

SITKA SEAPLANE BASE

DBE Program Manual

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Prepared for:



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POLICY STATEMENT

Section 26.1, 26.23 Objectives/Policy Statement

City and Borough of Sitka (CBS), as the owner of Sitka Seaplane Base, has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. CBS has received Federal financial assistance from the USDOT, and as a condition of receiving this assistance, CBS has signed an assurance that it will comply with 49 CFR Part 26 (hereafter referred to as "Part 26").

It is the policy of the CBS to ensure that DBEs as defined in Part 26, have an equal opportunity to receive and participate in USDOT-assisted contracts. It is also CBS policy to engage in the following actions on a continuing basis:

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

Michael Harmon, Municipal Engineer, has been delegated as the DBE Liaison Officer. In that capacity, Michael Harmon, is responsible for implementing all aspects of the DBE Program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the CBS in its financial assistance agreements with the USDOT.

CBS has disseminated this policy statement to CBS Assembly and all of the components of our organization. This statement has been distributed to DBE and non-DBE business communities that may perform work on CBS USDOT-assisted contracts. The distribution was accomplished by public advertising of the availability of the CBS's DBE Plan.

John Leach, Municipal Administrator

Date

GENERAL REQUIREMENTS

Section 26.1 Objectives

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

Section 26.3 Applicability

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

Section 26.5 Definitions

CBS will use terms in this program that have their meanings defined in Part 26, §26.5.

Section 26.7 Non-discrimination Requirements

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

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

Section 26.11 Record Keeping Requirements

Reporting to USDOT

CBS will provide data about its DBE Program to the Department as directed by USDOT operating administrations.

DBE participation will be reported to Federal Aviation Administration (FAA) Office of Civil Rights as follows:

CBS will transmit to FAA Office of Civil Rights annually, by or before December 1, the information required for the "Uniform Report of DBE Awards or Commitments and Payments", as described in Appendix B to Part 26. CBS will similarly report the required information about participating DBE firms. All reporting will be done through the FAA Office of Civil Rights official reporting system, or another format acceptable to FAA Office of Civil Rights as instructed thereby.

Bidders List

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

This information will be collected in the following way(s): all bidders/offerors are required to submit a copy of the Bidder's List Collection Form found in Attachment 3 with their bid proposal.

Records retention and reporting:

The CBS will report DBE participation to the USDOT as follows:

We will submit annually the Uniform Report of DBE Awards or Commitments and Payment to the FAA via Civil Rights Connect portal on an annual basis.

Section 26.13 Federal Financial Assistance Agreement

CBS has signed the following assurances, applicable to all USDOT-assisted contracts and their administration:

Assurance: - Each financial assistance agreement CBS signs with a USDOT operating administration (or a primary recipient) will include the following assurance:

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

Contract Assurance: CBS will ensure that the following clause is included in each USDOT-funded contract it signs with a contractor (and each subcontract the prime contractor signs with a subcontractor):

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

- 1) Withholding monthly progress payments;
- 2) Assessing sanctions;
- 3) Liquidated damages; and/or
- 4) Disqualifying the contractor from future bidding as non-responsible.

ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

CBS is required to have a DBE program meeting the requirements of this part as it will receive grants for airport planning or development and will award prime contracts, cumulative total value of which exceeds \$250,000 in FAA funds in a federal fiscal year. CBS is not eligible to receive USDOT financial assistance unless USDOT has approved this DBE program and CBS is in compliance with it and Part 26. CBS will continue to carry out this program until all funds from USDOT financial assistance have been expended. CBS does not have to submit regular updates of the DBE program document, as long as it remains in compliance. However, significant changes in the program, including those required by regulatory updates, will be submitted for USDOT approval.

Section 26.23 Policy Statement

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

Section 26.25 DBE Liaison Officer (DBELO)

The following individual has been designated as the DBE Liaison Officer for CBS:

Michael Harmon
Municipal Engineer
100 Lincoln Street
Sitka, AK 99835
Phone: 907-747-1807
DBE@cityofsitka.org

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the CBS complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Mayor and the Municipal Administrator of CBS concerning DBE program matters. An organizational chart displaying the DBELO's position in the organization is included in Attachment 2 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The DBELO is the sole person charged with the administration of the program. The duties and responsibilities include the following:

- 1) Gathers and reports statistical data and other information as required by USDOT.
- 2) Reviews third party contracts and purchase requisitions for compliance with this program.
- 3) Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
- 4) Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitors results.
- 5) Analyzes CBS's progress toward attainment and identifies ways to improve progress.
- 6) Participates in pre-bid meetings.

- 7) Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
- 8) Refers firms to the Alaska Unified Certification Program-Alaska Department of Transportation and Public Facilities (ADOT-PF) Civil Rights/DBE Office, in order for these firms to apply for DBE Certification in accordance with criteria set by USDOT and the Alaska Unified Certification Program Agreement (AUCP); also, acts as City and Borough liaison to the Alaska Unified Certification Program.
- 9) Provides outreach to DBEs and community organizations to advise them of opportunities.

Implements the appropriate mechanisms listed in this policy in order to ensure policy compliance by all program participants. In particular, the DBELO must determine the good-faith efforts of prime contractors in meeting the CBS's DBE goals. Moreover, the DBELO shall develop and implement a monitoring and enforcement mechanism to verify that the work committed to DBEs at contract award is actually performed by those same DBEs.

Section 26.27 DBE Financial Institutions

It is the policy of the CBS to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on USDOT-assisted contracts to make use of these institutions.

In an effort to identify and use such institutions, using the AUCP DBE online directory, CBS did not find any DBE financial institutions in Alaska. The following NAICS codes were used:

- 52111 – Monetary Authorities-Central Bank
- 52211 – Commercial Bank
- 52212 – Savings Institution
- 52213 – Credit Union

The DBELO for CBS will investigate any financial institutions established within the community on an annual basis, which are owned by socially and economically disadvantaged individuals. When a financial institution, owned and operated by socially and economically disadvantaged individuals, is opened during the period of this approved Program, the DBELO will use their services when feasible and provide notification to prime contractors within the bid documents.

Section 26.29 Prompt Payment Mechanisms

CBS requires that all subcontractors performing work on USDOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local law.

In accordance with 49 CFR §26.29, the CBS established a contract clause implementing this requirement and requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 8 working days from the prime contractor's receipt of each payment from the CBS.

CBS ensures prompt and full payment of retainage from the prime contractor to the subcontractor within 8 working days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above-referenced time frame may occur only for good cause following written approval of CBS. This clause applies to both DBE and non-DBE subcontractors. Pursuant to §26.29, CBS has selected the following method to comply with this requirement:

CBS declines to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

To implement this measure, CBS includes the following clause from FAA Advisory Circular 150/5370-10 in each USDOT-assisted prime construction contract:

- a. Retainage will not be withheld on this project. No retainage will be withheld by the Owner from progress payments due the prime Contractor. Retainage by the prime or subcontractors is prohibited, and no retainage will be held by the prime from progress due subcontractors.
- b. The Contractor is required to pay all subcontractors for satisfactory performance of their contracts no later than 30 days after the Contractor has received a partial payment. 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 Owner. When the Owner 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.
- c. When at least 95% of the project work has been completed to the satisfaction of the Resident Project Representative (RPR), the RPR shall, at the Owner's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done.**

Section 26.31 Directory

The CBS uses the State of Alaska DBE Directory, maintained by ADOT-PF.

