certification has the burden of demonstrating to you, by a preponderance of the evidence, that it meets the requirements of this subpart concerning group membership or individual disadvantage, business size, ownership, and control.

(c) You must rebuttably presume that members of the designated groups identified in §26.67(a) are socially and economically disadvantaged. This means they do not have the burden of proving to you that they are socially and economically disadvantaged. In order to obtain the benefit of the rebuttable presumption, individuals must submit a signed, notarized statement that they are a member of one of the groups in §26.67(a). Applicants do have the obligation to provide you information concerning their economic disadvantage (see §26.67).

(d) Individuals who are not presumed to be socially and economically disadvantaged, and individuals concerning whom the presumption of disadvantage has been rebutted, have the burden of proving to you, by a preponderance of the evidence, that they are socially and economically disadvantaged. (See Appendix E of this part.)

(e) You must make determinations concerning whether individuals and firms have met their burden of demonstrating group membership, ownership, control, and social and economic disadvantage (where disadvantage must be demonstrated on an individual basis) by considering all the facts in the record, viewed as a whole.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35554, June 16, 2003]

[↑ Back to Top](#)

### §26.63 What rules govern group membership determinations?

(a)(1) If, after reviewing the signed notarized statement of membership in a presumptively disadvantaged group (see §26.61(c)), you have a well founded reason to question the individual's claim of membership in that group, you must require the individual to present additional evidence that he or she is a member of the group.

(2) You must provide the individual a written explanation of your reasons for questioning his or her group membership and a written request for additional evidence as outlined in paragraph (b) of this section.

(3) In implementing this section, you must take special care to ensure that you do not impose a disproportionate burden on members of any particular designated group. Imposing a disproportionate burden on members of a particular group could violate §26.7(b) and/or Title VI of the Civil Rights Act of 1964 and 49 CFR part 21.

(b) In making such a determination, you must consider whether the person has held himself out to be a member of the group over a long period of time prior to application for certification and whether the person is regarded as a member of the group by the relevant community. You may require the applicant to produce appropriate documentation of group membership.

(1) If you determine that an individual claiming to be a member of a group presumed to be disadvantaged is not a member of a designated disadvantaged group, the individual must demonstrate social and economic disadvantage on an individual basis.

(2) Your decisions concerning membership in a designated group are subject to the certification appeals procedure of §26.89.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35554, June 16, 2003]

[↑ Back to Top](#)

### §26.65 What rules govern business size determinations?

(a) To be an eligible DBE, a firm (including its affiliates) must be an existing small business, as defined by Small Business Administration (SBA) standards. As a recipient, you must apply current SBA business size standard(s) found in 13 CFR part 121 appropriate to the type(s) of work the firm seeks to perform in DOT-assisted contracts, including the primary industry classification of the applicant.

(b) Even if it meets the requirements of paragraph (a) of this section, a firm is not an eligible DBE in any Federal fiscal year if the firm (including its affiliates) has had average annual gross receipts, as defined by SBA regulations (see 13 CFR 121.402), over the firm's previous three fiscal years, in excess of \$23.98 million.

(c) The Department adjusts the number in paragraph (b) of this section annually using the Department of Commerce price deflators for purchases by State and local governments as the basis for this adjustment.

[74 FR 15224, Apr. 3, 2009, as amended at 79 FR 59596, Oct. 2, 2014]

[↑ Back to Top](#)

### **§26.67 What rules determine social and economic disadvantage?**

(a) *Presumption of disadvantage.* (1) You must rebuttably presume that citizens of the United States (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA, are socially and economically disadvantaged individuals. You must require applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.

(2)(i) You must require each individual owner of a firm applying to participate as a DBE, whose ownership and control are relied upon for DBE certification, to certify that he or she has a personal net worth that does not exceed \$1.32 million.

(ii) You must require each individual who makes this certification to support it with a signed, notarized statement of personal net worth, with appropriate supporting documentation. To meet this requirement, you must use the DOT personal net worth form provided in appendix G to this part without change or revision. Where necessary to accurately determine an individual's personal net worth, you may, on a case-by-case basis, require additional financial information from the owner of an applicant firm (e.g., information concerning the assets of the owner's spouse, where needed to clarify whether assets have been transferred to the spouse or when the owner's spouse is involved in the operation of the company). Requests for additional information shall not be unduly burdensome or intrusive.

(iii) In determining an individual's net worth, you must observe the following requirements:

(A) Exclude an individual's ownership interest in the applicant firm;

(B) Exclude the individual's equity in his or her primary residence (except any portion of such equity that is attributable to excessive withdrawals from the applicant firm). The equity is the market value of the residence less any mortgages and home equity loan balances. Recipients must ensure that home equity loan balances are included in the equity calculation and not as a separate liability on the individual's personal net worth form. Exclusions for net worth purposes are not exclusions for asset valuation or access to capital and credit purposes.

(C) Do not use a contingent liability to reduce an individual's net worth.

(D) With respect to assets held in vested pension plans, Individual Retirement Accounts, 401(k) accounts, or other retirement savings or investment programs in which the assets cannot be distributed to the individual at the present time without significant adverse tax or interest consequences, include only the present value of such assets, less the tax and interest penalties that would accrue if the asset were distributed at the present time.

(iv) Notwithstanding any provision of Federal or State law, you must not release an individual's personal net worth statement nor any documents pertaining to it to any third party without the written consent of the submitter. Provided, that you must transmit this information to DOT in any certification appeal proceeding under §26.89 of this part or to any other State to which the individual's firm has applied for certification under §26.85 of this part.

(b) *Rebuttal of presumption of disadvantage.* (1) An individual's presumption of economic disadvantage may be rebutted in two ways.

(i) If the statement of personal net worth and supporting documentation that an individual submits under paragraph (a)(2) of this section shows that the individual's personal net worth exceeds \$1.32 million, the individual's presumption of economic disadvantage is rebutted. You are not required to have a proceeding under paragraph (b)(2) of this section in order to rebut the presumption of economic disadvantage in this case.

*Example to paragraph (b)(1)(i):* An individual with very high assets and significant liabilities may, in accounting terms, have a PNW of less than \$1.32 million. However, the person's assets collectively (e.g., high income level, a very expensive house, a yacht, extensive real or personal property holdings) may lead a reasonable person to conclude that he or she is not economically disadvantaged. The recipient may rebut the individual's presumption of economic disadvantage under these circumstances, as provided in this section, even though the individual's PNW is less than \$1.32 million.

(ii)(A) If the statement of personal net worth and supporting documentation that an individual submits under paragraph (a) (2) of this section demonstrates that the individual is able to accumulate substantial wealth, the individual's presumption of economic disadvantage is rebutted. In making this determination, as a certifying agency, you may consider factors that include, but are not limited to, the following:

- (1) Whether the average adjusted gross income of the owner over the most recent three year period exceeds \$350,000;
- (2) Whether the income was unusual and not likely to occur in the future;
- (3) Whether the earnings were offset by losses;
- (4) Whether the income was reinvested in the firm or used to pay taxes arising in the normal course of operations by the firm;
- (5) Other evidence that income is not indicative of lack of economic disadvantage; and
- (6) Whether the total fair market value of the owner's assets exceed \$6 million.

(B) You must have a proceeding under paragraph (b)(2) of this section in order to rebut the presumption of economic disadvantage in this case.

(2) If you have a reasonable basis to believe that an individual who is a member of one of the designated groups is not, in fact, socially and/or economically disadvantaged you may, at any time, start a proceeding to determine whether the presumption should be regarded as rebutted with respect to that individual. Your proceeding must follow the procedures of §26.87.

(3) In such a proceeding, you have the burden of demonstrating, by a preponderance of the evidence, that the individual is not socially and economically disadvantaged. You may require the individual to produce information relevant to the determination of his or her disadvantage.

(4) When an individual's presumption of social and/or economic disadvantage has been rebutted, his or her ownership and control of the firm in question cannot be used for purposes of DBE eligibility under this subpart unless and until he or she makes an individual showing of social and/or economic disadvantage. If the basis for rebutting the presumption is a determination that the individual's personal net worth exceeds \$1.32 million, the individual is no longer eligible for participation in the program and cannot regain eligibility by making an individual showing of disadvantage, so long as his or her PNW remains above that amount.

(c) *Transfers within two years.* (1) Except as set forth in paragraph (c)(2) of this section, recipients must attribute to an individual claiming disadvantaged status any assets which that individual has transferred to an immediate family member, to a trust a beneficiary of which is an immediate family member, or to the applicant firm for less than fair market value, within two years prior to a concern's application for participation in the DBE program or within two years of recipient's review of the firm's annual affidavit, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support.

(2) Recipients must not attribute to an individual claiming disadvantaged status any assets transferred by that individual to an immediate family member that are consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements.

(d) *Individual determinations of social and economic disadvantage.* Firms owned and controlled by individuals who are not presumed to be socially and economically disadvantaged (including individuals whose presumed disadvantage has been rebutted) may apply for DBE certification. You must make a case-by-case determination of whether each individual whose ownership and control are relied upon for DBE certification is socially and economically disadvantaged. In such a proceeding, the applicant firm has the burden of demonstrating to you, by a preponderance of the evidence, that the individuals who own and control it are socially and economically disadvantaged. An individual whose personal net worth exceeds \$1.32 million shall not be deemed to be economically disadvantaged. In making these determinations, use the guidance found in Appendix E of this part. You must require that applicants provide sufficient information to permit determinations under the guidance of appendix E of this part.

[79 FR 59596, Oct. 2, 2014]

[↑ Back to Top](#)

## §26.69 What rules govern determinations of ownership?

(a) In determining whether the socially and economically disadvantaged participants in a firm own the firm, you must consider all the facts in the record viewed as a whole, including the origin of all assets and how and when they were used in



obtaining the firm. All transactions for the establishment and ownership (or transfer of ownership) must be in the normal course of business, reflecting commercial and arms-length practices.

(b) To be an eligible DBE, a firm must be at least 51 percent owned by socially and economically disadvantaged individuals.

(1) In the case of a corporation, such individuals must own at least 51 percent of the each class of voting stock outstanding and 51 percent of the aggregate of all stock outstanding.

(2) In the case of a partnership, 51 percent of each class of partnership interest must be owned by socially and economically disadvantaged individuals. Such ownership must be reflected in the firm's partnership agreement.

(3) In the case of a limited liability company, at least 51 percent of each class of member interest must be owned by socially and economically disadvantaged individuals.

(c)(1) The firm's ownership by socially and economically disadvantaged individuals, including their contribution of capital or expertise to acquire their ownership interests, must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents. Proof of contribution of capital should be submitted at the time of the application. When the contribution of capital is through a loan, there must be documentation of the value of assets used as collateral for the loan.

(2) Insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or an owner who is not a disadvantaged individual, mere participation in a firm's activities as an employee, or capitalization not commensurate with the value for the firm.

(3) The disadvantaged owners must enjoy the customary incidents of ownership, and share in the risks and be entitled to the profits and loss commensurate with their ownership interests, as demonstrated by the substance, not merely the form, of arrangements. Any terms or practices that give a non-disadvantaged individual or firm a priority or superior right to a firm's profits, compared to the disadvantaged owner(s), are grounds for denial.

(4) Debt instruments from financial institutions or other organizations that lend funds in the normal course of their business do not render a firm ineligible, even if the debtor's ownership interest is security for the loan.

*Examples to paragraph (c):* (i) An individual pays \$100 to acquire a majority interest in a firm worth \$1 million. The individual's contribution to capital would not be viewed as substantial.

(ii) A 51% disadvantaged owner and a non-disadvantaged 49% owner contribute \$100 and \$10,000, respectively, to acquire a firm grossing \$1 million. This may be indicative of a pro forma arrangement that does not meet the requirements of (c)(1).

(iii) The disadvantaged owner of a DBE applicant firm spends \$250 to file articles of incorporation and obtains a \$100,000 loan, but makes only nominal or sporadic payments to repay the loan. This type of contribution is not of a continuing nature.

(d) All securities that constitute ownership of a firm shall be held directly by disadvantaged persons. Except as provided in this paragraph (d), no securities or assets held in trust, or by any guardian for a minor, are considered as held by disadvantaged persons in determining the ownership of a firm. However, securities or assets held in trust are regarded as held by a disadvantaged individual for purposes of determining ownership of the firm, if—

(1) The beneficial owner of securities or assets held in trust is a disadvantaged individual, and the trustee is the same or another such individual; or

(2) The beneficial owner of a trust is a disadvantaged individual who, rather than the trustee, exercises effective control over the management, policy-making, and daily operational activities of the firm. Assets held in a revocable living trust may be counted only in the situation where the same disadvantaged individual is the sole grantor, beneficiary, and trustee.

(e) The contributions of capital or expertise by the socially and economically disadvantaged owners to acquire their ownership interests must be real and substantial. Examples of insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or an owner who is not a disadvantaged individual, or mere participation in a firm's activities as an employee. Debt instruments from financial institutions or other organizations that lend funds in the normal course of their business do not render a firm ineligible, even if the debtor's ownership interest is security for the loan.

(f) The following requirements apply to situations in which expertise is relied upon as part of a disadvantaged owner's contribution to acquire ownership:

(1) The owner's expertise must be—

(i) In a specialized field;

(ii) Of outstanding quality;

- (iii) In areas critical to the firm's operations;
- (iv) Indispensable to the firm's potential success;
- (v) Specific to the type of work the firm performs; and
- (vi) Documented in the records of the firm. These records must clearly show the contribution of expertise and its value to the firm.

(2) The individual whose expertise is relied upon must have a significant financial investment in the firm.

(g) You must always deem as held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual—

(1) As the result of a final property settlement or court order in a divorce or legal separation, provided that no term or condition of the agreement or divorce decree is inconsistent with this section; or

(2) Through inheritance, or otherwise because of the death of the former owner.

(h)(1) You must presume as not being held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual as the result of a gift, or transfer without adequate consideration, from any non-disadvantaged individual or non-DBE firm who is—

(i) Involved in the same firm for which the individual is seeking certification, or an affiliate of that firm;

(ii) Involved in the same or a similar line of business; or

(iii) Engaged in an ongoing business relationship with the firm, or an affiliate of the firm, for which the individual is seeking certification.

