COLORADO DEPARTMENT OF TRANSPORTATION (CDOT)

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM MANUAL

REVISED JANUARY 2014

TABLE OF CONTENTS

SUBPART A – GENERAL 4
Section 1: Objectives 4
Section 2: Application 4
Section 3: Definitions and Terms 5
Section 4: Nondiscrimination 10
Section 5: USDOT Guidance and Interpretations 10
Section 6: Record Keeping and Reports 11
Section 7: Assurance Statements 12
Section 8: Exemptions or Waivers 12

SUBPART B – ADMINISTRATIVE REQUIREMENTS 13
Section 1: Policy Statement 13
Section 2: DBE Liaison Officer 13
Section 3: DBE Financial Institutions 13
Section 4: Prompt Payment and Retainage 14
Section 5: DBE Directory 15
Section 6: Overconcentration 15
Section 7: Monitoring and Enforcement Mechanisms 16
Section 8: Race-Neutral Small Business Participation 17

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING 18
Section 1: Role of Statutory 10% Goal 18
Section 2: Use of Set-Asides or Quotas 18
Section 3: Setting Overall Goals 18
Section 4: Failure to Meet Overall Goal 19
Section 5: Transit Vehicle Manufacturers 20
Section 6: Meeting Annual Overall Goals 21
Section 7: Contract Goals 23
Section 8: Good Faith Efforts Process 24
Section 9: Counting DBE Participation Toward Goals 25

SUBPART D – DBE CERTIFICATION APPLICATION AND STANDARDS 31
Section 1: DBE Application 31
Section 2: Reporting Changes 31
Section 3: Burdens of Proof 32
Section 4: Group Membership 32
Section 5: Business Size Determinations 33
Section 6: Determination of Social and Economic Disadvantage 33
Section 7: Determination of Ownership 38
Section 8: Determination of Control 41
Section 9: Other Rules Affecting Certification 46

SUBPART E – CERTIFICATION PROCEDURES 50
Section 1: Unified Certification Programs 50
Section 2: Procedures in Making Certification Decisions 51
Section 3: Interstate Certification 55
Section 4: Denials of Initial Requests for Certification 59
Section 5: Removing a DBE's Eligibility 59
Section 6: Appealing Certification Decisions to the USDOT 63
Section 7: Effect of USDOT Certification Appeal Decisions 66

SUBPART F – COMPLIANCE AND ENFORCEMENT 68
Section 1: Compliance Procedures Which Apply to CDOT 68
Section 2: Enforcement Actions under FHWA and FTA 68
Section 3: Enforcement Actions in FAA Programs 70
Section 4: Enforcement Actions for Participants in the DBE Program 70
Section 5: Confidentiality, Cooperation, and Intimidation or Retaliation 71

SUBPART G – APPENDIX TO PART 26 73
Appendix A: Guidance Concerning Good Faith Efforts 73

SUBPART H – EXHIBITS 76

SUBPART A – GENERAL

Section 1: Objectives

The Colorado Department of Transportation (CDOT) Disadvantaged Business Enterprise (DBE) Program seeks to achieve the following objectives:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;

2. To create a level playing field on which DBEs can compete fairly for contracts;

3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;

4. To ensure that only firms that fully meet the DBE Program eligibility standards are permitted to participate as DBEs;

5. To help remove barriers to the participation of DBEs in DOT-assisted contracts;

6. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program; and

7. To provide appropriate flexibility in establishing and providing opportunities for DBEs.

Ref: 49 CFR 26.1

Section 2: Application

1. This DBE Program applies to CDOT and all Subrecipients that directly or indirectly receive the following:

    a) Federal-aid highway funds authorized under Titles I (other than Part B) and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, or Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat. 107;

    b) Federal transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178; and

    c) Airport funds authorized by 49 U.S.C. 47101, et seq.

2. The DBE Program does not apply to:

    a) Any contract that is to be performed entirely outside the United States, its territories and possessions, Puerto Rico, Guam, or the Northern Marianas Islands; or

    b) Any contract that is not DOT-assisted.