The directory lists the firm's name, address, phone number, and the type of work the firm has been certified to perform as a DBE. In addition, the directory lists each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work.

A link to the AUCP DBE Directory can be found in Attachment 4.

Section 26.33 Over-concentration

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

Section 26.35 Business Development Programs

CBS has three Business Development Incentives: Sitka Economic Development Association, Alaska Small Business Development Center, and Small Business Guaranteed Loan Program.

Information on these business development programs and initiatives can be found here:
<https://www.cityofsitka.com/development-incentives>

Section 26.37 Monitoring Responsibilities

CBS implements and carries out appropriate mechanisms to ensure compliance with 49 CFR Part 26 program requirements by all program participants, including prompt payment, and describes and set forth these mechanisms in CBS's DBE program.

CBS actively monitors participation by maintaining a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments.

Monitoring Payments to DBEs and Non-DBEs

CBS undertakes ongoing monitoring of prime payments to subcontractors over the course of any covered contract. Such monitoring activities will be accomplished through the following method(s):

The CBS Project Manager or Consultant will monitor payments throughout a project. The following is required:

- The Monthly Payment Report found in Attachment 5 is required to be submitted on a monthly basis throughout the entirety of the project. A progress payment will not be processed until the reports are submitted. This report monitors the payments by providing a running tally of actual DBE attainments and compares this to the commitments.
- Each subcontractor, DBE and non-DBE firms, are required to complete the Subcontractor's Prompt Payment Certification, found in Attachment 6. A completed copy of this form shall be submitted to the Sponsor's representative, the Prime Contractor and the Contract at least 7 days prior to an application for payment. This form is to be submitted with each payment application. Any delay in submitting the required certification will cause a delay in payments being processed.
- The Disadvantaged Business Enterprise (DBE) Participation Summary Form, found in Attachment 12 must be completed and signed by the DBE firm upon completion of the project. A final payment will not be processed without the required form. The intent of this form is to confirm total payments made to DBE firms.

CBS requires prime contractors to maintain records and documents of payments to subcontractors, including DBEs, for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the CBS's financial assistance agreement, whichever is longer. These records will be made available for inspection upon request by any authorized representative of CBS or USDOT. This reporting requirement extends to all subcontractors, both DBE and non-DBE.

- CBS proactively reviews contract payments to subcontractors including DBEs quarterly and each time a payment request is submitted. Payment reviews will evaluate whether the actual amount paid to DBE subcontractors is equivalent to the amounts reported to

CBS by the prime contractor. Monitoring and Enforcement Mechanisms are included as Attachment 8.

Prompt Payment Dispute Resolution

CBS will take the following steps to resolve disputes as to whether work has been satisfactorily completed for purposes of §26.29 of 49 CRF.

- When notified that a subcontractor has not been paid for work performed, the CBS project representative will contact the prime contractor to determine the reasons.
- If needed, a meeting between prime contractor, subcontractor and the CBS project representative will be set up to determine any discrepancies and identify a resolution.
- If the subcontractor still has a complaint with the prompt payment, the subcontractor may contact the DBELO for assistance in a resolution.
- CBS may determine that no further payments will be made to the prime contractor until the subcontractor is paid for work successfully performed.
- If the prime contractor continues to not pay subcontractors, additional legal action for breach of contract may be pursued.

CBS has established, as part of its DBE program, the following mechanism(s) to ensure prompt payment and return of retainage:

- (1) 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.
 - The Monthly Payment Report found in Attachment 5 is required to be submitted on a monthly basis throughout the entirety of the project. A progress payment will not be processed until the reports are submitted. This report monitors the payments by providing a running tally of actual DBE attainments and compares this to the commitments.

Prompt Payment Complaints

Complaints by subcontractors regarding the prompt payment requirements are handled according to the following procedure:

- If affected subcontractor is not comfortable contacting prime directly regarding payment or unable to resolve payment discrepancies with prime, subcontractor should contact DBELO to initiate a complaint.
- 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.

- If filing a prompt payment complaint with the DBELO does not result in timely and meaningful action by CBS to resolve prompt payment disputes, affected subcontractor may contact the responsible FAA Office of Civil Rights contact.
- Pursuant to Sec. 157 of the FAA Reauthorization Act of 2018, all complaints related to prompt payment will be reported by DBELO in a format acceptable to the FAA, including the nature and origin of the complaint and its resolution.

Enforcement Actions for Noncompliance of Participants

CBS will provide appropriate means to enforce the requirements of §26.29. These means include:

- In accordance with the contract, assessing liquidated damages against the prime contractor for each day beyond the required time period the prime contractor fails to pay the subcontractor
- Advise subcontractors of the availability of the payment and performance bond to assure payment for labor and materials in the execution of the work provided for in the contract
- Pay subcontractors directly and deduct this amount from the retainage owed to the prime

CBS will actively implement the enforcement actions detailed above.

Monitoring Contracts and Work Sites

The DBELO reviews contracting records and engages in active monitoring of work sites 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. Work site monitoring is performed by the CBS Project Manager or Consultant. Contracting records are reviewed by DBELO. CBS will maintain written certification that contracting records have been reviewed and work sites have been monitored for this purpose.

Section 26.39 Fostering small business participation

CBS has created a Small Business element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

The small business element is incorporated as Attachment 9 to this DBE Program. The program elements will be actively implemented to foster small business participation. Implementation of the small business element is required in order for CBS to be considered by USDOT as implementing this DBE program in good faith.

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

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

Section 26.45 Overall Goals

CBS will establish an overall DBE goal covering a three-year federal fiscal year period if it anticipates awarding USDOT-funded prime contracts the cumulative total value of which exceeds \$250,000 in USDOT funds during any one or more of the reporting fiscal years within the three-year goal period. In accordance with §26.45(f), CBS will submit its Overall Three-year DBE Goal to the FAA by August 1st of the year in which the goal is due, as required by the schedule established by and posted to the website of the FAA.

FAA website:

https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/media/Schedule_of_DBE_and_ACDBE_Reporting_Requirements_Dec_2017_Issue.pdf

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

Step 1. The first step is to determine a base figure for the relative availability of DBEs in the market area. CBS will use the ADOT-PF Bidders List, the ADOT-PF Disparity Study, ADOT-PF DBE Directory information and Census Bureau Data as a method to determine the base figure. CBS understands that the exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of 49 CFR Part 26.45(c)(2), is not an acceptable alternative means of determining the availability of DBEs.

Step 2. The second step is to adjust, if necessary, the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination. Adjustments may be made based on past participation, information from a disparity study (to the extent it is not already accounted for in the base goal), and/or information about barriers to entry to past competitiveness of DBEs on contracts. CBS will examine all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.