(2) To overcome this presumption and permit the interests or assets to be counted, the disadvantaged individual must demonstrate to you, by clear and convincing evidence, that—

(i) The gift or transfer to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and

(ii) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a non-disadvantaged individual who provided the gift or transfer.

(i) You must apply the following rules in situations in which marital assets form a basis for ownership of a firm:

(1) When marital assets (other than the assets of the business in question), held jointly or as community property by both spouses, are used to acquire the ownership interest asserted by one spouse, you must deem the ownership interest in the firm to have been acquired by that spouse with his or her own individual resources, provided that the other spouse irrevocably renounces and transfers all rights in the ownership interest in the manner sanctioned by the laws of the state in which either spouse or the firm is domiciled. You do not count a greater portion of joint or community property assets toward ownership than state law would recognize as belonging to the socially and economically disadvantaged owner of the applicant firm.

(2) A copy of the document legally transferring and renouncing the other spouse's rights in the jointly owned or community assets used to acquire an ownership interest in the firm must be included as part of the firm's application for DBE certification.

(j) You may consider the following factors in determining the ownership of a firm. However, you must not regard a contribution of capital as failing to be real and substantial, or find a firm ineligible, solely because—

(1) A socially and economically disadvantaged individual acquired his or her ownership interest as the result of a gift, or transfer without adequate consideration, other than the types set forth in paragraph (h) of this section;

(2) There is a provision for the co-signature of a spouse who is not a socially and economically disadvantaged individual on financing agreements, contracts for the purchase or sale of real or personal property, bank signature cards, or other documents; or

(3) Ownership of the firm in question or its assets is transferred for adequate consideration from a spouse who is not a socially and economically disadvantaged individual to a spouse who is such an individual. In this case, you must give particularly close and careful scrutiny to the ownership and control of a firm to ensure that it is owned and controlled, in substance as well as in form, by a socially and economically disadvantaged individual.

[64 FR 5126, Feb. 2, 1999, as amended at 79 FR 59597, Oct. 2, 2014]

[↑ Back to Top](#)

## **§26.71 What rules govern determinations concerning control?**

(a) In determining whether socially and economically disadvantaged owners control a firm, you must consider all the facts in the record, viewed as a whole.

(b) Only an independent business may be certified as a DBE. An independent business is one the viability of which does not depend on its relationship with another firm or firms.

(1) In determining whether a potential DBE is an independent business, you must scrutinize relationships with non-DBE firms, in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.

(2) You must consider whether present or recent employer/employee relationships between the disadvantaged owner(s) of the potential DBE and non-DBE firms or persons associated with non-DBE firms compromise the independence of the potential DBE firm.

(3) You must examine the firm's relationships with prime contractors to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential DBE firm.

(4) In considering factors related to the independence of a potential DBE firm, you must consider the consistency of relationships between the potential DBE and non-DBE firms with normal industry practice.

(c) A DBE firm must not be subject to any formal or informal restrictions which limit the customary discretion of the socially and economically disadvantaged owners. There can be no restrictions through corporate charter provisions, by-law provisions, contracts or any other formal or informal devices (e.g., cumulative voting rights, voting powers attached to different classes of stock, employment contracts, requirements for concurrence by non-disadvantaged partners, conditions precedent or subsequent, executory agreements, voting trusts, restrictions on or assignments of voting rights) that prevent the socially and economically disadvantaged owners, without the cooperation or vote of any non-disadvantaged individual, from making any business decision of the firm. This paragraph does not preclude a spousal co-signature on documents as provided for in §26.69(j)(2).

(d) The socially and economically disadvantaged owners must possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day as well as long-term decisions on matters of management, policy and operations.

(1) A disadvantaged owner must hold the highest officer position in the company (e.g., chief executive officer or president).

(2) In a corporation, disadvantaged owners must control the board of directors.

(3) In a partnership, one or more disadvantaged owners must serve as general partners, with control over all partnership decisions.

(e) Individuals who are not socially and economically disadvantaged or immediate family members may be involved in a DBE firm as owners, managers, employees, stockholders, officers, and/or directors. Such individuals must not, however possess or exercise the power to control the firm, or be disproportionately responsible for the operation of the firm.

(f) The socially and economically disadvantaged owners of the firm may delegate various areas of the management, policymaking, or daily operations of the firm to other participants in the firm, regardless of whether these participants are socially and economically disadvantaged individuals. Such delegations of authority must be revocable, and the socially and economically disadvantaged owners must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the socially and economically disadvantaged owners in the firm's overall affairs must be such that the recipient can reasonably conclude that the socially and economically disadvantaged owners actually exercise control over the firm's operations, management, and policy.

(g) The socially and economically disadvantaged owners must have an overall understanding of, and managerial and technical competence and experience directly related to, the type of business in which the firm is engaged and the firm's operations. The socially and economically disadvantaged owners are not required to have experience or expertise in every critical area of the firm's operations, or to have greater experience or expertise in a given field than managers or key employees. The socially and economically disadvantaged owners must have the ability to intelligently and critically evaluate information presented by other participants in the firm's activities and to use this information to make independent decisions concerning the firm's daily operations, management, and policymaking. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the firm is insufficient to demonstrate control.

(h) If state or local law requires the persons to have a particular license or other credential in order to own and/or control a certain type of firm, then the socially and economically disadvantaged persons who own and control a potential DBE firm of that type must possess the required license or credential. If state or local law does not require such a person to have such a license or credential to own and/or control a firm, you must not deny certification solely on the ground that the person lacks the license or credential. However, you may take into account the absence of the license or credential as one factor in determining whether the socially and economically disadvantaged owners actually control the firm.

(i)(1) You may consider differences in remuneration between the socially and economically disadvantaged owners and other participants in the firm in determining whether to certify a firm as a DBE. Such consideration shall be in the context of the duties of the persons involved, normal industry practices, the firm's policy and practice concerning reinvestment of income, and any other explanations for the differences proffered by the firm. You may determine that a firm is controlled by its socially and economically disadvantaged owner although that owner's remuneration is lower than that of some other participants in the firm.

(2) In a case where a non-disadvantaged individual formerly controlled the firm, and a socially and economically disadvantaged individual now controls it, you may consider a difference between the remuneration of the former and current controller of the firm as a factor in determining who controls the firm, particularly when the non-disadvantaged individual remains involved with the firm and continues to receive greater compensation than the disadvantaged individual.

(j) In order to be viewed as controlling a firm, a socially and economically disadvantaged owner cannot engage in outside employment or other business interests that conflict with the management of the firm or prevent the individual from devoting sufficient time and attention to the affairs of the firm to control its activities. For example, absentee ownership of a business and part-time work in a full-time firm are not viewed as constituting control. However, an individual could be viewed as controlling a part-time business that operates only on evenings and/or weekends, if the individual controls it all the time it is operating.

(k)(1) A socially and economically disadvantaged individual may control a firm even though one or more of the individual's immediate family members (who themselves are not socially and economically disadvantaged individuals) participate in the firm as a manager, employee, owner, or in another capacity. Except as otherwise provided in this paragraph, you must make a judgment about the control the socially and economically disadvantaged owner exercises vis-a-vis other persons involved in the business as you do in other situations, without regard to whether or not the other persons are immediate family members.

(2) If you cannot determine that the socially and economically disadvantaged owners—as distinct from the family as a whole—control the firm, then the socially and economically disadvantaged owners have failed to carry their burden of proof concerning control, even though they may participate significantly in the firm's activities.

(l) Where a firm was formerly owned and/or controlled by a non-disadvantaged individual (whether or not an immediate family member), ownership and/or control were transferred to a socially and economically disadvantaged individual, and the nondisadvantaged individual remains involved with the firm in any capacity, there is a rebuttable presumption of control by the non-disadvantaged individual unless the disadvantaged individual now owning the firm demonstrates to you, by clear and convincing evidence, that:

(1) The transfer of ownership and/or control to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and

(2) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a nondisadvantaged individual who formerly owned and/or controlled the firm.

(m) In determining whether a firm is controlled by its socially and economically disadvantaged owners, you may consider whether the firm owns equipment necessary to perform its work. However, you must not determine that a firm is not controlled by socially and economically disadvantaged individuals solely because the firm leases, rather than owns, such equipment, where leasing equipment is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the firm.

(n) You must grant certification to a firm only for specific types of work in which the socially and economically disadvantaged owners have the ability to control the firm. To become certified in an additional type of work, the firm need demonstrate to you only that its socially and economically disadvantaged owners are able to control the firm with respect to that type of work. You must not require that the firm be recertified or submit a new application for certification, but you must verify the disadvantaged owner's control of the firm in the additional type of work.

(1) The types of work a firm can perform (whether on initial certification or when a new type of work is added) must be described in terms of the most specific available NAICS code for that type of work. If you choose, you may also, in addition to applying the appropriate NAICS code, apply a descriptor from a classification scheme of equivalent detail and specificity. A correct NAICS code is one that describes, as specifically as possible, the principal goods or services which the firm would provide to DOT recipients. Multiple NAICS codes may be assigned where appropriate. Program participants must rely on, and not depart from, the plain meaning of NAICS code descriptions in determining the scope of a firm's certification. If your Directory

does not list types of work for any firm in a manner consistent with this paragraph (a)(1), you must update the Directory entry for that firm to meet the requirements of this paragraph (a)(1) by August 28, 2011.

(2) Firms and recipients must check carefully to make sure that the NAICS codes cited in a certification are kept up-to-date and accurately reflect work which the UCP has determined the firm's owners can control. The firm bears the burden of providing detailed company information the certifying agency needs to make an appropriate NAICS code designation.

(3) If a firm believes that there is not a NAICS code that fully or clearly describes the type(s) of work in which it is seeking to be certified as a DBE, the firm may request that the certifying agency, in its certification documentation, supplement the assigned NAICS code(s) with a clear, specific, and detailed narrative description of the type of work in which the firm is certified. A vague, general, or confusing description is not sufficient for this purpose, and recipients should not rely on such a description in determining whether a firm's participation can be counted toward DBE goals.

(4) A certifier is not precluded from changing a certification classification or description if there is a factual basis in the record. However, certifiers must not make after-the-fact statements about the scope of a certification, not supported by evidence in the record of the certification action.

(o) A business operating under a franchise or license agreement may be certified if it meets the standards in this subpart and the franchiser or licensor is not affiliated with the franchisee or licensee. In determining whether affiliation exists, you should generally not consider the restraints relating to standardized quality, advertising, accounting format, and other provisions imposed on the franchisee or licensee by the franchise agreement or license, provided that the franchisee or licensee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee or licensee may not be controlled by virtue of such provisions in the franchise agreement or license, affiliation could arise through other means, such as common management or excessive restrictions on the sale or transfer of the franchise interest or license.

(p) In order for a partnership to be controlled by socially and economically disadvantaged individuals, any non-disadvantaged partners must not have the power, without the specific written concurrence of the socially and economically disadvantaged partner(s), to contractually bind the partnership or subject the partnership to contract or tort liability.

(q) The socially and economically disadvantaged individuals controlling a firm may use an employee leasing company. The use of such a company does not preclude the socially and economically disadvantaged individuals from controlling their firm if they continue to maintain an employer-employee relationship with the leased employees. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the employees, as well as ultimate responsibility for wage and tax obligations related to the employees.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5099, Jan. 28, 2011; 79 FR 59597, Oct. 2, 2014]

[↑ Back to Top](#)

### **§26.73 What are other rules affecting certification?**

(a)(1) Consideration of whether a firm performs a commercially useful function or is a regular dealer pertains solely to counting toward DBE goals the participation of firms that have already been certified as DBEs. Except as provided in paragraph (a)(2) of this section, you must not consider commercially useful function issues in any way in making decisions about whether to certify a firm as a DBE.

(2) You may consider, in making certification decisions, whether a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program.

(b)(1) You must evaluate the eligibility of a firm on the basis of present circumstances. You must not refuse to certify a firm based solely on historical information indicating a lack of ownership or control of the firm by socially and economically disadvantaged individuals at some time in the past, if the firm currently meets the ownership and control standards of this part.

(2) You must not refuse to certify a firm solely on the basis that it is a newly formed firm, has not completed projects or contracts at the time of its application, has not yet realized profits from its activities, or has not demonstrated a potential for success. If the firm meets disadvantaged, size, ownership, and control requirements of this Part, the firm is eligible for certification.

(c) DBE firms and firms seeking DBE certification shall cooperate fully with your requests (and DOT requests) for information relevant to the certification process. Failure or refusal to provide such information is a ground for a denial or removal of certification.

(d) Only firms organized for profit may be eligible DBEs. Not-for-profit organizations, even though controlled by socially and economically disadvantaged individuals, are not eligible to be certified as DBEs.

(e) An eligible DBE firm must be owned by individuals who are socially and economically disadvantaged. Except as provided in this paragraph, a firm that is not owned by such individuals, but instead is owned by another firm—even a DBE firm—cannot be an eligible DBE.

(1) If socially and economically disadvantaged individuals own and control a firm through a parent or holding company, established for tax, capitalization or other purposes consistent with industry practice, and the parent or holding company in turn owns and controls an operating subsidiary, you may certify the subsidiary if it otherwise meets all requirements of this subpart. In this situation, the individual owners and controllers of the parent or holding company are deemed to control the subsidiary through the parent or holding company.

(2) You may certify such a subsidiary only if there is cumulatively 51 percent ownership of the subsidiary by socially and economically disadvantaged individuals. The following examples illustrate how this cumulative ownership provision works:

*Example 1:* Socially and economically disadvantaged individuals own 100 percent of a holding company, which has a wholly-owned subsidiary. The subsidiary may be certified, if it meets all other requirements.

*Example 2:* Disadvantaged individuals own 100 percent of the holding company, which owns 51 percent of a subsidiary. The subsidiary may be certified, if all other requirements are met.

*Example 3:* Disadvantaged individuals own 80 percent of the holding company, which in turn owns 70 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is 56 percent (80 percent of the 70 percent). This is more than 51 percent, so you may certify the subsidiary, if all other requirements are met.

*Example 4:* Same as Example 2 or 3, but someone other than the socially and economically disadvantaged owners of the parent or holding company controls the subsidiary. Even though the subsidiary is owned by disadvantaged individuals, through the holding or parent company, you cannot certify it because it fails to meet control requirements.