Ref: 49 CFR 26.3

Section 3: Definitions and Terms

1. **Affiliates** (except as otherwise provided in 13 CFR Part 121) means, concerns are affiliates of each other when, either directly or indirectly:

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

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

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

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

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

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

4. **Asian-American** means an individual or group that is Asian Pacific American or Subcontinent Asian American as defined below.

5. **CDOT** means the Colorado Department of Transportation.

6. **CFR** means the Code of Federal Regulations.

7. **Compliance** means that a recipient has correctly implemented the requirements of 49 CFR Part 26.

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

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

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

11. **Disadvantaged Business Enterprise or DBE** means a for-profit small business concern:

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

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

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

13. **DBE Program** means the program administered by CDOT according to this DBE Program Manual in order to carry out the requirements of 49 CFR Part 26.

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

15. **Emerging Small Business (ESB) Program** means CDOT's race-neutral small business program governed by 2 CCR 604-1 and the ESB Program Guidelines.

16. **Good Faith Efforts** means efforts to achieve a DBE goal which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the goal.

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

18. **Immediate family member** means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.

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

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

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

22. **Noncompliance** means that a recipient has not correctly implemented the requirements of 49 CFR Part 26.

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

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

25. **Primary industry classification** means the North American Industrial Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in *North American Industry Classification System (NAICS Manual), United States 2007* which is available from the National Technical Information Service, 5285 Port Royal Road, Springfield, VA, 22161; by calling 1 (800) 553-6847; or via the Internet at: www.ntis.gov/products/naics.aspx.

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

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

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

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

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

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

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

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

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

35. **Small business concern** means, with respect to firms seeking to participate as DBEs in state and DOT-assisted contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR Part 26.65(b).

36. **Socially and economically disadvantaged** individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

    a) Any individual who a recipient finds to be a socially and economically disadvantaged individual;

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

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

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

        iii. **"Native Americans,"** which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;

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

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

        vi. **"Women,"** which means females of any ethnicity;

        vii. **"Other,"** which means any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective and/or individuals who have been determined to be socially and economically disadvantaged based on the criteria for social and economic disadvantage.

37. **Subrecipient** means any recipient that receives Federal funds from FHWA, FTA or FAA through CDOT.

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

Ref: 49 CFR 26.5

Section 4: Nondiscrimination

1. CDOT will not 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.

2. In administering its DBE Program, CDOT 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 program with respect to individuals of a particular race, color, sex, or national origin.

Ref: 49 CFR 26.7

Section 5: USDOT Guidance and Interpretations

1. Only guidance and interpretations (including interpretations set forth in certification appeal decisions) consistent with this 49 CFR Part 26 and issued after March 4, 1999 have definitive, binding effect in implementing the provisions of CDOT's DBE Program and constitute the official position of the Department of Transportation.

2. Written interpretations and guidance are valid and binding, and constitute the official position of the Department of Transportation, only if they are issued over the signature of the Secretary of Transportation.

Ref: 49 CFR 26.9

Section 6: Record Keeping and Reports

1. CDOT will transmit the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to this part, at the intervals stated on the form or as otherwise requested by the DOT.

2. CDOT will continue to provide data about the DBE Program to the Department as directed by DOT OAs and will provide to DOT updates of any significant changes to its DBE Program.

3. CDOT created and maintains an online bidders list called the *CDOT Bidders Loop* (www.coloradodot.info/business/equal-opportunity/dbe/cdot-bidders-loop.html).

   a) CDOT uses the Bidders Loop to communicate valuable and time-sensitive information electronically to firms actively seeking work on CDOT's highway construction and engineering projects.

   b) An enrollment survey required for participation in the Bidders Loop provides data about DBE and non-DBE contractors and subcontractors who seek opportunities on CDOT's Federally-assisted contracts. CDOT will use this data for setting overall goals. It includes:

      i. Firm name;

      ii. Firm address;

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

      iv. The age of the firm; and

      v. The annual gross receipts of the firm by bracket (less than $500,000; $500,000 - $1 million; $1 - 2 million; $2 - 5 million; etc.).