Any methodology selected will be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in the CBS market.

In establishing the overall goal, CBS will provide for consultation and publication. This includes consultation with minority, women’s and general contractor groups, community organizations,

and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the efforts by CBS to establish a level playing field for the participation of DBEs. The consultation will include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it will occur before CBS is required to submit the goal methodology to the FAA for review pursuant to §26.45(f). The goal submission will document the consultation process in which CBS engaged. Notwithstanding paragraph (f)(4) of §26.45, the proposed goal will not be implemented until this requirement is met.

In addition to the consultation described above, CBS will publish a notice announcing the proposed overall goal before submission to the USDOT/FAA on August 1st. The notice will be posted on CBS's official internet web site and may be posted in other sources (e.g., minority-focused media, trade association publications). If the proposed goal changes following review by USDOT/FAA, the revised goal will be posted on the official internet web site.

The public will also be informed that the proposed overall goal and its rationale are available for inspection during normal business hours at the principal office of CBS. This notice will provide that the CBS and USDOT/FAA will accept comments on the goals for 30 days from the date of the notice. Notice of the comment period will include the addresses to which comments may be sent (including offices and websites) where the proposal may be reviewed. **The public comment period will not extend the August 1st deadline.**

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

CBS will begin using the overall goal on October 1 of the relevant period, unless other instructions from USDOT/FAA have been received.

Project Goals

If permitted or required by the FAA Administrator, an overall goal may be expressed 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 FAA. A project goal is an overall goal, and must meet all the substantive and procedural requirements of this section pertaining to overall goals. A project goal covers the entire length of the project to which it applies. The project goal will include a projection of the DBE participation anticipated to be obtained during each fiscal year covered by the project goal. The funds for the project to which the project goal pertains are separated from the base from which the regular overall goal, applicable to contracts not part of the project covered by a project goal, is calculated.

If a goal is established on a project basis, the goal will be used by the time of the first solicitation for a USDOT-assisted contract for the project.

Prior Operating Administration Concurrence

CBS understands that prior FAA concurrence with the overall goal is not required. However, if the FAA review suggests that the overall goal has not been correctly calculated or that the

method employed by CBS for calculating goals is inadequate, FAA may, after consulting with CBS, adjust the overall goal or require that the goal be adjusted by CBS. The adjusted overall goal is binding. In evaluating the adequacy or soundness of the methodology used to derive the overall goal, the USDOT operating administration will be guided by the goal setting principles and best practices identified by the Department in guidance issued pursuant to §26.9.

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

Section 26.47 Failure to meet overall goals

CBS cannot be penalized, or treated by the Department as being in noncompliance with Part 26, because DBE participation falls short of an overall goal, unless CBS fails to administer its DBE program in good faith.

CBS understands that to be considered to be in compliance with this part, an approved DBE Program and overall DBE goal, if applicable, must be maintained, and this DBE Program must be administered in good faith.

CBS understands that if the awards and commitments shown on the 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, the following actions must be taken in order to be regarded by the Department as implementing this DBE Program in good faith:

- (1) Analyze in detail the reasons for the difference between the overall goal and the awards and commitments in that fiscal year;
- (2) Establish specific steps and milestones to correct the problems identified in the analysis to enable the goal for the new fiscal year to be fully met;
- (3) CBS will prepare, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraph (c)(1) and (2) of this section. We will retain copy of analysis and corrective actions in records for a minimum of three years, and will make it available to FAA upon request.

Section 26.51 Means Recipients Use to Meet Overall Goals

Breakout of Estimated Race-Neutral & Race-Conscious Participation

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

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

- (1) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that 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.

- (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 the 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.

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

Race-Conscious Participation

Race-conscious means include, but are not limited to the following:

- (1) Including the requirement bidders must make a Good Faith Effort to meet the CBS's annual DBE participation goal in the contract documents.
- (2) Verifying that the lowest responsible bidder has made a Good Faith Effort to meet CBS's annual DBE participation goal.
- (3) Monitoring DBE participation throughout the duration of a project.

The CBS will arrange solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses, by means such as those provided under §26.39.

Contract Goals

If the approved projection under paragraph (c) of §26.51 estimates that the entire overall goal for a given year can be met through race-neutral means, contract goals will not be set during that year, unless the use of contract goals becomes necessary in order meet the overall goal.

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

Contract goals will be expressed as a percentage of the total amount of a USDOT-assisted contract.

Section 26.53 Good Faith Efforts Procedures in Situations where there are Contract Goals

Demonstration of good faith efforts (pre-award)

In cases where a contract goal has been established, the contract in question will only be awarded to a bidder/offeror that has made good faith efforts to meet the contract goal. The bidder/offeror can demonstrate that it has made good faith efforts by either meeting the contract goal or documenting that it has made adequate good faith efforts to do so. Examples of good faith efforts are found in Appendix A to Part 26.

The DBELO is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as Responsive.

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

In all solicitations for USDOT-assisted contracts for which a contract goal has been established, the following information will be required of every bidder/offeror:

- (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 (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 (as elaborated in Appendix A of Part 26). 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) The bidder/offeror will be required to present the information stipulated in paragraph (2) of this section:
- (4) Under sealed bid procedures, as a matter of **responsiveness**, or with initial proposals, under contract negotiation procedures;
- (5) 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 (2) of this section before the final selection for the contract is made by the recipient.

Administrative reconsideration

Within 2 business days of being informed by CBS that it is not responsive because it has not documented adequate good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Tori Fleming, 100 Lincoln Street, Sitka, AK 99835 , 907-747-1845, tori.fleming@cityofsitka.org. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not document sufficient good faith efforts.

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

Good Faith Efforts procedural requirements (post-solicitation)

The awarded contractor will be required to make available upon request a copy of all DBE subcontracts. The contractor shall ensure that all subcontracts or agreements with DBEs to supply labor or materials include all required contract provisions and mandate that the subcontractor and all lower tier subcontractors perform in accordance with the provisions of Part 26.

Prime contractors will be prohibited from terminating a DBE subcontractor listed in response to a covered solicitation (or an approved substitute DBE firm) without the prior written consent of CBS. 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 another DBE firm.

Such written consent will be provided only if CBS agrees, for reasons stated in the concurrence document, that the prime contractor has good cause to terminate the DBE firm. For purposes of this paragraph, good cause includes the following circumstances:

- (1) The listed DBE subcontractor fails or refuses to execute a written contract;
- (2) The listed DBE subcontractor fails or refuses to perform the work of its subcontract in a way consistent with normal industry standards. Provided however, that good cause

does not exist if the failure or refusal of the DBE subcontractor to perform its work on the subcontract results from the bad faith or discriminatory action of the prime contractor;

- (3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable, non-discriminatory bond requirements.
- (4) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness;
- (5) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR Parts 180, 215 and 1,200 or applicable state law;
- (6) CBS determined that the listed DBE subcontractor is not a responsible contractor;
- (7) The listed DBE subcontractor voluntarily withdraws from the project and provides CBS written notice of its withdrawal;
- (8) The listed DBE is ineligible to receive DBE credit for the type of work required;
- (9) A DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract;
- (10) Other documented good cause that CBS has determined compels the termination of the DBE subcontractor. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the contract so that the prime contractor can self-perform the work for which the DBE contractor was engaged or so that the prime contractor can substitute another DBE or non-DBE contractor after contract award.