*Example 5:* Disadvantaged individuals own 60 percent of the holding company, which in turn owns 51 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is about 31 percent. This is less than 51 percent, so you cannot certify the subsidiary.

*Example 6:* The holding company, in addition to the subsidiary seeking certification, owns several other companies. The combined gross receipts of the holding companies and its subsidiaries are greater than the size standard for the subsidiary seeking certification and/or the gross receipts cap of §26.65(b). Under the rules concerning affiliation, the subsidiary fails to meet the size standard and cannot be certified.

(f) Recognition of a business as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a firm is an independent business, owned and controlled by socially and economically disadvantaged individuals.

(g) You must not require a DBE firm to be prequalified as a condition for certification.

(h) A firm that is owned by an Indian tribe or Native Hawaiian organization, rather than by Indians or Native Hawaiians as individuals, may be eligible for certification. Such a firm must meet the size standards of §26.65. Such a firm must be controlled by socially and economically disadvantaged individuals, as provided in §26.71.

(i) The following special rules apply to the certification of firms related to Alaska Native Corporations (ANCs).

(1) Notwithstanding any other provisions of this subpart, a direct or indirect subsidiary corporation, joint venture, or partnership entity of an ANC is eligible for certification as a DBE if it meets all of the following requirements:

(i) 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;

(ii) 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

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

(2) As a recipient to whom an ANC-related entity applies for certification, you do not use the DOT uniform application form (see Appendix F of this part). You must obtain from the firm documentation sufficient to demonstrate that entity meets the requirements of paragraph (i)(1) of this section. You must also obtain sufficient information about the firm to allow you to administer your program (e.g., information that would appear in your DBE Directory).

(3) If an ANC-related firm does not meet all the conditions of paragraph (i)(1) of this section, then it must meet the requirements of paragraph (h) of this section in order to be certified, on the same basis as firms owned by Indian Tribes or Native Hawaiian Organizations.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35555, June 16, 2003; 76 FR 5099, Jan. 28, 2011; 79 FR 59598, Oct. 2, 2014]

[↑ Back to Top](#)

## Subpart E—Certification Procedures

[↑ Back to Top](#)

### §26.81 What are the requirements for Unified Certification Programs?

(a) You and all other DOT recipients in your state must participate in a Unified Certification Program (UCP).

(1) Within three years of March 4, 1999, you and the other recipients in your state must sign an agreement establishing the UCP for that state and submit the agreement to the Secretary for approval. The Secretary may, on the basis of extenuating circumstances shown by the recipients in the state, extend this deadline for no more than one additional year.

(2) The agreement must provide for the establishment of a UCP meeting all the requirements of this section. The agreement must specify that the UCP will follow all certification procedures and standards of this part, on the same basis as recipients; that the UCP shall cooperate fully with oversight, review, and monitoring activities of DOT and its operating administrations; and that the UCP shall implement DOT directives and guidance concerning certification matters. The agreement shall also commit recipients to ensuring that the UCP has sufficient resources and expertise to carry out the requirements of this part. The agreement shall include an implementation schedule ensuring that the UCP is fully operational no later than 18 months following the approval of the agreement by the Secretary.

(3) Subject to approval by the Secretary, the UCP in each state may take any form acceptable to the recipients in that state.

(4) The Secretary shall review the UCP and approve it, disapprove it, or remand it to the recipients in the state for revisions. A complete agreement which is not disapproved or remanded within 180 days of its receipt is deemed to be accepted.

(5) If you and the other recipients in your state fail to meet the deadlines set forth in this paragraph (a), you shall have the opportunity to make an explanation to the Secretary why a deadline could not be met and why meeting the deadline was beyond your control. If you fail to make such an explanation, or the explanation does not justify the failure to meet the deadline, the Secretary shall direct you to complete the required action by a date certain. If you and the other recipients fail to carry out this direction in a timely manner, you are collectively in noncompliance with this part.

(b) The UCP shall make all certification decisions on behalf of all DOT recipients in the state with respect to participation in the DOT DBE Program.

(1) Certification decisions by the UCP shall be binding on all DOT recipients within the state.

(2) The UCP shall provide “one-stop shopping” to applicants for certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state.

(3) All obligations of recipients with respect to certification and nondiscrimination must be carried out by UCPs, and recipients may use only UCPs that comply with the certification and nondiscrimination requirements of this part.

(c) All certifications by UCPs shall be pre-certifications; i.e., certifications that have been made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE.

(d) A UCP is not required to process an application for certification from a firm having its principal place of business outside the state if the firm is not certified by the UCP in the state in which it maintains its principal place of business. The “home state” UCP shall share its information and documents concerning the firm with other UCPs that are considering the firm's application.

(e) Subject to DOT approval as provided in this section, the recipients in two or more states may form a regional UCP. UCPs may also enter into written reciprocity agreements with other UCPs. Such an agreement shall outline the specific responsibilities of each participant. A UCP may accept the certification of any other UCP or DOT recipient.

(f) Pending the establishment of UCPs meeting the requirements of this section, you may enter into agreements with other recipients, on a regional or inter-jurisdictional basis, to perform certification functions required by this part. You may also grant reciprocity to other recipient's certification decisions.

(g) Each UCP shall maintain a unified DBE directory containing, for all firms certified by the UCP (including those from other states certified under the provisions of this part), the information required by §26.31. The UCP shall make the directory available to the public electronically, on the internet, as well as in print. The UCP shall update the electronic version of the

directory by including additions, deletions, and other changes as soon as they are made and shall revise the print version of the Directory at least once a year.

(h) Except as otherwise specified in this section, all provisions of this subpart and subpart D of this part pertaining to recipients also apply to UCPs.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5100, Jan. 28, 2011]

[↑ Back to Top](#)

### **§26.83 What procedures do recipients follow in making certification decisions?**

(a) You must ensure that only firms certified as eligible DBEs under this section participate as DBEs in your program.

(b) You must determine the eligibility of firms as DBEs consistent with the standards of subpart D of this part. When a UCP is formed, the UCP must meet all the requirements of subpart D of this part and this subpart that recipients are required to meet.

(c)(1) You must take all the following steps in determining whether a DBE firm meets the standards of subpart D of this part:

(i) Perform an on-site visit to the firm's principal place of business. You must interview the principal officers and review their résumés and/or work histories. You may interview key personnel of the firm if necessary. You must also perform an on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation in your jurisdiction or local area. You may rely upon the site visit report of any other recipient with respect to a firm applying for certification;

(ii) Analyze documentation related to the legal structure, ownership, and control of the applicant firm. This includes, but is not limited to, Articles of Incorporation/Organization; corporate by-laws or operating agreements; organizational, annual and board/member meeting records; stock ledgers and certificates; and State-issued Certificates of Good Standing

(iii) Analyze the bonding and financial capacity of the firm; lease and loan agreements; bank account signature cards;

(iv) Determine the work history of the firm, including contracts it has received, work it has completed; and payroll records;

(v) Obtain a statement from the firm of the type of work it prefers to perform as part of the DBE program and its preferred locations for performing the work, if any.

(vi) Obtain or compile a list of the equipment owned by or available to the firm and the licenses the firm and its key personnel possess to perform the work it seeks to do as part of the DBE program;

(vii) Obtain complete Federal income tax returns (or requests for extensions) filed by the firm, its affiliates, and the socially and economically disadvantaged owners for the last 3 years. A complete return includes all forms, schedules, and statements filed with the Internal Revenue Service.

(viii) Require potential DBEs to complete and submit an appropriate application form, except as otherwise provided in §26.85 of this part.

(2) You must use the application form provided in Appendix F to this part without change or revision. However, you may provide in your DBE program, with the written approval of the concerned operating administration, for supplementing the form by requesting specified additional information not inconsistent with this part.

(3) You must make sure that the applicant attests to the accuracy and truthfulness of the information on the application form. This shall be done either in the form of an affidavit sworn to by the applicant before a person who is authorized by State law to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the laws of the United States.

(4) You must review all information on the form prior to making a decision about the eligibility of the firm. You may request clarification of information contained in the application at any time in the application process.

(d) When another recipient, in connection with its consideration of the eligibility of a firm, makes a written request for certification information you have obtained about that firm (e.g., including application materials or the report of a site visit, if you have made one to the firm), you must promptly make the information available to the other recipient.

(e) [Reserved]

(f) Subject to the approval of the concerned operating administration as part of your DBE program, you may impose a reasonable application fee for certification. Fee waivers shall be made in appropriate cases.



(g) You must safeguard from disclosure to unauthorized persons information gathered as part of the certification process that may reasonably be regarded as proprietary or other confidential business information, consistent with applicable Federal, state, and local law.

(h)(1) Once you have certified a DBE, it shall remain certified until and unless you have removed its certification, in whole or in part, through the procedures of §26.87 of this part, except as provided in §26.67(b)(1) of this part.

(2) You may not require DBEs to reapply for certification or undergo a recertification process. However, you may conduct a certification review of a certified DBE firm, including a new on-site review, if appropriate in light of changed circumstances (e.g., of the kind requiring notice under paragraph (i) of this section or relating to suspension of certification under §26.88), a complaint, or other information concerning the firm's eligibility. If information comes to your attention that leads you to question the firm's eligibility, you may conduct an on-site review on an unannounced basis, at the firm's offices and job sites.

(i) If you are a DBE, you must inform the recipient or UCP in writing of any change in circumstances affecting your 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.

(1) Changes in management responsibility among members of a limited liability company are covered by this requirement.

(2) You must attach supporting documentation describing in detail the nature of such changes.

(3) The notice must take the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or of an unsworn declaration executed under penalty of perjury of the laws of the United States. You must provide the written notification within 30 days of the occurrence of the change. If you fail to make timely notification of such a change, you will be deemed to have failed to cooperate under §26.109(c).

(j) If you are a DBE, you must provide to the recipient, every year on the anniversary of the date of your certification, an affidavit sworn to by the firm's owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States. This affidavit must affirm that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material changes in the information provided in its application form, except for changes about which you have notified the recipient under paragraph (i) of this section. The affidavit shall specifically affirm that your firm continues to meet SBA business size criteria and the overall gross receipts cap of this part, documenting this affirmation with supporting documentation of your firm's size and gross receipts (e.g., submission of Federal tax returns). If you fail to provide this affidavit in a timely manner, you will be deemed to have failed to cooperate under §26.109(c).

(k) If you are a recipient, you must make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under this part. You may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. You may establish a different time frame in your DBE program, upon a showing that this time frame is not feasible, and subject to the approval of the concerned operating administration. Your failure to make a decision by the applicable deadline under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal to DOT under §26.89.

(l) As a recipient or UCP, you must advise each applicant within 30 days from your receipt of the application whether the application is complete and suitable for evaluation and, if not, what additional information or action is required.

(m) Except as otherwise provided in this paragraph, if an applicant for DBE certification withdraws its application before you have issued a decision on the application, the applicant can resubmit the application at any time. As a recipient or UCP, you may not apply the waiting period provided under §26.86(c) of this part before allowing the applicant to resubmit its application. However, you may place the reapplication at the "end of the line," behind other applications that have been made since the firm's previous application was withdrawn. You may also apply the waiting period provided under §26.86(c) of this part to a firm that has established a pattern of frequently withdrawing applications before you make a decision.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35555, June 16, 2003; 76 FR 5100, Jan. 28, 2011; 79 FR 59598, Oct. 2, 2014]

[↑ Back to Top](#)

### **§26.85 Interstate certification.**

(a) This section applies with respect to any firm that is currently certified in its home state.

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

(1) To obtain certification in this manner, the firm must provide to State B a copy of its certification notice from State A.

(2) Before certifying the firm, State B must confirm that the firm has a current valid certification from State A. State B can do so by reviewing State A's electronic directory or obtaining written confirmation from State A.

(c) In any situation in which State B chooses not to accept State A's certification of a firm as provided in paragraph (b) of this section, as the applicant firm you must provide the information in paragraphs (c)(1) through (4) of this section to State B.

(1) You must provide to State B a complete copy of the application form, all supporting documents, and any other information you have submitted to State A or any other state related to your firm's certification. This includes affidavits of no change (see §26.83(j)) and any notices of changes (see §26.83(i)) that you have submitted to State A, as well as any correspondence you have had with State A's UCP or any other recipient concerning your application or status as a DBE firm.

(2) You must also provide to State B any notices or correspondence from states other than State A relating to your status as an applicant or certified DBE in those states. For example, if you have been denied certification or decertified in State C, or subject to a decertification action there, you must inform State B of this fact and provide all documentation concerning this action to State B.

(3) If you have filed a certification appeal with DOT (see §26.89), you must inform State B of the fact and provide your letter of appeal and DOT's response to State B.

(4) You must submit an affidavit sworn to by the firm's owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States.

(i) This affidavit must affirm that you have submitted all the information required by 49 CFR 26.85(c) and the information is complete and, in the case of the information required by §26.85(c)(1), is an identical copy of the information submitted to State A.

(ii) If the on-site report from State A supporting your certification in State A is more than three years old, as of the date of your application to State B, State B may require that your affidavit also affirm that the facts in the on-site report remain true and correct.

(d) As State B, when you receive from an applicant firm all the information required by paragraph (c) of this section, you must take the following actions:

(1) Within seven days contact State A and request a copy of the site visit review report for the firm (see §26.83(c)(1)), any updates to the site visit review, and any evaluation of the firm based on the site visit. As State A, you must transmit this information to State B within seven days of receiving the request. A pattern by State B of not making such requests in a timely manner or by "State A" or any other State of not complying with such requests in a timely manner is noncompliance with this Part.

(2) Determine whether there is good cause to believe that State A's certification of the firm is erroneous or should not apply in your State. Reasons for making such a determination may include the following:

(i) Evidence that State A's certification was obtained by fraud;

(ii) New information, not available to State A at the time of its certification, showing that the firm does not meet all eligibility criteria;

(iii) State A's certification was factually erroneous or was inconsistent with the requirements of this part;

(iv) The State law of State B requires a result different from that of the State law of State A.

(v) The information provided by the applicant firm did not meet the requirements of paragraph (c) of this section.

(3) If, as State B, unless you have determined that there is good cause to believe that State A's certification is erroneous or should not apply in your State, you must, no later than 60 days from the date on which you received from the applicant firm all the information required by paragraph (c) of this section, send to the applicant firm a notice that it is certified and place the firm on your directory of certified firms.