Ref: 49 CFR 26.11

Section 7: Assurance Statements

1. Each financial assistance agreement CDOT signs with a DOT OA (or a primary recipient) will include the following assurance:

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

2. Each contract CDOT signs with a subrecipient or contractor will include the following assurance:

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

Ref: 49 CFR 26.13

Section 8: Exemptions or Waivers

1. CDOT is not currently operating under any exemptions or waivers to this part. If any such exemption or waiver becomes necessary, CDOT will follow the procedures outlined in 49 CFR 26.15.

2. DOT approval of CDOT's DBE Program can be found at **Subpart H, Exhibit A**.

Ref: 49 CFR 26.15

SUBPART B – ADMINISTRATIVE REQUIREMENTS

Section 1: Policy Statement

CDOT has issued signed Policy Directive 611.0, which complies with the requirements of 49 CFR 26.23. A copy of Policy Directive 611.0 is found in **Subpart H, Exhibit B.**

Ref: 49 CFR Part 26.23

Section 2: DBE Liaison Officer

1. CDOT has designated the following individual as the DBE Liaison Officer:

   Greg Diehl, Manager
   4201 E. Arkansas Avenue, Room 150
   Denver, CO 80222
   303-757-9599
   greg.diehl@state.co.us

2. The DBE Liaison Officer is responsible for developing, implementing and monitoring all aspects of the DBE Program, with other appropriate officials, and ensuring that the CDOT complies with all provisions of 49 CFR Part 26.

Ref: 49 CFR 26.25

Section 3: DBE Financial Institutions

1. CDOT encourages and promotes the use of financial institutions owned and controlled by socially and economically disadvantaged individuals in Colorado. CDOT has identified two such banks in Colorado: the Native American Bank, NA., and Solera National Bank.

2. Information on the availability of such institutions can be obtained from the Business Programs Office, and at osdbu.dot.gov/financial/stlp.cfm.

Ref: 49 CFR 26.27

Section 4: Prompt Payment and Retainage

1. Under Colorado's Prompt Payment Law (CRS 24-91-103(2)) and CDOT Standard Specifications for Road and Bridge Construction Section 109.06, every contractor must pay its subcontractors within seven calendar days of receipt of payment unless there is good cause for delay. Colorado's Prompt Pay Law is in **Subpart H, Exhibit C**.

    a) Contractors are required to submit CDOT Form 1418 monthly in order to demonstrate compliance with the Prompt Pay Law.

    b) CDOT's Resident Engineers (RE) will investigate and act on complaints regarding lack of prompt payment. If an RE determines that the prime contractor is delinquent, the RE may do one of the following:

        i. Withhold progress payments until the contractor becomes compliant;

        ii. Recommend that the contractor's prequalification level for bidding on future contracts be lowered for a certain period of time; and/or

        iii. Recommend that the contractor's prequalification to bid on future projects be suspended.

    The Chief Engineer will follow the standard procedure to examine whether the contractor's prequalification should be suspended or demoted based on the contractor's failure to obey the law.

    c) Contractors and subcontractors may view CDOT pay estimates at: www.coloradodot.info/business/payestimates/.

2. Under CDOT Standard Specifications for Road and Bridge Construction Section 109.06, CDOT may withhold retainage from contractors.

    a) CDOT provides for incremental acceptances of portions of the prime contract and pays retainage to prime contractors based on these acceptances.

    b) Every agreement entered into with a prime contractor requires the contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted to the prime contractor.

c) Section 109.06 Retainage and Partial Payments and Form 1418 are in **Subpart H, Exhibit D** and can also be accessed online at www.coloradodot.info/business/designsupport/construction-specifications/2011-Specs/2011-specs-book.