Before transmitting to CBS a 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 CBS, of its intent to request to terminate and/or substitute the DBE, and the reason(s) for the request.

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

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.

Each prime contract will include a provision stating:

The contractor shall utilize the specific DBEs listed in the contractor's bid response to perform the work and supply the materials for which each is listed unless the contractor obtains prior written consent of CBS as provided in 49 CFR Part 26, §26.53(f). Unless such consent is provided, the contractor shall not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.

CBS will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE. These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal that was established for the procurement. The good faith efforts shall be documented by the contractor. If CBS requests documentation from the contractor 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. CBS shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

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

Section 26.55 Counting DBE Participation

DBE participation will be counted toward overall and contract goals as provided in §26.55. The participation of a DBE subcontractor will not be counted 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.

In the case of post-award substitutions or additions, 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, the firm's participation will not be counted toward any DBE goals, except as provided for in §26.87(j).

Pursuant to Sec. 150 of the FAA Reauthorization Act of 2018, firms that exceed the business size standard in § 26.65(b) will remain eligible for DBE certification and credit on FAA-funded projects as long as they do not exceed the small business size standard, as adjusted by the United States Small Business Administration, for the NAICS code(s) in which they are certified.

Demonstration of Good Faith Efforts – Forms 1 & 2, included as Attachment 7, will be included in all FAA-funded bid packages; bidders will be required to submit these forms with their bids.

SUBPART D – CERTIFICATION STANDARDS

Section 26.61 – 26.73 Certification Process

CBS will use the certification program of the ADOT-PF, which complies with 49 CRF Part 25.

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

Alaska Department of Transportation & Public Facilities
Civil Rights Office
2200 E. 42nd Avenue
Anchorage, AK 99519-6900
907-269-0851
<http://ftp.dot.state.ak.us/cvlrts/aucp.shtml>

A link to the Uniform Certification Application form and documentation requirements are found in Attachment 11 to this program.

SUBPART E – CERTIFICATION PROCEDURES

Section 26.81 Unified Certification Programs

CBS is a member of the Alaska Unified Certification Program (AUCP) administered by State of Alaska. The AUCP will meet all of the requirements of this section. See Attachment 13 for a copy of the signed agreement.

Section 26.83 Procedures for Certification Decisions

Only firms certified as eligible DBEs under §26.83 may participate as DBEs in this program. City and Borough Sitka will take all required steps outlined in §26.83(c) in determining whether a DBE firm meets the standards of subpart D of Part 26.

Once a firm has been certified as a DBE, it shall remain certified until and unless its certification has been removed, in whole or in part, through the procedures of §26.87, except as provided in §26.67(b)(1).

DBEs will not be required to reapply for certification or undergo a recertification process. However, a certification review of a certified DBE firm may be conducted, including a new onsite 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 the attention of CBS that leads to questions regarding the firm's eligibility, an on-site review may be conducted on an unannounced basis, at the firm's offices and job sites.

“No Change” Affidavits and Notices of Change

The AUCP requires all DBEs owners to provide a written affidavit of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership, or control criteria of 49 CFR Part 26, or of any material changes in the information provided with the DBE firm's original application for certification.

The AUCP also requires all DBE owners to submit every year, on the anniversary date of their certification, a “no change” affidavit meeting the requirements of §26.83(j). The text of this affidavit is the following:

I swear (or affirm) that there have been no changes in the circumstances of **[name of DBE firm]** affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR Part 26. There have been no material changes in the information provided with **[name of DBE]**'s application for certification, except for any changes about which **[name of DBE firm]** has provided written notice to the CBS pursuant to §26.83(i). **[Name of DBE firm]** meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$23.98 million.

The UCP requires DBEs to submit documentation with this affidavit regarding the firm's size and gross receipts (e.g., submission of federal tax returns).

The UCP will notify all currently certified DBE firms of these obligations annually by certified mail. This notification will inform DBEs that to submit the “no change” affidavit, their owners must swear or affirm that they meet all regulatory requirements of Part 26, including personal net worth. The notification will likewise inform the DBE that if a firm’s owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement (e.g. personal net worth, business size), the obligation to submit a notice of change applies.

Section 26.85 Interstate Certification

When a firm currently certified in its home state (“State A”) applies to a member of this State’s UCP (“State B”) for DBE certification, the UCP will follow the procedures defined in §26.85(b).

Section 26.86 Denials of Initial Requests for Certification

If a currently certified DBE firm is decertified, or if an applicant firm’s initial application is denied, the affected firm may not reapply until 12 months have passed from such action. The time period for reapplication begins to run on the date the explanation required by paragraph (a) of §26.86 is received by the firm. If an applicant appeals this decision to the Department of Transportation pursuant to §26.89, such an appeal does not extend the waiting period.

Section 26.87 Removal of a DBE’s Eligibility

In the event CBS proposes to remove a DBE’s certification, the procedures followed will be consistent with §26.87. CBS will file a third party complaint with ADOT-PF Civil Rights Office for various reasons including, but not limited to:

- The DBE firm no longer meets the eligibility requirements of 49 CRF Part 26;
- The DBE firm fails to provide current annual affidavits, supporting documents, and/or changes that would affect the eligibility of the firm as a DBE under 49 CRF Part 26;
- The DBE firm at any time refuses to cooperate with request by CBS for information and/or documentation required by 49 CRF Part 26;
- The DBE firm is debarred or suspended by CBS, ADOT-PF, or USDOT;
- CBS determines that DBE eligibility was based on “Pro Forma” practices, procedures, or changes;
- The DBE fails to cooperate with CBS in accordance with 49 CRF Part 26.106(c).

ADOT-PF describes procedures regarding third party complains in Attachment 13, AUCP, Section 2.0 *Third Party Complains Regarding DBE Certification*.

Section 26.88 Summary Suspension of Certification.

CBS will follow procedures consistent with §26.88 regarding the suspension of a DBE’s certification.

A DBE’s certification shall be immediately suspended 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.

A DBE's certification will be immediately suspended 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).

When a firm is suspended pursuant to §26.88 (a) or (b), CBS will 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. Suspension is a temporary status of ineligibility pending an expedited show cause hearing/proceeding under §26.87 of Part 26 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.

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.**

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 CBS information demonstrating that the firm is eligible notwithstanding its changed circumstances. Within 30 days of receiving this information, the suspension will either be lifted and the firm's certification reinstated, or a decertification action under §26.87 of this part will be initiated. If a decertification proceeding is commenced, the suspension remains in effect during the proceeding. The decision to immediately suspend a DBE under §26.88(a) or (b) is not appealable to the USDOT.