(4) If, as State B, you have determined that there is good cause to believe that State A's certification is erroneous or should not apply in your State, you must, no later than 60 days from the date on which you received from the applicant firm all the information required by paragraph (c) of this section, send to the applicant firm a notice stating the reasons for your determination.

(i) This notice must state with particularity the specific reasons why State B believes that the firm does not meet the requirements of this Part for DBE eligibility and must offer the firm an opportunity to respond to State B with respect to these reasons.

(ii) The firm may elect to respond in writing, to request an in-person meeting with State B's decision maker to discuss State B's objections to the firm's eligibility, or both. If the firm requests a meeting, as State B you must schedule the meeting to take place within 30 days of receiving the firm's request.

(iii) The firm bears the burden of demonstrating, by a preponderance of evidence, that it meets the requirements of this Part with respect to the particularized issues raised by State B's notice. The firm is not otherwise responsible for further demonstrating its eligibility to State B.

(iv) The decision maker for State B must be an individual who is thoroughly familiar with the provisions of this Part concerning certification.

(v) State B must issue a written decision within 30 days of the receipt of the written response from the firm or the meeting with the decision maker, whichever is later.

(vi) The firm's application for certification is stayed pending the outcome of this process.

(vii) A decision under this paragraph (d)(4) may be appealed to the Departmental Office of Civil Rights under s§26.89 of this part.

(e) As State B, if you have not received from State A a copy of the site visit review report by a date 14 days after you have made a timely request for it, you may hold action required by paragraphs (d)(2) through (4) of this section in abeyance pending receipt of the site visit review report. In this event, you must, no later than 30 days from the date on which you received from an applicant firm all the information required by paragraph (c) of this section, notify the firm in writing of the delay in the process and the reason for it.

(f)(1) As a UCP, when you deny a firm's application, reject the application of a firm certified in State A or any other State in which the firm is certified, through the procedures of paragraph (d)(4) of this section, or decertify a firm, in whole or in part, you must make an entry in the Department of Transportation Office of Civil Rights' (DOCR's) Ineligibility Determination Online Database. You must enter the following information:

(i) The name of the firm;

(ii) The name(s) of the firm's owner(s);

(iii) The type and date of the action;

(iv) The reason for the action.

(2) As a UCP, you must check the DOCR Web site at least once every month to determine whether any firm that is applying to you for certification or that you have already certified is on the list.

(3) For any such firm that is on the list, you must promptly request a copy of the listed decision from the UCP that made it. As the UCP receiving such a request, you must provide a copy of the decision to the requesting UCP within 7 days of receiving the request. As the UCP receiving the decision, you must then consider the information in the decision in determining what, if any, action to take with respect to the certified DBE firm or applicant.

(g) You must implement the requirements of this section beginning January 1, 2012.

[76 FR 5100, Jan. 28, 2011]

[↑ Back to Top](#)

### **§26.86 What rules govern recipients' denials of initial requests for certification?**

(a) When you deny a request by a firm, which is not currently certified with you, to be certified as a DBE, you must provide the firm a written explanation of the reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based must be made available to the applicant, on request.

(b) [Reserved]

(c) When a firm is denied certification, you must establish a time period of no more than twelve months that must elapse before the firm may reapply to the recipient for certification. You may provide, in your DBE program, subject to approval by the concerned operating administration, a shorter waiting period for reapplication. The time period for reapplication begins to run on the date the explanation required by paragraph (a) of this section is received by the firm. An applicant's appeal of your decision to the Department pursuant to §26.89 does not extend this period.

(d) When you make an administratively final denial of certification concerning a firm, the firm may appeal the denial to the Department under §26.89.

[64 FR 5126, Feb. 2, 1999. Redesignated and amended at 68 FR 35555, June 16, 2003; 79 FR 59598, Oct. 2, 2014]

[↑ Back to Top](#)

### **§26.87 What procedures does a recipient use to remove a DBE's eligibility?**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(1) Changes in the firm's circumstances since the certification of the firm by the recipient that render the firm unable to meet the eligibility standards of this part;

(2) Information or evidence not available to you at the time the firm was certified;

(3) Information relevant to eligibility that has been concealed or misrepresented by the firm;

(4) A change in the certification standards or requirements of the Department since you certified the firm;

(5) Your decision to certify the firm was clearly erroneous;

(6) The firm has failed to cooperate with you (see §26.109(c));

(7) The firm has exhibited a pattern of conduct indicating its involvement in attempts to subvert the intent or requirements of the DBE program (see §26.73(a)(2)); or

(8) The firm has been suspended or debarred for conduct related to the DBE program. The notice required by paragraph (g) of this section must include a copy of the suspension or debarment action. A decision to remove a firm for this reason shall not be subject to the hearing procedures in paragraph (d) of this section.

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

(h) [Reserved]

(i) *Status of firm during proceeding.* (1) A firm remains an eligible DBE during the pendency of your proceeding to remove its eligibility.

(2) The firm does not become ineligible until the issuance of the notice provided for in paragraph (g) of this section.

(j) *Effects of removal of eligibility.* When you remove a firm's eligibility, you must take the following action:

(1) When a prime contractor has made a commitment to using the ineligible firm, or you have made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before you issue the decertification notice provided for in paragraph (g) of this section, the ineligible firm does not count toward the contract goal or overall goal. You must direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to you that it has made a good faith effort to do so.

(2) If a prime contractor has executed a subcontract with the firm before you have notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where you have let a prime contract to the DBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after you issued the notice of its ineligibility shall not count toward your overall goal, but may count toward the contract goal.

(3) *Exception:* If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, you may continue to count its participation on that contract toward overall and contract goals.

(k) *Availability of appeal.* When you make an administratively final removal of a firm's eligibility under this section, the firm may appeal the removal to the Department under §26.89.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003; 76 FR 5101, Jan. 28, 2011; 79 FR 59599, Oct. 2, 2014]

[↑ Back to Top](#)

**§26.88 Summary suspension of certification.**

(a) A recipient shall immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) of this part when an individual owner whose ownership and control of the firm are necessary to the firm's certification dies or is incarcerated.

(b)(1) A recipient may immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) when there is adequate evidence to believe that there has been a material change in circumstances that may affect the eligibility of the DBE firm to remain certified, or when the DBE fails to notify the recipient or UCP in writing of any material change in circumstances as required by §26.83(i) of this part or fails to timely file an affidavit of no change under §26.83(j).

(2) In determining the adequacy of the evidence to issue a suspension under paragraph (b)(1) of this section, the recipient shall consider all relevant factors, including how much information is available, the credibility of the information and allegations given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result.

(c) The concerned operating administration may direct the recipient to take action pursuant to paragraph (a) or (b) this section if it determines that information available to it is sufficient to warrant immediate suspension.

(d) When a firm is suspended pursuant to paragraph (a) or (b) of this section, the recipient shall immediately notify the DBE of the suspension by certified mail, return receipt requested, to the last known address of the owner(s) of the DBE.

(e) Suspension is a temporary status of ineligibility pending an expedited show cause hearing/proceeding under §26.87 of this part to determine whether the DBE is eligible to participate in the program and consequently should be removed. The suspension takes effect when the DBE receives, or is deemed to have received, the Notice of Suspension.

(f) While suspended, the DBE may not be considered to meet a contract goal on a new contract, and any work it does on a contract received during the suspension shall not be counted toward a recipient's overall goal. The DBE may continue to perform under an existing contract executed before the DBE received a Notice of Suspension and may be counted toward the contract goal during the period of suspension as long as the DBE is performing a commercially useful function under the existing contract.

(g) Following receipt of the Notice of Suspension, if the DBE believes it is no longer eligible, it may voluntarily withdraw from the program, in which case no further action is required. If the DBE believes that its eligibility should be reinstated, it must provide to the recipient information demonstrating that the firm is eligible notwithstanding its changed circumstances. Within 30 days of receiving this information, the recipient must either lift the suspension and reinstate the firm's certification or commence a decertification action under §26.87 of this part. If the recipient commences a decertification proceeding, the suspension remains in effect during the proceeding.

(h) The decision to immediately suspend a DBE under paragraph (a) or (b) of this section is not appealable to the US Department of Transportation. The failure of a recipient to either lift the suspension and reinstate the firm or commence a decertification proceeding, as required by paragraph (g) of this section, is appealable to the U.S. Department of Transportation under §26.89 of this part, as a constructive decertification.

[79 FR 59599, Oct. 2, 2014]

[↑ Back to Top](#)

**§26.89 What is the process for certification appeals to the Department of Transportation?**

(a)(1) If you are a firm that is denied certification or whose eligibility is removed by a recipient, including SBA-certified firms, you may make an administrative appeal to the Department.

(2) If you are a complainant in an ineligibility complaint to a recipient (including the concerned operating administration in the circumstances provided in §26.87(c)), you may appeal to the Department if the recipient does not find reasonable cause to propose removing the firm's eligibility or, following a removal of eligibility proceeding, determines that the firm is eligible.

(3) Send appeals to the following address: U.S. Department of Transportation, Departmental Office of Civil Rights, 1200 New Jersey Avenue SE., Washington, DC 20590-0001.

(b) Pending the Department's decision in the matter, the recipient's decision remains in effect. The Department does not stay the effect of the recipient's decision while it is considering an appeal.

(c) If you want to file an appeal, you must send a letter to the Department within 90 days of the date of the recipient's final decision, including information and setting forth a full and specific statement as to why the decision is erroneous, what significant fact that the recipient failed to consider, or what provisions of this Part the recipient did not properly apply. The

Department may accept an appeal filed later than 90 days after the date of the decision if the Department determines that there was good cause for the late filing of the appeal or in the interest of justice.

(d) When it receives an appeal, the Department requests a copy of the recipient's complete administrative record in the matter. If you are the recipient, you must provide the administrative record, including a hearing transcript, within 20 days of the Department's request. The Department may extend this time period on the basis of a recipient's showing of good cause. To facilitate the Department's review of a recipient's decision, you must ensure that such administrative records are well organized, indexed, and paginated. Records that do not comport with these requirements are not acceptable and will be returned to you to be corrected immediately. If an appeal is brought concerning one recipient's certification decision concerning a firm, and that recipient relied on the decision and/or administrative record of another recipient, this requirement applies to both recipients involved.

(e) The Department makes its decision based solely on the entire administrative record as supplemented by the appeal. The Department does not make a de novo review of the matter and does not conduct a hearing. The Department may also supplement the administrative record by adding relevant information made available by the DOT Office of Inspector General; Federal, State, or local law enforcement authorities; officials of a DOT operating administration or other appropriate DOT office; a recipient; or a firm or other private party.

(f) As a recipient, when you provide supplementary information to the Department, you shall also make this information available to the firm and any third-party complainant involved, consistent with Federal or applicable state laws concerning freedom of information and privacy. The Department makes available, on request by the firm and any third-party complainant involved, any supplementary information it receives from any source.

(1) The Department affirms your decision unless it determines, based on the entire administrative record, that your decision is unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of this part concerning certification.

(2) If the Department determines, after reviewing the entire administrative record, that your decision was unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of this part concerning certification, the Department reverses your decision and directs you to certify the firm or remove its eligibility, as appropriate. You must take the action directed by the Department's decision immediately upon receiving written notice of it.

(3) The Department is not required to reverse your decision if the Department determines that a procedural error did not result in fundamental unfairness to the appellant or substantially prejudice the opportunity of the appellant to present its case.

(4) If it appears that the record is incomplete or unclear with respect to matters likely to have a significant impact on the outcome of the case, the Department may remand the record to you with instructions seeking clarification or augmentation of the record before making a finding. The Department may also remand a case to you for further proceedings consistent with Department instructions concerning the proper application of the provisions of this part.

(5) The Department does not uphold your decision based on grounds not specified in your decision.

(6) The Department's decision is based on the status and circumstances of the firm as of the date of the decision being appealed.

(7) The Department provides written notice of its decision to you, the firm, and the complainant in an ineligibility complaint. A copy of the notice is also sent to any other recipient whose administrative record or decision has been involved in the proceeding (see paragraph (d) of this section). The Department will also notify the SBA in writing when DOT takes an action on an appeal that results in or confirms a loss of eligibility to any SBA-certified firm. The notice includes the reasons for the Department's decision, including specific references to the evidence in the record that supports each reason for the decision.

(8) The Department's policy is to make its decision within 180 days of receiving the complete administrative record. If the Department does not make its decision within this period, the Department provides written notice to concerned parties, including a statement of the reason for the delay and a date by which the appeal decision will be made.

(g) All decisions under this section are administratively final, and are not subject to petitions for reconsideration.

[64 FR 5126, Feb. 2, 1999, as amended at 65 FR 68951, Nov. 15, 2000; 68 FR 35556, June 16, 2003; 73 FR 33329, June 12, 2008; 79 FR 59599, Oct. 2, 2014]

[↑ Back to Top](#)

## **§26.91 What actions do recipients take following DOT certification appeal decisions?**

(a) If you are the recipient from whose action an appeal under §26.89 is taken, the decision is binding. It is not binding on other recipients.

(b) If you are a recipient to which a DOT determination under §26.89 is applicable, you must take the following action:

(1) If the Department determines that you erroneously certified a firm, you must remove the firm's eligibility on receipt of the determination, without further proceedings on your part. Effective on the date of your receipt of the Department's determination, the consequences of a removal of eligibility set forth in §26.87(i) take effect.

(2) If the Department determines that you erroneously failed to find reasonable cause to remove the firm's eligibility, you must expeditiously commence a proceeding to determine whether the firm's eligibility should be removed, as provided in §26.87.

(3) If the Department determines that you erroneously declined to certify or removed the eligibility of the firm, you must certify the firm, effective on the date of your receipt of the written notice of Department's determination.

(4) If the Department determines that you erroneously determined that the presumption of social and economic disadvantage either should or should not be deemed rebutted, you must take appropriate corrective action as determined by the Department.

(5) If the Department affirms your determination, no further action is necessary.

(c) Where DOT has upheld your denial of certification to or removal of eligibility from a firm, or directed the removal of a firm's eligibility, other recipients with whom the firm is certified may commence a proceeding to remove the firm's eligibility under §26.87. Such recipients must not remove the firm's eligibility absent such a proceeding. Where DOT has reversed your denial of certification to or removal of eligibility from a firm, other recipients must take the DOT action into account in any certification action involving the firm. However, other recipients are not required to certify the firm based on the DOT decision.