Ref: 49 CFR 26.29

Section 5: DBE Directory

1. CDOT maintains and makes available to all persons an online DBE Directory identifying all firms certified by the Colorado Uniform Certification Program (UCP). The listing for each firm includes the firm's name, address, phone number, fax number, email, and contact person.

2. The DBE Directory lists each type of work for which a firm is eligible as a DBE according to NAICS code(s). A complete work code consists of a 6-digit industry sector code and a text description.

3. CDOT strives to include in its DBE Directory all DBEs that can reasonably be expected to compete for intermodal transportation-related work.

4. The DBE Directory can be viewed online at www.coloradodbe.org/. As part of its UCP agreement, CDOT revises and publishes updates to the online directory daily.

5. Sample pages from the DBE Directory may be found in **Subpart H, Exhibit E**.

Ref: 49 CFR 26.31

Section 6: Overconcentration

1. CDOT will review DBE participation reports and statistics each year to determine whether an overconcentration of DBEs has become a problem.

2. If CDOT determines that DBE firms are so over-concentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work, CDOT will devise appropriate measures to address this overconcentration and obtain the approval of the concerned DOT operating administration.

3. In the past, when CDOT has identified an overconcentration of DBEs in a specific type of work, CDOT has varied the use of contract goals, to the extent consistent with 49 CFR 26.51, to ensure that non-DBEs are not unfairly prevented from competing for subcontracts.

Ref: 49 CFR 26.33

Section 7: Monitoring and Enforcement Mechanisms

1. CDOT will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the DBE Program, so that the DOT can proceed with enforcement as provided in 49 CFR 26.109. CDOT also will consider similar action under CDOT's own legal authorities, including review of the contractor's prequalification to bid and possible debarment actions.

2. As part of normal business practices, CDOT monitors construction work sites and relevant documentation 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. The Project Engineer and/or Project Manager is responsible for such monitoring and must confirm participation quarterly on CDOT Form 1419.

3. Please refer to CDOT's standard special provision as found in **Subpart H, Exhibit F** or online at www.coloradodot.info/business/designsupport/construction-specifications/2011-Specs/standard-special-provisions/mics/DBE.docx for a detailed description of the current monitoring and enforcement mechanisms in place on CDOT construction contracts.

4. The forms CDOT uses to monitor and enforce the DBE Program on construction contracts are found in **Subpart H, Exhibit G.**

5. CDOT's forms provide the data which is entered into its systems in order to provide a running tally of actual DBE utilization (e.g., payments actually made to DBE firms), including a means of comparing utilization to commitments.

    a) CDOT utilizes the semi-annual Uniform Report of DBE Awards or Commitments and Payments Form to provide this information to FHWA, FTA and FAA. The semi-annual Uniform Report of DBE Awards or Commitments and Payments Form can be found at **Subpart H, Exhibit H**.

b) In addition, commitments and utilization are reported to CDOT's Transportation Commission monthly. The DBE Monthly Report for Construction Contracts form can be found at **Subpart H, Exhibit J**

Ref: 49 CFR 26.37

Section 8: Race-Neutral Small Business Participation

1. CDOT's Emerging Small Business (ESB) Program is a state-funded race-neutral small business program designed to assist emerging small businesses in competing for CDOT state and federally funded contracting opportunities.

2. The ESB Program was adopted by the Colorado Transportation Commission and is administered by the CDOT Civil Rights & Business Resource Center.

3. The rules governing the administration of the ESB Program can be found in **Subpart H, Exhibit K.**

   Ref: 49 CFR 26.39

SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 1: Role of Statutory 10% Goal

1. The statutes authorizing the DBE Program provide that, except to the extent the Secretary determines otherwise, not less than 10 percent of the authorized funds are to be expended with DBEs.

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

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

Ref: 49 CFR 26.41

Section 2: Use of Set-Asides or Quotas

CDOT does not use set-asides or quotas for DBEs in the administration of its DBE Program.