Failure of CBS to either lift the suspension and reinstate the firm or commence a decertification proceeding as required by paragraph (g) of §26.88 is considered a constructive decertification, which action is appealable to the U.S. USDOT under §26.89.

Section 26.89 Certification Appeals

Any firm or complainant may appeal a decision of ADOT-PF in a certification matter to USDOT. A firm that wants to file an appeal must send a letter to the USDOT within 90 days of the date of the final decision of CBS, including information and setting forth a full and specific statement as to why the decision is erroneous, what significant fact(s) CBS failed to consider, or what provisions of Part 26 were not properly applied. The USDOT may accept an appeal filed later than 90 days after the date of the decision if the USDOT determines that there was good cause for the late filing of the appeal, or in the interest of justice.

Appeals may be sent to:

U.S. Department of Transportation
Departmental Office of Civil Rights
1200 New Jersey Ave., S.E.
Washington, DC 20590-0001

The USDOT makes its decision based solely on the entire administrative record as supplemented by the appeal. The USDOT does not make a de novo review of the matter and does not conduct a hearing. The USDOT may also supplement the administrative record by adding relevant information made available by the USDOT Office of Inspector General; Federal, State, or local law enforcement authorities; officials of a USDOT operating administration or other appropriate USDOT office; a recipient; or a firm or other private party.

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

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.101 Compliance Procedures Applicable to CBS

CBS understands that if it fails to comply with any requirement of this part, CBS 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.

Section 26.109 Information, Confidentiality, Cooperation and intimidation or retaliation

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

CBS safeguards from disclosure third-party information, including financial information, consistent with federal, state and local law. The Alaska Public Records Act (APRA) is a series of laws designed to guarantee that the public has access to records of government bodies at all levels in Alaska. The law can be found in the Alaska Statutes, statute 40.25.110 - 40.25.125

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

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 USDOT 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).

CBS, contractor, or any other participant in the program will not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. CBS understands that it is in noncompliance with Part 26 if it violates this prohibition.

ATTACHMENTS

- Attachment 1:** Regulations: 49 CFR Part 26 Link
- Attachment 2:** Organizational Chart
- Attachment 3:** Bidder's List Collection Form
- Attachment 4:** DBE Directory Link
- Attachment 5:** Monthly DBE Report
- Attachment 6:** Subcontractors Prompt Payment Certification
- Attachment 7:** Demonstration of Good Faith Efforts – Forms 1 & 2
- Attachment 8:** DBE Monitoring and Enforcement Mechanisms
- Attachment 9:** Small Business Element Program
- Attachment 10:** Overall DBE Three-Year Goal Methodology
- Attachment 11:** DBE Certification Application Form Link
- Attachment 12:** DBE Participation Summary Form
- Attachment 13:** State's UCP Agreement

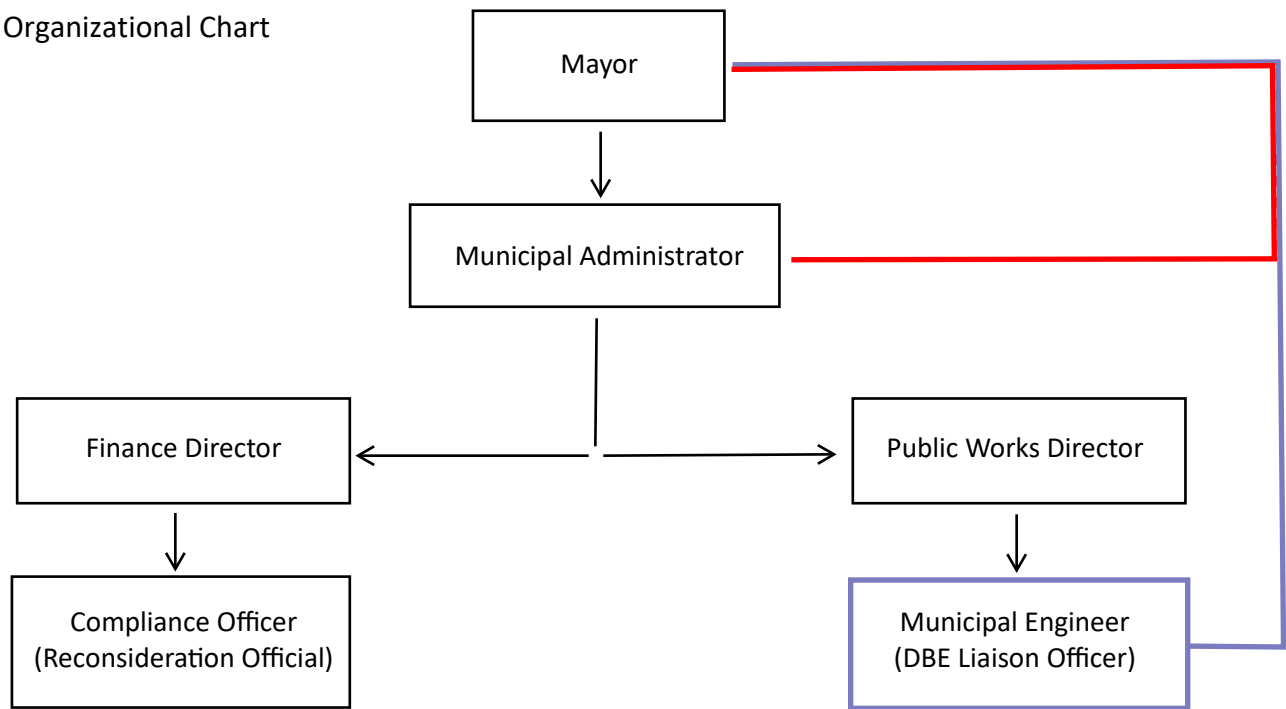
ATTACHMENT 1

Regulations – 49 CFR Part 26 link

<https://www.ecfr.gov/current/title-49/subtitle-A/part-26?toc=1>

ATTACHMENT 2

Organizational Chart



ATTACHMENT 3

Bidder's List Collection Form – Sitka Seaplane Base

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

AIP No. _____ Project Name: _____

Firm Name	Firm Address/ Phone #	DBE or Non-DBE Status (verify via State's UCP Directory)	Age of Firm	Annual Gross Receipts
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million
			<input type="checkbox"/> Less than 1 year <input type="checkbox"/> 1- 3 years <input type="checkbox"/> 4-7 years <input type="checkbox"/> 8-10 years <input type="checkbox"/> More than 10 years	<input type="checkbox"/> Less than \$500K <input type="checkbox"/> \$500K - \$1 million <input type="checkbox"/> \$1-2 million <input type="checkbox"/> \$2-5 million <input type="checkbox"/> Greater than \$5 million

ATTACHMENT 4

State of Alaska DBE Directory Link:

<http://ftp.dot.state.ak.us/cvlrts/directory.shtml>

ATTACHMENT 5**MONTHLY DBE REPORT**
MONTHLY PAYMENT REPORT

Name of Contractor's Firm: _____

Project Name/Location: _____

FAA AIP Project No.: _____

Subcontractor/DBE Supplier Name* Description of Services	DBE Y/N	Subcontractor Contract Amount	Pay App #	Payment Period Date (From-To)	Amount Invoiced	Amount Paid	Previous Payment Amount	Previous Payment Date	Total Payment Amount to Date