[↑ Back to Top](#)

## Subpart F—Compliance and Enforcement

[↑ Back to Top](#)

### §26.101 What compliance procedures apply to recipients?

(a) If you fail to comply with any requirement of this part, you may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36; in the case of the FAA program, actions consistent with 49 U.S.C. 47106(d), 47111(d), and 47122; and in the case of the FTA program, any actions permitted under 49 U.S.C. chapter 53 or applicable FTA program requirements.

(b) As provided in statute, you will not be subject to compliance actions or sanctions for failing to carry out any requirement of this part because you have been prevented from complying because a Federal court has issued a final order in which the court found that the requirement is unconstitutional.

[↑ Back to Top](#)

### §26.103 What enforcement actions apply in FHWA and FTA programs?

The provisions of this section apply to enforcement actions under FHWA and FTA programs:

(a) *Noncompliance complaints.* Any person who believes that a recipient has failed to comply with its obligations under this part may file a written complaint with the concerned operating administration's Office of Civil Rights. If you want to file a complaint, you must do so no later than 180 days after the date of the alleged violation or the date on which you learned of a continuing course of conduct in violation of this part. In response to your written request, the Office of Civil Rights may extend the time for filing in the interest of justice, specifying in writing the reason for so doing. The Office of Civil Rights may protect the confidentiality of your identity as provided in §26.109(b). Complaints under this part are limited to allegations of violation of the provisions of this part.

(b) *Compliance reviews.* The concerned operating administration may review the recipient's compliance with this part at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the operating administration to initiate a compliance review based on complaints received.

(c) *Reasonable cause notice.* If it appears, from the investigation of a complaint or the results of a compliance review, that you, as a recipient, are in noncompliance with this part, the appropriate DOT office promptly sends you, return receipt requested, a written notice advising you that there is reasonable cause to find you in noncompliance. The notice states the reasons for this finding and directs you to reply within 30 days concerning whether you wish to begin conciliation.



(d) *Conciliation.* (1) If you request conciliation, the appropriate DOT office shall pursue conciliation for at least 30, but not more than 120, days from the date of your request. The appropriate DOT office may extend the conciliation period for up to 30 days for good cause, consistent with applicable statutes.

(2) If you and the appropriate DOT office sign a conciliation agreement, then the matter is regarded as closed and you are regarded as being in compliance. The conciliation agreement sets forth the measures you have taken or will take to ensure compliance. While a conciliation agreement is in effect, you remain eligible for FHWA or FTA financial assistance.

(3) The concerned operating administration shall monitor your implementation of the conciliation agreement and ensure that its terms are complied with. If you fail to carry out the terms of a conciliation agreement, you are in noncompliance.

(4) If you do not request conciliation, or a conciliation agreement is not signed within the time provided in paragraph (d)(1) of this section, then enforcement proceedings begin.

(e) *Enforcement actions.* (1) Enforcement actions are taken as provided in this subpart.

(2) Applicable findings in enforcement proceedings are binding on all DOT offices.

[↑ Back to Top](#)

### **§26.105 What enforcement actions apply in FAA programs?**

(a) Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

(b) The provisions of §26.103(b) and this section apply to enforcement actions in FAA programs.

(c) Any person who knows of a violation of this part by a recipient of FAA funds may file a complaint under 14 CFR part 16 with the Federal Aviation Administration Office of Chief Counsel.

[↑ Back to Top](#)

### **§26.107 What enforcement actions apply to firms participating in the DBE program?**

(a) If you are a firm that does not meet the eligibility criteria of subpart D of this part and that attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

(b) If you are a firm that, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of subpart D of this part, the Department may initiate suspension or debarment proceedings against you under 2 CFR parts 180 and 1200.

(c) In a suspension or debarment proceeding brought under paragraph (a) or (b) of this section, the concerned operating administration may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

(d) The Department may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.

(e) The Department may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5101, Jan. 28, 2011]

[↑ Back to Top](#)

### **§26.109 What are the rules governing information, confidentiality, cooperation, and intimidation or retaliation?**

(a) *Availability of records.* (1) In responding to requests for information concerning any aspect of the DBE program, the Department complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The Department may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.

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

(b) *Confidentiality of information on complainants.* Notwithstanding the provisions of paragraph (a) of this section, the identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing. FAA follows the procedures of 14 CFR part 16 with respect to confidentiality of information in complaints.

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

(d) *Intimidation and retaliation.* If you are a recipient, contractor, or any other participant in the program, you must not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If you violate this prohibition, you are in noncompliance with this part.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35556, June 16, 2003; 76 FR 5101, Jan. 28, 2011]

[↑ Back to Top](#)

## **Appendix A to Part 26—Guidance Concerning Good Faith Efforts**

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

II. In any situation in which you have established a contract goal, Part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, you have the responsibility to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made, based on the regulations and the guidance in this Appendix.

The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm's good faith efforts is a judgment call. Determinations should not be made using quantitative formulas.

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

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

A. (1) Conducting market research to identify small business contractors and suppliers and soliciting through all reasonable and available means the interest of all certified DBEs that have the capability to perform the work of the contract. This may include attendance at pre-bid and business matchmaking meetings and events, advertising and/or written notices, posting of Notices of Sources Sought and/or Requests for Proposals, written notices or emails to all DBEs listed in the State's directory of transportation firms that specialize in the areas of work desired (as noted in the DBE directory) and which are located in the area or surrounding areas of the project.

(2) The bidder should solicit this interest as early in the acquisition process as practicable to allow the DBEs to respond to the solicitation and submit a timely offer for the subcontract. The bidder should determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units (for example, smaller tasks or quantities) to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces. This may include, where possible, establishing flexible timeframes for performance and delivery schedules in a manner that encourages and facilitates DBE participation.

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

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

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

E. (1) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal. Another practice considered an insufficient good faith effort is the rejection of the DBE because its quotation for the work was not the lowest received. However, nothing in this paragraph shall be construed to require the bidder or prime contractor to accept unreasonable quotes in order to satisfy contract goals.

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

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

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

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

V. In determining whether a bidder has made good faith efforts, it is essential to scrutinize its documented efforts. At a minimum, you must review the performance of other bidders in meeting the contract goal. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts. As provided in §26.53(b)(2)(vi), you must also require the contractor to submit copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract to review whether DBE prices were substantially higher; and contact the DBEs listed on a contractor's solicitation to inquire as to whether they were contacted by the prime. Pro forma mailings to DBEs requesting bids are not alone sufficient to satisfy good faith efforts under the rule.

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

[79 FR 59600, Oct. 2, 2014]

[↑ Back to Top](#)

## Appendix B to Part 26—Uniform Report of DBE Awards or Commitments and Payments Form

### INSTRUCTIONS FOR COMPLETING THE UNIFORM REPORT OF DBE AWARDS/COMMITMENTS AND PAYMENTS

Recipients of Department of Transportation (DOT) funds are expected to keep accurate data regarding the contracting opportunities available to firms paid for with DOT dollars. Failure to submit contracting data relative to the DBE program will result in noncompliance with Part 26. All dollar values listed on this form should represent the DOT share attributable to the Operating Administration (OA): Federal Highway Administration (FHWA), Federal Aviation Administration (FAA) or Federal Transit Administration (FTA) to which this report will be submitted.

1. Indicate the DOT (OA) that provides your Federal financial assistance. If assistance comes from more than one OA, use separate reporting forms for each OA. If you are an FTA recipient, indicate your Vendor Number in the space provided.
2. If you are an FAA recipient, indicate the relevant AIP Numbers covered by this report. If you are an FTA recipient, indicate the Grant/Project numbers covered by this report. If more than ten attach a separate sheet.
3. Specify the Federal fiscal year (*i.e.*, October 1-September 30) in which the covered reporting period falls.
4. State the date of submission of this report.
5. Check the appropriate box that indicates the reporting period that the data provided in this report covers. For FHWA and FTA recipients, if this report is due June 1, data should cover October 1-March 31. If this report is due December 1, data should cover April 1-September 30. If the report is due to the FAA, data should cover the entire year.
6. Provide the name and address of the recipient.
7. State your overall DBE goal(s) established for the Federal fiscal year of the report being submitted to and approved by the relevant OA. Your overall goal is to be reported as well as the breakdown for specific Race Conscious and Race Neutral projections (both of which include gender-conscious/neutral projections). The Race Conscious projection should be based on measures that focus on and provide benefits only for DBEs. The use of contract goals is a primary example of a race conscious measure. The Race Neutral projection should include measures that, while benefiting DBEs, are not solely focused on DBE firms. For example, a small business outreach program, technical assistance, and prompt payment clauses can assist a wide variety of businesses in addition to helping DBE firms.

#### *Section A: Awards and Commitments Made During This Period*

The amounts in items 8(A)-10(I) should include all types of prime contracts awarded and all types of subcontracts awarded or committed, including: professional or consultant services, construction, purchase of materials or supplies, lease or purchase of equipment and any other types of services. All dollar amounts are to reflect only the Federal share of such contracts and should be rounded to the nearest dollar.

Line 8: Prime contracts awarded this period: The items on this line should correspond to the contracts directly between the recipient and a supply or service contractor, with no intermediaries between the two.

8(A). Provide the *total dollar amount* for all prime contracts assisted with DOT funds and awarded during this reporting period. This value should include the entire Federal share of the contracts without removing any amounts associated with resulting subcontracts.

8(B). Provide the *total number* of all prime contracts assisted with DOT funds and awarded during this reporting period.

8(C). From the total dollar amount awarded in item 8(A), provide the *dollar amount* awarded in prime contracts to certified DBE firms during this reporting period. This amount should not include the amounts sub contracted to other firms.

8(D). From the total number of prime contracts awarded in item 8(B), specify the *number* of prime contracts awarded to certified DBE firms during this reporting period.

8(E&F). This field is closed for data entry. Except for the very rare case of DBE-set asides permitted under 49 CFR part 26, all prime contracts awarded to DBES are regarded as race-neutral.

8(G). From the total dollar amount awarded in item 8(C), provide the *dollar amount* awarded to certified DBEs through the use of Race Neutral methods. See the definition of Race Neutral in item 7 and the explanation in item 8 of project types to include.

8(H). From the total number of prime contracts awarded in 8(D), specify the *number* awarded to DBEs through Race Neutral methods.

8(I). Of all prime contracts awarded this reporting period, calculate the *percentage* going to DBEs. Divide the dollar amount in item 8(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

Line 9: Subcontracts awarded/committed this period: Items 9(A)-9(I) are derived in the same way as items 8(A)-8(I), except that these calculations should be based on subcontracts rather than prime contracts. Unlike prime contracts, which may only be awarded, subcontracts may be either awarded or committed.

9(A). If filling out the form for general reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded in prime contracts in 8(A), and therefore should never be greater than the amount awarded in prime contracts. If filling out the form for project reporting, provide the total dollar amount of subcontracts assisted with DOT funds awarded or committed during this period. This value should be a subset of the total dollars awarded or previously in prime contracts in 8(A). The sum of all subcontract amounts in consecutive periods should never exceed the sum of all prime contract amounts awarded in those periods.

9(B). Provide the total number of all sub contracts assisted with DOT funds that were awarded or committed during this reporting period.

9(C). From the total dollar amount of sub contracts awarded/committed this period in item 9(A), provide the total dollar amount awarded in sub contracts to DBEs.

9(D). From the total number of sub contracts awarded or committed in item 9(B), specify the number of sub contracts awarded or committed to DBEs.

9(E). From the total dollar amount of sub contracts awarded or committed to DBEs this period, provide the amount in dollars to DBEs using Race Conscious measures.

9(F). From the total number of sub contracts awarded or committed to DBEs this period, provide the number of sub contracts awarded or committed to DBEs using Race Conscious measures.

9(G). From the total dollar amount of sub contracts awarded/committed to DBEs this period, provide the amount in dollars to DBEs using Race Neutral measures.

9(H). From the total number of sub contracts awarded/committed to DBEs this period, provide the number of sub contracts awarded to DBEs using Race Neutral measures.

9(I). Of all subcontracts awarded this reporting period, calculate the *percentage* going to DBEs. Divide the dollar amount in item 9(C) by the dollar amount in item 9(A) to derive this percentage. Round percentage to the nearest tenth.

Line 10: Total contracts awarded or committed this period. These fields should be used to show the total dollar value and number of contracts awarded to DBEs and to calculate the overall percentage of dollars awarded to DBEs.

10(A)-10(B). These fields are unavailable for data entry.

10(C-H). Combine the total values listed on the prime contracts line (Line 8) with the corresponding values on the subcontracts line (Line 9).

10(I). Of all contracts awarded this reporting period, calculate the *percentage* going to DBEs. Divide the total dollars awarded to DBEs in item 10(C) by the dollar amount in item 8(A) to derive this percentage. Round percentage to the nearest tenth.

#### *Section B: Breakdown by Ethnicity & Gender of Contracts Awarded to DBEs This Period*

11-17. Further breakdown the contracting activity with DBE involvement. The Total Dollar Amount to DBEs in 17(C) should equal the Total Dollar Amount to DBEs in 10(C). Likewise the total number of contracts to DBEs in 17(F) should equal the Total Number of Contracts to DBEs in 10(D).

Line 16: The "Non-Minority" category is reserved for any firms whose owners are not members of the presumptively disadvantaged groups already listed, but who are either "women" OR eligible for the DBE program on an individual basis. All DBE firms must be certified by the Unified Certification Program to be counted in this report.

#### *Section C: Payments on Ongoing Contracts*

Line 18(A-E). Submit information on contracts that are currently in progress. All dollar amounts are to reflect only the Federal share of such contracts, and should be rounded to the nearest dollar.

18(A). Provide the total dollar amount paid to all firms performing work on contracts.

18(B). Provide the total number of contracts where work was performed during the reporting period.

18(C). From the total number of contracts provided in 18(A) provide the total number of contracts that are currently being performed by DBE firms for which payments have been made.

18(D). From the total dollar amount paid to all firms in 18(A), provide the total dollar value paid to DBE firms currently performing work during this period.

18(E). Provide the total number of DBE firms that received payment during this reporting period. For example, while 3 contracts may be active during this period, one DBE firm may be providing supplies or services on all three contracts. This field should only list the number of DBE firms performing work.