Ref: 49 CFR 26.43

Section 3: Setting Overall Goals

1. CDOT sets a separate and distinct overall goal for each USDOT funding source: Federal Highway Administration (FHWA), Federal Transit Administration (FTA) and Federal Aviation Administration (FAA). Given the significant differences between the distribution and utilization of these funds, separation of the DBE goals allows CDOT to appropriately tailor the DBE program to the relative industry.

2. CDOT sets its overall goals based upon the relative availability of DBEs in an attempt to generate the DBE participation one would expect absent the effects of discrimination.

3. CDOT reviews and sets its overall goals on the three-year cycles established by FHWA, FTA and FAA. FHWA's goal submission schedule can be found at www.fhwa.dot.gov/civilrights/memos/dbememogoalcycle2010.htm.

4. **Subpart H, Exhibit L** is a detailed description of CDOT's methodology for establishing its FHWA, FTA, and FAA overall goals.

Ref: 49 CFR 26.45

Section 4: Failure to Meet Overall Goal

1. CDOT cannot be penalized or treated by the Department as being in noncompliance with the 49 CFR Part 26 because CDOT's DBE participation falls short of the overall goal set by CDOT unless:

    a) CDOT has failed to implement and administer the DBE program in good faith;

    b) CDOT does not have an approved DBE program; or

    c) CDOT does not have an overall DBE goal.

2. If the awards and commitments shown on CDOT's 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, CDOT will do the following in order to be regarded by the Department as implementing its DBE program in good faith:

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

    b) Establish specific steps and milestones to correct the problems CDOT identifies in its analysis and to enable it to meet fully its goal for the new fiscal year;

    c) CDOT will submit, within 90 days of the end of the fiscal year, the analysis and corrective actions developed under paragraphs (2)(a) and (b) of this section to the appropriate OA for approval. If the OA approves the report, CDOT will be regarded as complying with the requirements of this section for the remainder of the fiscal year.

3. The OA may impose conditions on CDOT as part of its approval of CDOT's analysis and corrective actions including, but not limited to, modifications to its overall goal methodology, changes in its race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.

4. CDOT may be regarded as being in noncompliance with 49 CFR Part 26 and therefore subject to the remedies in 49 CFR 26.103 or 26.105 and other applicable regulations, for failing to implement its DBE Program in good faith if any of the following things occur:

    a) CDOT did not submit its analysis and corrective actions to the OA in a timely manner as required under paragraph (c)(3) of this section;

    b) The OA disapproves CDOT's analysis or corrective actions; or

    c) CDOT does not fully implement the corrective actions to which it has committed or conditions that the OA has imposed following review of CDOT's analysis and corrective actions.

5. If CDOT's Uniform Report of DBE Awards or Commitments and Payments or other information coming to the attention of the OA, demonstrates that current trends make it unlikely that CDOT will achieve DBE awards and commitments that would be necessary to allow it to meet its overall goal at the end of the fiscal year, The OA may require CDOT to make further good faith efforts, such as by modifying its race-conscious/race-neutral split or introducing additional race-neutral or race-conscious measures for the remainder of the fiscal year.

Ref: 49 CFR 26.47

Section 5: Transit Vehicle Manufacturers

1. CDOT, as an FTA recipient, requires that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the requirements of 49 CFR 26.49.

2. CDOT does not include FTA assistance used for procurements from transit vehicle manufacturers in the base amount from which CDOT's overall goal is calculated.

Ref: 49 CFR 26.49

Section 6: Meeting Annual Overall Goals

1. CDOT's overall annual goals provide for participation by all certified DBEs and are not limited to specific groups.

2. CDOT meets the maximum feasible portion of its overall goals using race-neutral methods.

3. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low bid system to award subcontracts).