***ALL Subcontractors Must Be Listed – ONLY DBE Suppliers Must Be Listed**

Signature of Contractor's Representative

Print Contractor's Representative: _____

Date: _____

ATTACHMENT 6

49 CFR Part 26

SUBCONTRACTOR'S PROMPT PAYMENT CERTIFICATION

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

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

=====

Project Title:

Airport Name:

AIP No.:

Company Name:

Company Address:

Contact Phone No.: _____

Prime Contractor's Name:

1. Has your firm performed work on this project within the last 30 days? Yes___ No ___

2. Has the work performed within the last 30 days been completed and accepted by the Engineer/Project Manager?

Yes___ No___ Not sure ___

3. Has payment been made by the contractor you subcontracted with for the work you performed?

Yes ___ No ___

4. Estimated value of work performed in which payment was not received: \$ _____

5. Is all required contract work complete?

Yes___ No ___

Written Name of Subcontractor's Rep.

Signature:_____

Date:_____

ATTACHMENT 7

Demonstration of Good Faith Efforts - Forms 1 & 2

These forms are provided and used as part of CBS's solicitation process.

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

The undersigned bidder/offeror has satisfied the requirements of the bid specification in the following manner:

- ☐ Bidder/offeror has met the DBE contract goal.
The bidder/offeror is committed to a minimum of ____ % DBE utilization on this contract.
- ☐ Bidder/offeror has not met the DBE contract goal.
The bidder/offeror is committed to a minimum of ____% DBE utilization on this contract and has submitted documentation demonstrating good faith efforts.

Legal name of bidder/offeror's firm:

Bidder/offeror Representative:

Signature

Date

FORM 2: LETTER OF INTENT

Note: The authorized representative (AR) named below must be an individual vested with the authority to make contracting decisions on behalf of the firm.

Name of bidder/offeror's firm: _____

Name & title of firm's AR: _____

Phone: _____ Email: _____

Name of DBE firm: _____

Name & title of DBE firm's AR: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Work to be performed by DBE firm:

Description of Work	NAICS	Dollar Amount / %*	Dealer/Manufacturer**

**Percentage is to be used only in negotiated procurements, including design-build contracts*

***For material suppliers only, indicate whether the DBE is a manufacturer or a regular dealer as defined by §26.55.*

The undersigned bidder/offeror is committed to utilizing the above-named DBE firm for the work described above. The total expected dollar value of this work is

\$ _____. The bidder/offeror understands that if it is awarded the contract/agreement resulting from this procurement, it must enter into a subcontract with the DBE firm identified above that is representative of the type and amount of work listed. Bidder/offeror understands that upon submitting this form with its bid/offer, it may not substitute or terminate the DBE listed above without following the procedures of 49 CFR Part 26, §26.53.

Signature of Bidder/Offeror's Authorized Representative

Date: _____

The undersigned DBE affirms that it is ready, willing, and able to perform the amount and type of work as described above, and is properly certified to be counted for DBE participation therefore.

Signature of DBE's Authorized Representative

Date: _____

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

Submit this page for each DBE subcontractor.

ATTACHMENT 8

DBE Monitoring And Enforcement Mechanisms

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

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

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

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

ATTACHMENT 9

Small Business Element

A. Objective (49 CFR Part 26.39)

In accordance with 49 CFR Part 26.39, CBS has created an element to structure contracting requirements to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors. For clarification purposes, 49 CFR Part 26.5 states, "Small business concern" means, with respect to firms seeking to participate as DBEs in USDOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in §26.65(b)."

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

1. Where feasible, on FAA-assisted contracts, CBS will establish a race-neutral small business set-aside on prime contracts less than \$250,000. A "set-aside" is the reserving of a contract or a portion of a contract exclusively for participation by small businesses. A small business set-aside is open to all small businesses regardless of the owner's gender, race or geographic location.
2. On Prime contracts not having DBE contract goals, we will require prime contractors to provide subcontracting opportunities that small businesses, including DBEs, can reasonably perform, rather than self-performing all of the work.

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

B. Definitions

1. Small Business: A small business is a business that is independently owned and operated, is organized for profit, and is not dominant in its field. Depending on the industry, size standard eligibility is based on the average number of employees for the preceding twelve months or on sales volume averaged over a three-year period. Small businesses must meet the definitions specified in Section 3 of the Small Business Act and the Small Business Administration regulations implementing it (13 CFR Part 121).
2. Disadvantaged Business Enterprise: A for-profit small business (as defined by the Small Business Administration) — That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in

the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals;

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

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

C. Certification and Verification Procedures

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

1. Alaska DBE Certification – DBE Certification by Alaska USDOT&PF which stipulates that a firm has been determined to meet all the requirements in accordance with 49 CFR Part 26. All certification determinations are evidenced by a letter of DBE certification issued by Alaska USDOT&PF.
2. Alaska Small Business Enterprise (SBE) – Businesses must meet the U.S. Small Business Administration (SBA) size standards and submit a completed application. Firms currently certified as a DBE by Alaska USDOT&PF are eligible to participate in the SBE Element and do not need to submit a SBE application.

D. Assurances

CBS makes the following assurances:

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

SMALL BUSINESS PARTICIPATION PLAN	
Sponsor's Name:	
Airport Name:	
City, State:	
AIP Number:	
Federal Fiscal Year:	

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

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

Small Business Participation Plan (cont'd)

Name			
Address			
City, State, Zip			
Telephone			
Is the Firm DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Name			
Address			
City, State, Zip			
Telephone			
Is the Firm DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Name			
Address			
City, State, Zip			
Telephone			
Is the Firm DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		
Name			
Address			
City, State, Zip			
Telephone			
Is the Firm DBE?	<input type="checkbox"/> Yes <input type="checkbox"/> No		

The Contractor may duplicate this form as necessary if additional space is required.

The undersigned hereby assures that the information included herein is true and correct to the best of his/her knowledge, and that it is your intent to utilize these small business firm(s) listed for the work items noted.

By: _____ (Contractor's Signature) _____ (Title)

_____ (Contractor's Printed Name) _____ (Date)

ATTACHMENT 10

Overall DBE Three-Year Goal Methodology

INCLUDED UNDER SEPARATE COVER

ATTACHMENT 11

DBE Certification Application Link

<https://www.transportation.gov/sites/dot.gov/files/2021-02/uniform-certification-application%202.8.2021.pdf>

ANNUAL REPORT: SUMMARY OF PROGRESS PAYMENTS DURING FEDERAL FISCAL YEAR

FAA-Funded Contracts – Sitka Seaplane Base

[PROJECT NAME]
Contract No. **XXXXX**

By October 31st of each year, the Prime Contractor/Consultant must submit this form to the DBE Administrator at the email address below, summarizing the actual progress payments between October 1 and September 30 of the preceding Federal Fiscal Year (FFY). **All payments** should be recorded on this form, including all payments received and retained by the Prime Contractor/Consultant, as well as all payments made to all Subcontractors, regardless of the amount paid or their DBE status.