18(F). Of all payments made during this period, calculate the percentage going to DBEs. Divide the total dollar value to DBEs in item 18(D) by the total dollars of all payments in 18(B). Round percentage to the nearest tenth.

*Section D: Actual Payments on Contracts Completed This Reporting Period*

This section should provide information only on contracts that are closed during this period. All dollar amounts are to reflect the entire Federal share of such contracts, and should be rounded to the nearest dollar.

19(A). Provide the total number of contracts completed during this reporting period that used Race Conscious measures. Race Conscious contracts are those with contract goals or another race conscious measure.

19(B). Provide the total dollar value of prime contracts completed this reporting period that had race conscious measures.

19(C). From the total dollar value of prime contracts completed this period in 19(B), provide the total dollar amount of dollars awarded or committed to DBE firms in order to meet the contract goals. This applies only to Race Conscious contracts.

19(D). Provide the actual total DBE participation in dollars on the race conscious contracts completed this reporting period.

19(E). Of all the contracts completed this reporting period using Race Conscious measures, calculate the percentage of DBE participation. Divide the total dollar amount to DBEs in item 19(D) by the total dollar value provided in 19(B) to derive this percentage. Round to the nearest tenth.

20(A)-20(E). Items 21(A)-21(E) are derived in the same manner as items 19(A)-19(E), except these figures should be based on contracts completed using Race Neutral measures.

20(C). This field is closed.

21(A)-21(D). Calculate the totals for each column by adding the race conscious and neutral figures provided in each row above.

21(C). This field is closed.

21(E). Calculate the overall percentage of dollars to DBEs on completed contracts. Divide the Total DBE participation dollar value in 21(D) by the Total Dollar Value of Contracts Completed in 21(B) to derive this percentage. Round to the nearest tenth.

23. Name of the Authorized Representative preparing this form.

24. Signature of the Authorized Representative.

25. Phone number of the Authorized Representative.

\*\*Submit your completed report to your Regional or Division Office.



be considered the applicable plan for all program purposes until the recipient approves in writing a modified plan. The recipient should establish an anniversary date for review of the participant's business plan and contract forecasts.

(F) Each participant should annually forecast in writing its need for contract awards for the next program year and the succeeding program year during the review of its business plan conducted under paragraph (E) of this appendix. Such forecast should be included in the participant's business plan. The forecast should include:

- (1) The aggregate dollar value of contracts to be sought under the DBE program, reflecting compliance with the business plan;
- (2) The aggregate dollar value of contracts to be sought in areas other than traditional areas of DBE participation;
- (3) The types of contract opportunities being sought, based on the firm's primary line of business; and
- (4) Such other information as may be requested by the recipient to aid in providing effective business development assistance to the participant.

(G) Program participation is divided into two stages; (1) a developmental stage and (2) a transitional stage. The developmental stage is designed to assist participants to overcome their social and economic disadvantage by providing such assistance as may be necessary and appropriate to enable them to access relevant markets and strengthen their financial and managerial skills. The transitional stage of program participation follows the developmental stage and is designed to assist participants to overcome, insofar as practical, their social and economic disadvantage and to prepare the participant for leaving the program.

(H) The length of service in the program term should not be a pre-set time frame for either the developmental or transitional stages but should be figured on the number of years considered necessary in normal progression of achieving the firm's established goals and objectives. The setting of such time could be factored on such items as, but not limited to, the number of contracts, aggregate amount of the contract received, years in business, growth potential, etc.

(I) Beginning in the first year of the transitional stage of program participation, each participant should annually submit for inclusion in its business plan a transition management plan outlining specific steps to promote profitable business operations in areas other than traditional areas of DBE participation after graduation from the program. The transition management plan should be submitted to the recipient at the same time other modifications are submitted pursuant to the annual review under paragraph (E) of this section. The plan should set forth the same information as required under paragraph (F) of steps the participant will take to continue its business development after the expiration of its program term.

(J) When a participant is recognized as successfully completing the program by substantially achieving the targets, objectives and goals set forth in its program term, and has demonstrated the ability to compete in the marketplace, its further participation within the program may be determined by the recipient.

(K) In determining whether a concern has substantially achieved the goals and objectives of its business plan, the following factors, among others, should be considered by the recipient:

- (1) Profitability;
- (2) Sales, including improved ratio of non-traditional contracts to traditional-type contracts;
- (3) Net worth, financial ratios, working capital, capitalization, access to credit and capital;
- (4) Ability to obtain bonding;
- (5) A positive comparison of the DBE's business and financial profile with profiles of non-DBE businesses in the same area or similar business category; and
- (6) Good management capacity and capability.

(L) Upon determination by the recipient that the participant should be graduated from the developmental program, the recipient should notify the participant in writing of its intent to graduate the firm in a letter of notification. The letter of notification should set forth findings, based on the facts, for every material issue relating to the basis of the program graduation with specific reasons for each finding. The letter of notification should also provide the participant 45 days from the date of service of the letter to submit in writing information that would explain why the proposed basis of graduation is not warranted.

(M) Participation of a DBE firm in the program may be discontinued by the recipient prior to expiration of the firm's program term for good cause due to the failure of the firm to engage in business practices that will promote its competitiveness within a reasonable period of time as evidenced by, among other indicators, a pattern of inadequate performance or unjustified delinquent performance. Also, the recipient can discontinue the participation of a firm that does not actively pursue and bid on contracts, and a firm that, without justification, regularly fails to respond to solicitations in the type of work it is qualified for and



in the geographical areas where it has indicated availability under its approved business plan. The recipient should take such action if over a 2-year period a DBE firm exhibits such a pattern.

[↑ Back to Top](#)

## Appendix D to Part 26—Mentor-Protégé Program Guidelines

(A) The purpose of this program element is to further the development of DBEs, including but not limited to assisting them to move into non-traditional areas of work and/or compete in the marketplace outside the DBE program, via the provision of training and assistance from other firms. To operate a mentor-protégé program, a recipient must obtain the approval of the concerned operating administration.

(B)(1) Any mentor-protégé relationship shall be based on a written development plan, approved by the recipient, which clearly sets forth the objectives of the parties and their respective roles, the duration of the arrangement and the services and resources to be provided by the mentor to the protégé. The formal mentor-protégé agreement may set a fee schedule to cover the direct and indirect cost for such services rendered by the mentor for specific training and assistance to the protégé through the life of the agreement. Services provided by the mentor may be reimbursable under the FTA, FHWA, and FAA programs.

(2) To be eligible for reimbursement, the mentor's services provided and associated costs must be directly attributable and properly allowable to specific individual contracts. The recipient may establish a line item for the mentor to quote the portion of the fee schedule expected to be provided during the life of the contract. The amount claimed shall be verified by the recipient and paid on an incremental basis representing the time the protégé is working on the contract. The total individual contract figures accumulated over the life of the agreement shall not exceed the amount stipulated in the original mentor/protégé agreement.

(C) DBEs involved in a mentor-protégé agreement must be independent business entities which meet the requirements for certification as defined in subpart D of this part. A protégé firm must be certified *before* it begins participation in a mentor-protégé arrangement. If the recipient chooses to recognize mentor/protégé agreements, it should establish formal general program guidelines. These guidelines must be submitted to the operating administration for approval prior to the recipient executing an individual contractor/ subcontractor mentor-protégé agreement.

[↑ Back to Top](#)

## Appendix E to Part 26—Individual Determinations of Social and Economic Disadvantage

The following guidance is adapted, with minor modifications, from SBA regulations concerning social and economic disadvantage determinations (see 13 CFR 124.103(c) and 124.104).

### SOCIAL DISADVANTAGE

I. Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. Social disadvantage must stem from circumstances beyond their control. Evidence of individual social disadvantage must include the following elements:

(A) At least one objective distinguishing feature that has contributed to social disadvantage, such as race, ethnic origin, gender, disability, long-term residence in an environment isolated from the mainstream of American society, or other similar causes not common to individuals who are not socially disadvantaged;

(B) Personal experiences of substantial and chronic social disadvantage in American society, not in other countries; and

(C) Negative impact on entry into or advancement in the business world because of the disadvantage. Recipients will consider any relevant evidence in assessing this element. In every case, however, recipients will consider education, employment and business history, where applicable, to see if the totality of circumstances shows disadvantage in entering into or advancing in the business world.

(1) *Education.* Recipients will consider such factors as denial of equal access to institutions of higher education and vocational training, exclusion from social and professional association with students or teachers, denial of educational honors rightfully earned, and social patterns or pressures which discouraged the individual from pursuing a professional or business education.

(2) *Employment.* Recipients will consider such factors as unequal treatment in hiring, promotions and other aspects of professional advancement, pay and fringe benefits, and other terms and conditions of employment; retaliatory or discriminatory behavior by an employer or labor union; and social patterns or pressures which have channeled the individual into non-professional or non-business fields.

(3) *Business history.* The recipient will consider such factors as unequal access to credit or capital, acquisition of credit or capital under commercially unfavorable circumstances, unequal treatment in opportunities for government contracts or other work, unequal treatment by potential customers and business associates, and exclusion from business or professional organizations.

II. With respect to paragraph I.(A) of this appendix, the Department notes that people with disabilities have disproportionately low incomes and high rates of unemployment. Many physical and attitudinal barriers remain to their full participation in education, employment, and business opportunities available to the general public. The Americans with Disabilities Act (ADA) was passed in recognition of the discrimination faced by people with disabilities. It is plausible that many individuals with disabilities—especially persons with severe disabilities (e.g., significant mobility, vision, or hearing impairments)—may be socially and economically disadvantaged.

III. Under the laws concerning social and economic disadvantage, people with disabilities are not a group presumed to be disadvantaged. Nevertheless, recipients should look carefully at individual showings of disadvantage by individuals with disabilities, making a case-by-case judgment about whether such an individual meets the criteria of this appendix. As public entities subject to Title II of the ADA, recipients must also ensure their DBE programs are accessible to individuals with disabilities. For example, physical barriers or the lack of application and information materials in accessible formats cannot be permitted to thwart the access of potential applicants to the certification process or other services made available to DBEs and applicants.

#### ECONOMIC DISADVANTAGE

(A) *General.* Economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged.

(B) *Submission of narrative and financial information.* (1) Each individual claiming economic disadvantage must describe the conditions which are the basis for the claim in a narrative statement, and must submit personal financial information.

(2) [Reserved]

(C) *Factors to be considered.* In considering diminished capital and credit opportunities, recipients will examine factors relating to the personal financial condition of any individual claiming disadvantaged status, including personal income for the past two years (including bonuses and the value of company stock given in lieu of cash), personal net worth, and the fair market value of all assets, whether encumbered or not. Recipients will also consider the financial condition of the applicant compared to the financial profiles of small businesses in the same primary industry classification, or, if not available, in similar lines of business, which are not owned and controlled by socially and economically disadvantaged individuals in evaluating the individual's access to credit and capital. The financial profiles that recipients will compare include total assets, net sales, pre-tax profit, sales/working capital ratio, and net worth.

(D) *Transfers within two years.* (1) Except as set forth in paragraph (D)(2) of this appendix, recipients will attribute to an individual claiming disadvantaged status any assets which that individual has transferred to an immediate family member, or to a trust, a beneficiary of which is an immediate family member, for less than fair market value, within two years prior to a concern's application for participation in the DBE program, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support.

(2) Recipients will not attribute to an individual claiming disadvantaged status any assets transferred by that individual to an immediate family member that are consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements.

(3) In determining an individual's access to capital and credit, recipients may consider any assets that the individual transferred within such two-year period described by paragraph (D)(1) of this appendix that are not considered in evaluating the individual's assets and net worth (e.g., transfers to charities).

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35559, June 16, 2003]

[↑ Back to Top](#)

#### Appendix F to Part 26—Uniform Certification Application Form



Appendix F

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

**Roadmap for Applicants**

- 1. Should I apply?**  
You may be eligible to participate in the DBE/ACDBE program if:
- The firm is a for-profit business that performs or seeks to perform transportation related work (or a concession activity) for a recipient of Federal Transit Administration, Federal Highway Administration, or Federal Aviation Administration funds.
  - The firm is at least 51% owned by a socially and economically disadvantaged individual(s) who also controls it.
  - The firm's disadvantaged owners are U.S. citizens or lawfully admitted permanent residents of the U.S.
  - The firm meets the Small Business Administration's size standard (g) does not exceed \$23.99 million in gross annual receipts for DBE (\$52.47 million for ACDBE). (Other size standards apply for ACDBE that are banks/financial institutions, car rental companies, pay telephone firms, and automobile dealers.)
- 2. How do I apply?**  
First time applicants for DBE certification must complete and submit this certification application and related material to the certifying agency in your home state and participate in an on-site interview conducted by that agency. The attached document checklist can help you locate the items you need to submit to the agency with your completed application. If you fail to submit the required documents, your application may be delayed and/or denied. Firms already certified as a DBE do not have to complete this form, but may be asked by certifying agencies outside of your home state to provide a copy of your initial application forms, supporting documents, and any other information you submitted to your home state to obtain certification or to any other state related to your certification.
- 3. Where can I send my application? INSERT UCP PARTICIPATING MEMBER CONTACT INFORMATION**
- 4. Who will contact me about my application and what are the eligibility standards?**  
The DBE and ACDBE Programs require that all U.S. Department of Transportation (DOT) recipients of federal assistance participate in a statewide Unified Certification Program (UCP). The UCP is a one-stop certification program that eliminates the need for your firm to obtain certification from multiple certifying agencies within your state. The UCP is responsible for certifying firms and maintaining a database of certified DBEs and ACDBEs for DOT grantees, pursuant to the eligibility standards found in 49 C.F.R. Parts 23 and 26.
- 5. Where can I find more information?**  
U.S. DOT—<https://www.civilrights.dot.gov/> (This site provides useful links to the rules and regulations governing the DBE/ACDBE program, questions and answers, and other pertinent information)
- SBA—Small Business Size Standards matched to the North American Industry Classification System (NAICS): <http://www.sbsa.gov/eos/www/naics/> and <http://www.sba.gov/content/table-small-business-size-standards>.

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

Under 49 C.F.R. [26.107, dated February 2, 1999 and January 20, 2011, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 2 CFR Parts 180 and 1200. Nonprocurement Suspension and Debarment, title 49, subtitle A, part 23, § 23.107, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.