4. The race-neutral means CDOT intends to use include, but are not limited to, the following:

    a) Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation;

    b) Unbundling large contracts to make them more accessible to small businesses;

    c) Requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces;

    d) Through the DBE Supportive Services Program, providing DBEs with 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, developing and improving immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;

    e) 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);

f) 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;

g) Focusing on special projects to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;

h) Ensuring distribution of CDOT's DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and

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

5. Upon review of its overall goal, CDOT will submit its projection of the portion of the overall goal expected to be met through race-neutral means and the basis for that projection.

6. CDOT will establish contract goals to meet any portion of its overall goals that it does not project being able to meet using race-neutral means.

7. If the DBE participation CDOT has obtained by race-neutral means alone meets or exceeds CDOT's overall goals for two consecutive years, CDOT will continue using only race-neutral means to meet CDOT's overall goals unless and until CDOT does not meet CDOT's overall goal for a year.

8. If CDOT obtains DBE participation that exceeds CDOT's overall goal in two consecutive years through the use of contract goals (i.e., not through the use of race-neutral means alone), CDOT will reduce CDOT's use of contract goals proportionately in the following year.

9. In any year in which CDOT projects meeting part of CDOT's goal through race-neutral means and the remainder through contract goals, CDOT will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively, and CDOT will report this data to the concerned OA as provided in 49 CFR 26.11.

10. CDOT monitors the actual payments to DBE firms for work committed to them at the time of contract award through a process described as follows:

a) Interim audits of contract payments to DBEs, which include a review of payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation;

b) CDOT Form 17 to determine whether the total amount a contractor has paid to DBEs on each project is equal to the amounts reported to CDOT on previous forms;

c) CDOT requires prime contractors and subcontractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records must be made available for inspection upon request by any authorized representative of CDOT or the DOT.

11. CDOT reports DBE participation to each OA on a semi-annual basis, using DOT's Uniform Report of DBE Awards or Commitments and Payments Form.

Ref: 49 CFR 26.51

Section 7: Contract Goals

1. CDOT will use contract goals to meet any portion of the overall goal CDOT does not project being able to meet using race-neutral means.

2. CDOT will express its contract goals as percentages of the total amount of a contract. CDOT will monitor DBE participation by gender and ethnicity and by Federal dollars and by total dollars.

3. CDOT will set contract goals only on those contracts that have subcontracting possibilities that meet the appropriate availability and capacity benchmarks established through its goal setting process. This process includes such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. However, over the period covered by CDOT's overall goal, CDOT will set contract goals so that they will cumulatively result in meeting any portion of CDOT's overall goal CDOT does not project being able to meet through the use of race-neutral means.

4. Although FHWA's approval of each contract goal is not required, they may review and approve or disapprove any contract goal CDOT establishes.

5. If, during the course of any year in which CDOT is using contract goals, CDOT determines that it will exceed its overall goal, CDOT will reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If CDOT determines that it will fall short of its overall goal, then CDOT will make appropriate modifications in its use of race-neutral and/or race-conscious measures to allow it to meet the overall goal.

Ref: 49 CFR 26.51

Section 8: Good Faith Efforts Process

1. When CDOT has established a DBE contract goal, CDOT will award the contract only to a bidder who makes good faith efforts to meet it. CDOT will determine that a bidder has made good faith efforts if the bidder does either of the following things:

    a) Documents that it has obtained enough DBE participation to meet the goal; or

    b) Documents that it made adequate good faith efforts to meet the goal, even though it did not succeed in obtaining enough DBE participation to do so. If the bidder documents adequate good faith efforts, CDOT will not deny award of the contract on the basis that the bidder failed to meet the goal.

2. In its solicitations for contracts for which a contract goal has been established, CDOT will require from the apparent low bidder the following information andaward of the contract will be conditioned on meeting the requirements of this section:

    a) The names and addresses of DBE firms that will participate in the contract;

    b) Description of the work that each DBE will perform;

    c) The dollar amount of the participation of each DBE firm participating;

    d) Written documentation of the bidder commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;

    e) Written confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and

    f) If the contract goal is not met, and evidence of good faith efforts.