FFY 20XX Reporting Period: from October 1, 20XX through September 30, 20XX

In the table below, identify Firm Type by one of the following: Prime Contractor (P); Subcontractor (SUB); or Supplier (SUP).

Firm Name	Alaska* DBE (Yes/No)	Identify Firm Type	Work Performed	Amount Paid in This Reporting Period (FFY)	Running Totals Paid on Contract (from Notice to Proceed through Sept. 30, 20XX)

* To be considered an Alaskan DBE for this report, the firm must have achieved Alaska DBE certification prior to execution of this contract.

.....
The undersigned attests that the information being provided herein is accurate and complete to the best of their knowledge. Further, the undersigned authorizes the City & Borough of Sitka, Sitka Seaplane Base to verify the accuracy of the information provided.

Failure to comply with requirements of the DBE Program is a material breach that may result in contract termination or other remedy as the DBE Administrator deems appropriate.

Signature & Title of Prime Contractor/Consultant Representative

Date

Questions? Please contact the DBE Administrator at (907)-747-1807 or DBE@cityofsitka.org



The Alaska Unified Certification Program Agreement

The United States Department of Transportation (USDOT) has issued regulations at 49 CFR 26.81 (Subpart E) requiring that all direct and indirect recipients of USDOT funding within a state establish a Unified Certification Program (UCP). The purpose of the UCP is to provide a one-stop certification process for all businesses within each state seeking certification to participate in the USDOT Disadvantaged Business Enterprise (DBE) program. USDOT agencies requiring the UCP include: Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA).

As a recipient of USDOT funds, all the undersigned USDOT recipients have entered into this Agreement to form an Alaska Unified Certification Program (AUCP). The AUCP will be administered by the Alaska Department of Transportation & Public Facilities (Alaska DOT&PF). The undersigned agree that the AUCP shall make all certification decisions on behalf of all USDOT recipients within Alaska.

The purpose of the AUCP is to 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 Alaska. Under the AUCP, the firm applies one time with the Alaska DOT&PF, and if approved, that certification is shared by all other federal recipients Alaska.

All obligations of recipients with respect to certification and nondiscrimination will be carried out by the AUCP, and recipients may only use UCPs that comply with the certification and nondiscrimination requirements of 49 CFR Part 26.81. The undersigned also agree to the following terms and conditions:

1.0 AUCP Certification Location

The Alaska DOT&PF, 2200 East 42nd Avenue, Anchorage, Alaska (mailing address: PO Box 196900, Anchorage, AK 99519-6900) will serve as the centralized certification location for the AUCP.

1.1 Certification Standards

The AUCP will follow the Certification Standards of 49 CFR Part 26, Subpart D, and the Certification Procedures and Standards of 49 CFR Part 26, Subpart E in determining eligibility of firms to participate as a DBE in DOT-assisted contracts. Firms must meet all certification eligibility standards as indicated in the 49 CFR Part 26. Certification decisions are solely based on the minimum requirements indicated in 49 CFR Part 26. All certifications made by the AUCP are pre-certifications in accordance with 49 CFR 26.81(c).

1.2 Certification Appeals

Any firm or complainant wishing to appeal the AUCP's administrative, final denial of certification or decertification (under the provisions of 49 CFR 26.85, 26.87 and 26.89) may do so in writing to USDOT:

U.S. Department of Transportation
Departmental Office of Civil Rights W-78, 101
1200 New Jersey Ave.
Washington, D.C. 20590

The AUCP will promptly implement any USDOT certification appeal decision affecting the eligibility of a DBE for USDOT-assisted contracting in Alaska.

1.3 Annual DBE Affidavits

The AUCP will require all DBEs to annually submit a notarized affidavit which will affirm that there have been no change in circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or of any material changes in the information provided with their application for certification as required by 49 CFR 26.83(j).

The AUCP will notify all currently certified DBE firms of these obligations annually by certified mail.

1.4 Denial of DBE Certification to New Applicants

When a firm not previously certified as a DBE is found to be ineligible at the time of the firm's application submission, the firm will be denied certification as a DBE. The firm will be provided a written explanation of the reasons for denial as required by 49 CFR 26.85. Any firm denied certification as a DBE may appeal this decision within 90 days to USDOT at the address listed in Section 1.2.

When DBE certification is denied, the firm in question is ineligible to participate as a DBE on federally funded USDOT projects and may not reapply for certification for one year from the date of the final decision by either the Alaska DOT&PF Civil Rights Office or USDOT, whichever decision is the latter.

1.5.1 Removal of DBE Certification

When a DBE firm fails to continue to meet the standards for DBE certification, a written preliminary determination by Alaska DOT&PF to remove their DBE certification will be sent to the firm. When the owner(s) of a DBE firm believes the Alaska DOT&PF has made an error in its preliminary determination to remove its DBE certification, they may request an informal hearing of this determination, in accordance with subsection 1.5.3, Informal Hearing Process.

If a DBE firm chooses not to request an informal hearing, the determination shall be made final and the DBE certification will be removed. The DBE firm in question is not eligible to participate as a DBE on federally funded USDOT projects and may not reapply for DBE certification for at least one year from the date of the final decision by either Alaska DOT&PF or USDOT, whichever decision is the latter.

DBE firms may be subject to removal of DBE certification for various reasons including, but not limited to the following:

- a. The DBE firm no longer meets the eligibility requirements of 49 CFR Part 26;
- b. The DBE firm fails to provide current annual affidavits, supporting documents, and/or changes that would affect the eligibility of the firm as a DBE under 49 CFR Part 26;
- c. The DBE firm at any time refuses to cooperate with requests by the Alaska DOT&PF for information and/or documentation required by 49 CFR Part 26;
- d. The DBE firm is debarred or suspended by the Alaska DOT&PF or USDOT;
- e. The Alaska DOT&PF determines that DBE eligibility was based on "Pro Forma" practices, procedures, or changes;
- f. The DBE fails to cooperate with the Alaska DOT&PF in accordance with 49 CFR Part 26.109(c).

1.5.2 Due Process

When allegations or concerns have arisen which could result in the removal of the DBE certification of a firm, Alaska DOT&PF will assign a CRO Certification Officer to review and consider the allegations and/or concerns. The assigned CRO Certification Officer will evaluate the information that has been provided and identify those issues, which, if true, could impact the DBE firm's continued eligibility. If the allegations/concerns are found to be true, Alaska DOT&PF will provide written notice to the DBE firm, and a Notice of Preliminary Determination to Remove DBE Certification, which identifies the problem areas and provides a timeframe within which the DBE firm must respond to the allegations/concerns. A DBE firm so notified, is entitled to an informal hearing as described in subsection 1.5.3, except for an Alaska DOT&PF

determination that concludes the DBE firm owner(s) exceed the personal net worth standards and the determination is not disputed by the DBE firm.