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

**NOTE:** All participating firms must be for-profit enterprises. If your firm is not for profit, then you do NOT qualify for the DBE/ACDBE program and should not complete this application. If you require additional space for any question in this application, please attach additional sheets or copies as needed, taking care to indicate on each attached sheet/copy the section and number of this application to which it refers.

**Section 1: CERTIFICATION INFORMATION**

**A. Basic Contact Information**

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

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

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

**Section 2: GENERAL INFORMATION**

**A. Business profile:**

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

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

**B. Relationships and Dealings with Other Businesses**

- (1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, financing, or any office staff and/or employees with any other business, organization or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and fully explain the nature of your relationship with those other businesses by identifying the business or person with whom you have any formal, informal, written, or

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

If you answered "Yes" to any of the questions in (3)(a)-(4), you may be asked to explain the arrangement in detail.

#### Section 3: MAJORITY OWNER INFORMATION

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

- A. Identify the majority owner of the firm holding 51% or more ownership interest
    - (1) Enter the full name of the owner.
    - (2) Enter his/her title or position within your firm.
    - (3) Give his/her home phone number.
    - (4) Enter his/her home (street) address.
    - (5) Indicate this owner's gender.
    - (6) Identify the owner's ethnic group membership. If you checked "Other," specify this owner's ethnic group/identity not otherwise listed.
  - (7) Check the appropriate box to indicate whether this owner is a U.S. citizen or a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner.
  - (8) Enter the number of years during which this owner has been an owner of your firm.
  - (9) Indicate the percentage of the total ownership this person holds and the date acquired, including (if appropriate), the class of stock owned.
  - (10) Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment. Describe how you acquired your business and attach documentation substantiating this investment.
- B. Additional Owner Information
    - (1) Describe the familial relationship of this owner to each other owner of your firm and employees.
    - (2) Indicate whether this owner performs a management or supervisory function for any other business. If you

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

#### Section 4: CONTROL

- A. Identify the firm's Officers and Board of Directors
  - (1) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each officer.
  - (2) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each individual serving on your firm's Board of Directors.
  - (3) Check the appropriate box to indicate whether any of your firm's officers and/or directors listed above performs a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which she is involved, and his/her function performed in that other business.
  - (4) Check the appropriate box to indicate whether any of your firm's officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm (e.g., ownership interest, shared office space, financial investments, equipment loans, personnel sharing, etc.). If you answered "Yes," identify the name of the firm, the individual's name, and the nature of his/her business relationship with that other firm.

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

- (1), (2) Specify the roles of the majority and minority owners, directors, officers, and managers, and key personnel who control the functions listed for the business. Submit resumes for each owner and non-owner identified below. State the name of the individual, title, race and gender and percentage ownership if any. Circle the frequency of each person's involvement as follows: "always, frequently, seldom, or never" in each area.

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

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

- (1) **Equipment and Vehicles**  
State the make and model, and current dollar value of each piece of equipment and motor vehicle held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm or owner, whether it is used as collateral, and where this item is stored.
- (2) **Office Space**  
State the street address, of each office space held and/or used by your firm. Indicate whether your firm or owner owns or leases the office space and the current dollar value of that property or its lease.
- (3) **Storage Space**  
State the street address of each storage space held and/or used by your firm. Indicate whether your firm or owner owns or leases the storage space and the current dollar value of that property or its lease. Provide a signed lease agreement for each property.

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

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

#### E. Financial / Banking Information

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

**Bonding Information:** State your firm's bonding limits (in dollars), specifying both the aggregate and project limits.

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

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

#### G. Contributions or transfers of assets to/from your firm and to/from any of its owners or another individual over the past two years:

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

#### H. Current licenses/permits held by any owner or employee of your firm.

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

#### I. Largest contracts completed by your firm in the past three years, if any.

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

#### J. Largest active jobs on which your firm is currently working.

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

#### AIRPORT CONCESSION/ACDBE/APPLICANTS

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

#### AFFIDAVIT & SIGNATURE

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

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**Section 1: CERTIFICATION INFORMATION**

**A. Basic Contact Information**

(1) Contact person and Title: \_\_\_\_\_ (2) Legal name of firm: \_\_\_\_\_

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

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

(8) Street address of firm (No P.O. Box): City: \_\_\_\_\_ County/Parish: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

(9) Mailing address of firm (if different): City: \_\_\_\_\_ County/Parish: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

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

(10) Is your firm currently certified for any of the following U.S. DOT programs?  
 DBE  ACDBE Names of certifying agencies: \_\_\_\_\_

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

List the dates of any site visits conducted by your home state and any other states or UCP members:  
 Date \_\_\_/\_\_\_/\_\_\_ State/UCP Member: \_\_\_\_\_ Date \_\_\_/\_\_\_/\_\_\_ State/UCP Member: \_\_\_\_\_

(11) Indicate whether the firm or any persons listed in this application have ever been:  
 (a) Denied certification or decertified as a DBE, ACDBE, 8(a), SDB, MBE/WBE firm?  Yes  No  
 (b) Withdrawn an application for these programs, or delisted or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity?  Yes  No

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

---

**Section 2: GENERAL INFORMATION**


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

(2) Applicable NAICS Codes for this line of work include: \_\_\_\_\_  
 (3) This firm was established on \_\_\_/\_\_\_/\_\_\_ (4) I/We have owned this firm since: \_\_\_/\_\_\_/\_\_\_

(5) Method of acquisition (Check all that apply):  
 Started new business  Bought existing business  Inherited business  Secured concession  
 Merger or consolidation  Other (explain) \_\_\_\_\_

U.S. DOT Uniform DBE / ACDBE Certification Application • Page 5 of 15

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(6) Is your firm "for profit"?  Yes  No --- **Ⓢ STOP!** If your firm is NOT for-profit, then you do NOT qualify for this program and should not fill out this application. 

(7) Type of Legal Business Structure: (check all that apply)  
 Sole Proprietorship  Limited Liability Partnership  
 Partnership  Corporation  
 Limited Liability Company  Joint Venture (Identify all JV partners: \_\_\_\_\_)  
 Applying as an ACDBE  Other, Describe \_\_\_\_\_

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

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

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

**B. Relationships and Dealings with Other Businesses**

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office or storage space, yard, warehouse, facilities, equipment, inventory, financing, office staff, and/or employees with any other business, organization, or entity?  Yes  No  
If Yes, explain the nature of your relationship with these other businesses by identifying the business or person with whom you have any formal, informal, written, or oral agreement. Also detail the items shared.  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

(2) Has any other firm had an ownership interest in your firm at present or at any time in the past?  
 Yes  No If Yes, explain \_\_\_\_\_

(3) At present, or at any time in the past, has your firm:  
 (a) Ever existed under different ownership, a different type of ownership, or a different name?  Yes  No  
 (b) Existed as a subsidiary of any other firm?  Yes  No  
 (c) Existed as a partnership in which one or more of the partners are/were other firms?  Yes  No  
 (d) Owned any percentage of any other firm?  Yes  No  
 (e) Had any subsidiaries?  Yes  No  
 (f) Served as a subcontractor with another firm constituting more than 25% of your firm's receipts?  Yes  No

(If you answered "Yes" to any of the questions in (2) and/or (3)(a)-(f), you may be asked to provide further details and explain whether the arrangement continues.)

U.S. DOT Uniform DBE/ACDBE Certification Application • Page 6 of 14

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Section 3: MAJORITY OWNER INFORMATION	
<b>A. Identify the majority owner of the firm holding 51% or more ownership interest.</b>	
(1) Full Name: _____	(2) Title: _____
(3) Home Phone #: _____	
(4) Home Address (Street and Number): _____	City: _____ State: _____ Zip: _____
(5) Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	(8) Number of years as owner: _____
(6) Ethnic group membership (Check all that apply):	(9) Percentage owned: _____ % Class of stock owned: _____ Date acquired: _____
<input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian Pacific <input type="checkbox"/> Native American <input type="checkbox"/> Subcontinent Asian <input type="checkbox"/> Other (specify) _____	(10) Initial investment to acquire ownership interest in firm: _____ Type: _____ Dollar Value: _____ Cash \$ _____ Real Estate \$ _____ Equipment \$ _____ Other \$ _____
(7) U.S. Citizenship: <input type="checkbox"/> U.S. Citizen <input type="checkbox"/> Lawfully Admitted Permanent Resident	Describe how you acquired your business: <input type="checkbox"/> Started business myself <input type="checkbox"/> It was a gift from: _____ <input type="checkbox"/> I bought it from: _____ <input type="checkbox"/> I inherited it from: _____ <input type="checkbox"/> Other: _____ <i>(Attach documentation substantiating your investment)</i>
<b>B. Additional Owner Information</b>	
(1) Describe familial relationship to other owners and employees: _____	
(2) Does this owner perform a management or supervisory function for any other business? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, identify: Name of Business: _____ Function/Title: _____	
(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) <input type="checkbox"/> Yes <input type="checkbox"/> No Identify the name of the business, and the nature of the relationship, and the owner's function at the firm: _____	
(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: _____	
(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ _____	
(b) Has any trust been created for the benefit of this disadvantaged owner(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If Yes, you may be asked to provide a copy of the trust instrument)</i>	
(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? <input type="checkbox"/> Yes <input type="checkbox"/> No. If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage the company. <i>(Please attach extra sheets, if needed)</i> : _____	
U.S. DOT Uniform DBE/ACDBE Certification Application • Page 7 of 14	

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Section 3: OWNER INFORMATION, Cont'd.	
<b>A. Identify all individuals, firms, or holding companies that hold LESS THAN 51% ownership interest in the firm (Attach separate sheets for each additional owner)</b>	
(1) Full Name: _____	(2) Title: _____
(3) Home Phone #: _____	
(4) Home Address (Street and Number): _____	City: _____ State: _____ Zip: _____
(5) Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	(8) Number of years as owner: _____
(6) Ethnic group membership (Check all that apply):	(9) Percentage owned: _____ % Class of stock owned: _____ Date acquired: _____
<input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Asian Pacific <input type="checkbox"/> Native American <input type="checkbox"/> Subcontinent Asian <input type="checkbox"/> Other (specify) _____	(10) Initial investment to acquire ownership interest in firm: _____ Type: _____ Dollar Value: _____ Cash \$ _____ Real Estate \$ _____ Equipment \$ _____ Other \$ _____
(7) U.S. Citizenship: <input type="checkbox"/> U.S. Citizen <input type="checkbox"/> Lawfully Admitted Permanent Resident	Describe how you acquired your business: <input type="checkbox"/> Started business myself <input type="checkbox"/> It was a gift from: _____ <input type="checkbox"/> I bought it from: _____ <input type="checkbox"/> I inherited it from: _____ <input type="checkbox"/> Other: _____ <i>(Attach documentation substantiating your investment)</i>
<b>B. Additional Owner Information</b>	
(1) Describe familial relationship to other owners and employees: _____	
(2) Does this owner perform a management or supervisory function for any other business? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, identify: Name of Business: _____ Function/Title: _____	
(3)(a) Does this owner own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.) <input type="checkbox"/> Yes <input type="checkbox"/> No Identify the name of the business, and the nature of the relationship, and the owner's function at the firm: _____	
(b) Does this owner work for any other firm, non-profit organization, or is engaged in any other activity more than 10 hours per week? If yes, identify this activity: _____	
(4)(a) What is the personal net worth of this disadvantaged owner applying for certification? \$ _____	
(b) Has any trust been created for the benefit of this disadvantaged owner(s)? <input type="checkbox"/> Yes <input type="checkbox"/> No <i>(If Yes, you may be asked to provide a copy of the trust instrument)</i>	
(5) Do any of your immediate family members, managers, or employees own, manage, or are associated with another company? <input type="checkbox"/> Yes <input type="checkbox"/> No. If Yes, provide their name, relationship, company, type of business, and indicate whether they own or manage: <i>(Please attach extra sheets, if needed)</i> : _____	
U.S. DOT Uniform DBE/ACDBE Certification Application • Page 8 of 14	

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**Section 4: CONTROL**

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

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

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

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

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

(4) Do any of the persons listed in section A above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investment, equipment, leases, personnel sharing, etc.)  
 Yes  No If Yes, identify for each:

Firm Name: \_\_\_\_\_ Person: \_\_\_\_\_  
 Nature of Business Relationship: \_\_\_\_\_

**B. Duties of Owners, Officers, Directors, Managers, and Key Personnel**  
 1. Identify your firm's management personnel who control your firm in the following areas (Attach separate sheets as needed).

	Majority Owner (51% or more)				Minority Owner (49% or less)			
	A	F	S	N	A	F	S	N
Sets policy for company direction/scope of operations	A	F	S	N	A	F	S	N
Bidding and estimating	A	F	S	N	A	F	S	N
Major purchasing decisions	A	F	S	N	A	F	S	N
Marketing and sales	A	F	S	N	A	F	S	N
Supervises field operations	A	F	S	N	A	F	S	N
Attend bid opening and lettings	A	F	S	N	A	F	S	N
Perform office management (billing, accounts receivable/payable, etc.)	A	F	S	N	A	F	S	N
Hires and fires management staff	A	F	S	N	A	F	S	N
Hire and fire field staff or crew	A	F	S	N	A	F	S	N
Designates profits spending or investment	A	F	S	N	A	F	S	N
Obligates business by contract/credit	A	F	S	N	A	F	S	N
Purchase equipment	A	F	S	N	A	F	S	N
Signs business checks	A	F	S	N	A	F	S	N

U.S. DOT Uniform DBE/ACDBE Certification Application • Page 9 of 14

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

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

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

Do any of the persons listed above own or work for any other firm(s) that has a relationship with this firm? (e.g., ownership interest, shared office space, financial investment, equipment, leases, personnel sharing, etc.) If Yes, describe the nature of the business relationship: \_\_\_\_\_

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

**1. Equipment and Vehicles**

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

**2. Office Space**

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

U.S. DOT Uniform DBE/ACDBE Certification Application • Page 10 of 14

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

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

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

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

Name of bank: \_\_\_\_\_ City and State: \_\_\_\_\_  
 The following individuals are able to sign checks on this account: \_\_\_\_\_

Name of bank: \_\_\_\_\_ City and State: \_\_\_\_\_  
 The following individuals are able to sign checks on this account: \_\_\_\_\_

**Bonding Information** If you have bonding capacity, identify the firm's bonding aggregate and project limits:  
 Aggregate limit \$ \_\_\_\_\_ Project limit \$ \_\_\_\_\_

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

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

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

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

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

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

U.S. DOT Uniform DBE/ACDBE Certification Application • Page 11 of 14

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

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

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

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

**AIRPORT CONCESSION (ACDBE) APPLICANTS ONLY MUST COMPLETE THIS SECTION**

Identify the following information concerning the ACDBE applicant firm:

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

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

Name of Concession	Location	Type of Concession	Start Date of Concession
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

U.S. DOT Uniform DBE/ACDBE Certification Application • Page 12 of 14

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### AFFIDAVIT OF CERTIFICATION

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

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

I, \_\_\_\_\_ (full name printed),  
owner or affirm under penalty of law that I am \_\_\_\_\_  
(title of the applicant firm) and that I

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

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

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

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

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

U.S. DOT Uniform DBE/ACDBE Certification Application • Page 13 of 14

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

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

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

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

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

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

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

### NOTARY CERTIFICATE

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### UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST

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

#### Required Documents for All Applicants

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

#### Partnership or Joint Venture

- Original and any amended Partnership or Joint Venture Agreements

#### Corporation or LLC

- Official Articles of Incorporation (signed by the state official)
- Both sides of all corporate stock certificates and your firm's stock transfer ledger
- Shareholders' Agreement(s)
- Minutes of all stockholders and board of directors meetings

- Corporate by-laws and any amendments
- Corporate bank resolution and bank signature cards
- Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

#### Optional Documents to Be Provided on Request

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

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

#### Suppliers

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

U.S. DOT Uniform DBE/ACDBE Certification Application • Page 14 of 14

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[79 FR 59603, Oct. 2, 2014]

↑ Back to Top

**Appendix G to Part 26—Personal Net Worth Statement**

ASSETS		LIABILITIES			
(Omit Cents)		(Omit Cents)			
Cash and Cash Equivalents	\$	Loan on Life Insurance (Complete Section 5)	\$		
Retirement Accounts (IRAs, 401(k)s, 403(b)s, Pension, etc.) (Report full value minus tax and interest penalties that would apply if assets were distributed today) (Complete Section 3)	\$	Mortgages on Real Estate Excluding Primary Residence Debt (Complete Section 4)	\$		
Brokerage, Investment Accounts	\$	Notes, Obligations on Personal Property (Complete Section 6)	\$		
Assets Held in Trust	\$	Notes & Accounts Payable to Banks and Others (Complete Section 2)	\$		
Loans to Shareholders & Other Receivables (Complete Section 6)	\$	Other Liabilities (Complete Section 8)	\$		
Real Estate Excluding Primary Residence (Complete Section 4)	\$	Unpaid Taxes (Complete Section 8)	\$		
Life Insurance (Cash Surrender Value Only) (Complete Section 5)	\$				
Other Personal Property and Assets (Complete Section 6)	\$				
Business Interests Other Than the Applicant Firm (Complete Section 7)	\$				
<b>Total Assets</b>	<b>\$</b>	<b>Total Liabilities</b>	<b>\$</b>		
		<b>NET WORTH</b>			
<b>Section 2: Notes Payable to Banks and Others</b>					
Name of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (Monthly, etc.)	How Secured or Endorsed Type of Collateral

U.S. DOT Personal Net Worth Statement for DBE/ACDBE Program Eligibility • Page 1 of 5

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**General Instructions for Completing the  
Personal Net Worth Statement  
for DBE/ACDBE Program Eligibility**

Please do not make adjustments to your figures pursuant to U.S. DOT regulations 49 C.F.R. Parts 23 and 26. The agency that you apply to will use the information provided on your completed Personal Net Worth (PNW) Statement to determine whether you meet the economic disadvantage requirements of 49 C.F.R. Parts 23 and 26. If there are discrepancies or questions regarding your form, it may be returned to you to correct and complete again.

An individual's personal net worth according to 49 C.F.R. Parts 23 and 26 includes only his or her own share of assets held separately, jointly, or as community property with the individual's spouse and excludes the following:

- Individual's ownership interest in the applicant firm;
- Individual's equity in his or her primary residence;
- Tax and interest penalties that would accrue if retirement savings or investments (e.g., pension plans, Individual Retirement Accounts, 401(k) accounts, etc.) were distributed at the present time.

Indicate on the form, if any items are jointly owned. If the personal net worth of the majority owner(s) of the firm exceeds \$1.32 million, as defined by 49 C.F.R. Parts 23 and 26, the firm is not eligible for DBE or ACDBE certification. If the personal net worth of the majority owner(s) exceeds the \$1.12 million cap at any time after your firm is certified, the firm is no longer eligible for certification. Should that occur, it is your responsibility to contact your certifying agency in writing to advise that your firm no longer qualifies as a DBE or ACDBE. You must fill out all line items on the Personal Net Worth Statement.

If necessary, use additional sheets of paper to report all information and details. If you have any questions about completing this form, please contact one of the UCP certifying agencies.

**Assets**

All assets must be reported at their current fair market value as of the date of your statement. *Assessor's assessed value for real estate, for example, is not acceptable.* Assets held in a trust should be included.

**Cash and Cash Equivalents:** On page 1, enter the total amount of cash or cash equivalents in bank accounts, including checking, savings, money market, certificates of deposit held domestic or foreign. Provide copies of the bank statement.

**Retirement Accounts, IRA, 401Ks, 403Bs, Pensions:** On page 1, enter the full value minus tax and interest penalties that would apply if assets were distributed as of the date of the form. Describe the number of shares, name of securities, cost market value, date of quotation, and total value in section 5 on page 2.

**Brokerage and Custodial Accounts, Stocks, Bonds, Retirement Accounts:** Report total value on page 1, and on page 2, section 3, enter the name of the security, brokerage account, retirement account, etc.; the cost, market value of the asset; the date of quotation; and total value as of the date of the PNW statement.

**Assets Held in Trust:** Enter the total value of the assets held in trust on page 1, and provide the names of beneficiaries and trustees, and other information in Section 6 on page 3.

**Loans to Shareholders and Other Receivables not listed:** Enter amounts loaned to you from your firm, from any other business entity in which you hold an ownership interest, and other receivables not listed above. Complete Section 6 on page 3.

**Real Estate:** The total value of real estate excluding your primary residence should be listed on page 1. In section 4 on page 2, please list your primary residence in column 1, including the address, method of acquisition, date of acquired, names of deed, purchase price, present fair market value, source of market valuation, names of all mortgage holders, mortgage account number and balance, equity line of credit balance, and amount of payment. List this information for all real estate held. Please ensure that this section contains all real estate owned, including rental properties, vacation properties, commercial properties, personal property leased or rented for business purposes, farm properties and any other income producing properties, etc. Attach additional sheets if needed.

**Life Insurance:** On page 1, enter the cash surrender value of this asset. In section 5 on page 2, enter the name of the insurance company, the face value of the policy, cash surrender value, beneficiary names, and loans on the policy.

**Other Personal Property and Assets:** Enter the total value of personal property and assets you own on page 1. Personal property includes motor vehicles, boats, trailers, jewelry, firearms, household goods, collectibles, clothing, and personally owned vehicles that are leased or rented to businesses or other individuals. In section 6 on page 3, list these assets and enter the present value, the balance of any liabilities, whether the asset is insured, and lien or note information and terms of payments. For accounts and notes receivable, enter the total value of all monies owed to you personally, if any. This should include shareholder loans to the applicant firm, if those exist. If the asset is insured, you may be asked to provide a copy of any liens or notes on the property.

**Other Business Interests Other than Applicant Firm:** On page 1, enter the total value of your other business investments (excluding the applicant firm). In section 7 on page 3, enter information concerning the businesses you

U.S. DOT Personal Net Worth Statement for DBE/ACDBE Program Eligibility • Page 4 of 5

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hold an ownership interest in, such as sole proprietorships, partnerships, joint ventures, corporations, or limited liability corporations (other than the applicant firm). Do not reduce the value of these entities by any loans from the outside firm to the DBE/ACDBE applicant business.

**Liabilities**

**Mortgages on Real Estate:** Enter the total balance on all mortgages payable on real estate on page 1.

**Loans on Life Insurance:** Enter the total value of all loans due on life insurance policies on page 1, and complete section 5 on page 2.

**Notes & Accounts Payable to Bank and Others:** On page 1, section 2, enter details concerning any liability, including name of noteholders, original and current balances, payment terms, and security/collateral information. The entries should include automobile installment accounts. This should not, however, include any mortgage balances as this information is captured in section 4. Do not include loans for your business or mortgages for your properties in this section. You may be asked to submit copy of note security agreement, and the most recent account statement.

**Other Liabilities:** On page 1, enter the total value due on all other liabilities not listed in the previous entries. In section 8, page 3, report the name of the individual obligated, names of co-signers, description of the liability, the name of the entity owed, the date of the obligation, payment amounts and terms. Note: Do not include contingent liabilities in this section. Contingent liabilities are liabilities that belong to you only if an event(s) should occur. For example, if you

have co-signed on a relative's loan, but you are not responsible for the debt until your relative defaults, that is a contingent liability. Contingent liabilities do not count toward your net worth until they become actual liabilities.

**Unpaid Taxes:** Enter the total amount of all taxes that are currently due, but are unpaid on page 1, and complete section 8 on page 3. Contingent tax liabilities or anticipated taxes for current year should not be included. Describe in detail the nature of the individual obligated, names of co-signers, the type of unpaid tax, to whom the tax is payable, due date, amount, and to what property, if any, the tax lien attaches. If none, state "NONE." You must include documentation, such as tax liens, to support the amounts.

**Transfers of Assets**

**Transfers of Assets:** If you checked the box indicating yes on page 3 in this category, provide details on all asset transfers (within 2 years of the date of this personal net worth statement) to a spouse, domestic partner, relative, or entity in which you have an ownership or beneficial interest including a trust. Include a description of the asset; names of individuals on the deed, title, note or other instrument indicating ownership rights; the names of individuals receiving the assets and their relation to the transferor; the date of the transfer; and the value or consideration received. Submit documentation requested on the form related to the transfer.

**Affidavit**

Be sure to sign and date the statement. The Personal Net Worth Statement must be notarized.

U.S. DOT Personal Net Worth Statement for DBE/ACDBE Program Eligibility • Page 5 of 5

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[79 FR 59617, Oct. 2, 2014]

[↑ Back to Top](#)

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**UNIFORM REPORT OF DBE COMMITMENTS/AWARDS AND PAYMENTS**

\*\*Please refer to the instruction sheet for directions on filling out this form\*\*

1 Submitted to (check only one)	<input type="checkbox"/> FHWA	<input type="checkbox"/> FAA	<input type="checkbox"/> FTA - Recipient ID Number
2 AIP Numbers (FAA Recipients); Grant Number (FTA Recipients):			
3 Federal Fiscal year in which reporting period falls	FY 2017		4. Date This Report Submitted:
5 Reporting Period	<input type="checkbox"/> Report due June 1 (for period Oct 1-Mar 31)	<input type="checkbox"/> Report due Dec 1 (for period April 1-Sep 30)	<input type="checkbox"/> FAA annual report due Dec 1
6 Name and address of Recipient:			
7 Annual DBE Goal(s):	Race Conscious Projection:	Race Neutral Projection:	OVERALL Goal:

**Awards/Commitments this Reporting Period**

A	AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD <small>(Total contracts and subcontracts committed during this reporting period)</small>	Total Dollars	Total Number	Total to DBEs (dollars)	Total to DBEs (number)	Total to DBEs/Race Conscious (dollars)	Total to DBEs/Race Conscious (number)	Total to DBEs/Race Neutral (dollars)	Total to DBEs/Race Neutral (number)	Percentage of total dollars to DBEs
		8	Prime contracts awarded this period	\$ -	0	\$ -	0			\$ -
9	Subcontracts awarded/committed this period	\$ -	0	\$ -	0	\$ -	0	\$ -	0	#DIV/0!
10	<b>TOTAL</b>			\$ -	0	\$ -	0	\$ -	0	#DIV/0!

**B BREAKDOWN BY ETHNICITY & GENDER**

B	ETHNICITY & GENDER	Total Dollars	Total Number	Total to DBEs (dollars)	Total to DBEs (number)	Total to DBEs/Race Conscious (dollars)	Total to DBEs/Race Conscious (number)	Total to DBEs/Race Neutral (dollars)	Total to DBEs/Race Neutral (number)	Percentage of total dollars to DBEs
		Total to DBE (dollar amount)			Total to DBE (number)					
		Women	Men	Total	Women	Men	Total			
11	Black American	\$ -	\$ -	\$ -	0	0	0	\$ -	0	
12	Hispanic American	\$ -	\$ -	\$ -	0	0	0	\$ -	0	
13	Native American	\$ -	\$ -	\$ -	0	0	0	\$ -	0	
14	Asian-Pacific American	\$ -	\$ -	\$ -	0	0	0	\$ -	0	
15	Subcontinent Asian Americans	\$ -	\$ -	\$ -	0	0	0	\$ -	0	
16	Non-Minority	\$ -	\$ -	\$ -	0	0	0	\$ -	0	
17	<b>TOTAL</b>	\$ -	\$ -	\$ -	0	0	0	\$ -	0	

**Payments Made this Period**

C	PAYMENTS ON ONGOING CONTRACTS	Total Number of Contracts	Total Dollars Paid	Total Number of Contracts with DBEs	Total Payments to DBE firms	Total Number of DBE firms Paid	Percent to DBEs
		18	Prime and subcontracts currently in progress	0	\$ -	0	\$ -

**D TOTAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD**

D	CONTRACTS COMPLETED THIS REPORTING PERIOD	Number of Contracts Completed	Total Dollar Value of Contracts Completed	DBE Participation Needed to Meet Goal (Dollars)	Total DBE Participation (Dollars)	Percent to DBEs
		19	Race Conscious	0	\$ -	\$ -
20	Race Neutral	0	\$ -		\$ -	#DIV/0!
21	<b>Totals</b>	0	\$ -		\$ -	#DIV/0!

22 Submitted by:	23. Signature:	24. Phone Number:
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