Should the DBE firm fail to exercise its right to an informal hearing within the time limits specified, then the DBE certification shall be removed for that firm effective the day after the expiration of their right to an informal hearing.

1.5.3 Informal Hearing Process

A DBE firm that is notified of intent to remove its certification is entitled to an informal hearing in accordance with §26.87. The firm may elect to present information and arguments in person, writing or telephonically at a hearing. To ensure separation of functions in an informal hearing, we have determined that a member of the Western Association of Highway and State Transportation Officials (WASHTO) will serve as the knowledgeable decision-maker. By utilizing the resources of WASHTO, the Alaska DOT&PF has established an administrative firewall to ensure that the knowledgeable decision-maker will not have participated in any way in the preliminary determination to remove the certification of the DBE firm.

While an informal hearing decision is pending, the DBE in question is eligible to participate as a DBE on USDOT federally funded projects. Once the informal hearing decision is issued and the preliminary decision of Alaska DOT&PF is made final, the firm may not reapply for DBE certification for six months from the date of the decision by the member of the WASHTO. A firm may appeal the informal hearing decision in writing to USDOT within 90 days from the date of the final decision by the member of the WASHTO.

2.0 Third Party Complaints Regarding DBE Certification

Any third party may file a written complaint with Alaska DOT&PF regarding the qualification of a firm that is currently certified or have applied for certification as a DBE. The complaint must include all relevant and factual information which addresses the firm's qualifications. Alaska DOT&PF will provide written notice to both the complainant and the firm in question that a complaint has been received relative to the firm's DBE qualifications.

The identity of the complainant shall be maintained by Alaska DOT&PF as confidential information unless it hinders or prevents the investigation of the complaint (i.e., the nature and/or circumstances of the complaint would disclose the identity of the complainant to the DBE firm in question) in accordance with 49 CFR 26.109(b). In such cases where the DBE firm in question may know or be able to discern the identity of the complainant, or result in a denial of appropriate administrative due process to other parties, Alaska DOT&PF will inform the complainant and request written permission from to disclose their identity should it become necessary during the course of the investigation.

The complaint will be investigated by Alaska DOT&PF to determine whether the DBE firm is qualified for the DBE Program under the provisions of 49 CFR Part 26. If the investigation concludes that there is no validity, Alaska DOT&PF will provide the findings with reasons for the finding of no reasonable cause in writing to both the complainant and the firm. Also, the complainant will be provided information of the right to appeal Alaska DOT&PF's decision to USDOT.

If Alaska DOT&PF determines there is reasonable cause to believe the firm in question is unqualified, Alaska DOT&PF will:

- follow the procedures as outlined in 49 CFR Part 26 and subsection 1.4 of this agreement to deny certification for new applicants; or
- follow the procedures as outlined in 49 CFR Part 26 and subsection 1.5 of this agreement to remove a DBE firm's certification.

3.0 DBE Directory

The AUCP will maintain a directory identifying all firms certified as a DBE. The directory will include: firm's name, address, phone number, NAICS Code, and the type of work the firm has been certified to perform. The AUCP will make the Directory available as follows:

- The electronic directory will be updated when changes are made in accordance with 49 CFR 26.81(g) and will be the most current and accurate version available. The electronic directory should be used as the primary reference and is on the internet at: www.dotcivilrights.alaska.gov
- The print version of the directory will be revised once a year.

4.0 Cooperation, Oversight, Review and Monitoring Activities

The AUCP will fully cooperate with the oversight, review and monitoring activities of USDOT and its operating administrations (FHWA, FAA and FTA).

5.0 USDOT Directives and Guidance

The AUCP shall implement all required USDOT directives and guidance relative to DBE certification matters.

6.0 Resources and Expertise of the AUCP

All Alaska USDOT recipients are committed to insuring there are adequate resources to carry out the functions of the AUCP. The Alaska DOT&PF has assured all USDOT recipients that currently they have received the necessary resources within their own operating budget and have the adequate staff to administer the AUCP.

All Alaska USDOT recipients that are signatories to the AUCP Agreement affirm and concur that ALASKA DOT&PF has provided assurance that they have sufficient resources and expertise to carry out the certification requirements of 49 CFR Part 26.

7.0 Annual Meeting

Alaska DOT&PF Civil Rights will host a meeting in Anchorage for all Alaska USDOT recipients annually. The purpose of the meeting will be to discuss the functionality and improvement of the AUCP and/or discuss any needed changes/amendments. For those unable to attend in person, Alaska DOT&PF will provide teleconferencing as an option for participation. Alaska DOT&PF will not provide travel or lodging for this meeting.

8.0 Disputes with Administration of the AUCP

Any Alaska USDOT recipient may dispute the administration of the AUCP. Such a dispute shall be stated in writing, specifying the alleged administrative error(s) committed by the AUCP and supported by evidence based on 49 CFR Part 26. The dispute shall be submitted to the Alaska DOT&PF Civil Rights Manager for final resolution within 60 calendar days from date of receipt of the dispute. The Civil Rights Manager will: (1) acknowledge receipt and distribute immediately to all AUCP participants and (2) solicit and accept input from AUCP participants in addressing the concern(s). Once the fact gathering and input has concluded, the final outcome will be provided to all AUCP participants in writing.

9.0 Recipients - Direct and Indirect

Each Alaska USDOT direct recipient that is a signatory to the AUCP Agreement will ensure that all of its sub-recipients are bound by the terms and conditions of the AUCP. This will be done through a formal Transfer of Responsibility Agreement or similar agreement. Any failure to do so will be subject to review by the USDOT.

10.0 Participation in Regional UCPs

The AUCP will not participate in a regional UCP with another State unless Agreement to do so is reviewed and approved by all Alaska USDOT recipients.

11.0 Amendment of the AUCP Agreement

This Agreement will not be amended unless agreed to by all signatories to the Agreement or if ordered to do so by USDOT. Any significant change, which affects or alters the intent of the Agreement, is subject to review by the AUCP membership and approval by USDOT.

12.0 Implementation Schedule

Upon approval of this Agreement by the US Secretary of Transportation, this Agreement will be implemented. The AUCP agreement will be posted on the Alaska DOT&PF website.

13.0 Entire Agreement

This Agreement represents the entire Agreement between the parties. Any previous statements, whether oral or written, are merged into this Agreement.

The undersigned Alaska USDOT recipients agree to and accept the terms and conditions of the AUCP.

14.0 Agreement Interpretation

The language of this Agreement is to be construed according to its fair meaning and is not to be construed with a bias in favor of or against Alaska DOT&PF or the other signers of the Agreement.

15.0 Term of This Agreement

This agreement shall be valid as long as an AUCP is required by USDOT of its recipients for highway, airport and mass transit funding assistance.

The undersigned is authorized to execute the Alaska Unified Certification Program Agreement, conditionally approved by USDOT on May 8, 2003, and to bind the named recipient to the terms and conditions set forth in this agreement.

City & Borough of Sitka -
Sitka Seaplane Base

Name of Recipient / Agency

Date

DBE Liaison Officer / Authorized Representative
(Print Name)

Signature