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

4. CDOT will apply the requirements of this section to DBE bidders for prime contracts. In determining whether a DBE bidder for a prime contract has met a contract goal, CDOT will count the work the DBE has committed to performing with its own forces as well as the work that it has committed to be performed by DBE subcontractors and DBE suppliers.

5. CDOT also has a Good Faith Efforts requirement when a DBE is replaced on a contract. CDOT requires a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. CDOT requires the prime contractor to notify the project engineer and the Region Civil Rights Manager immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation. In this situation, CDOT will require the prime contractor to obtain CDOT's prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith effort.

6. Standard contract sanctions apply to DBE Participation and/or Good Faith Efforts.

7. The forms relevant to this section can be found in **Subpart H, Exhibit G** The DBE Standard Special Provision which enforces items in this section can be found in **Subpart H, Exhibit F**.

Ref: 49 CFR 26.53

Section 9: Counting DBE Participation Toward Goals

1. CDOT considers all DBEs to be underutilized DBEs. Therefore, CDOT will count all DBE participation toward its overall and contract goals.

2. When a DBE participates in a contract, CDOT will count toward DBE goals only the value of the work actually performed by the DBE.

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

b) CDOT will count the entire amount of fees or commissions charged by a DBE firm for providing a bona fide service, such as professional, technical, consultant, or managerial services, or for providing bonds or insurance specifically required for the performance of a contract, toward DBE goals, provided CDOT determines the fee to be reasonable and not excessive as compared with fees customarily allowed for similar services.

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

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

4. CDOT will count expenditures to a DBE contractor toward DBE goals only if the DBE is performing a commercially useful function on that contract. A DBE performs a commercially useful function when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a commercially useful function, the DBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself.

a) To determine whether a DBE is performing a commercially useful function, CDOT will evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing and the DBE credit claimed for its performance of the work, and other relevant factors.

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

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

d) When a DBE is presumed not to be performing a commercially useful function, the DBE may present evidence to rebut this presumption. CDOT may determine that the firm is performing a commercially useful function given the type of work involved and normal industry practices.

e) CDOT's decisions on commercially useful function matters are subject to review by the concerned OA, but are not administratively appealable to DOT.

5. CDOT will use the following factors in determining whether a DBE trucking company is performing a commercially useful function:

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

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

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

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

e) The DBE may also lease trucks from a non-DBE firm, including an owner-operator. The DBE who leases trucks from a non-DBE is entitled to credit only for the fee or commission it receives as a result of the lease arrangement. The DBE does not receive credit for the total value of the transportation services provided by the lessee, since these services are not provided by a DBE.

NOTE: CDOT has not chosen to adopt the option of "one-for-one" counting allowed by 49 CFR 26.55(d).

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

6. Only work performed by DBEs in the work code(s) for which they are certified on the DBE Directory shall count toward the goals.

    a) If the contractor is a DBE, the eligibility of the work shall be based upon its certification status at the time of the performance of the work.

    b) For a DBE subcontractor, subconsultant, or supplier, the eligibility of the work shall be based upon the certified work codes of the DBE upon approval of the subcontract.

7. CDOT will count expenditures with DBEs for materials or supplies toward DBE goals as provided in the following:

    a) If the materials or supplies are obtained from a DBE manufacturer, CDOT will count 100 percent of the cost of the materials or supplies toward DBE goals;

        i. For purposes of this section, a manufacturer is a firm that operates or maintains a factory or establishment that produces, on the premises, the materials, supplies, articles, or equipment required under the contract and of the general character described by the specifications;

    b) If the materials or supplies are purchased from a DBE regular dealer, CDOT will count 60 percent of the cost of the materials or supplies toward DBE goals.

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

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

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

iv. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not regular dealers within the meaning of this section.

8. Trucking contracts performed by DBE firms shall count toward the goals as follows:

   a) The DBE trucking firm shall receive credit for all transportation services performed with its own trucks and employees and/or DBE lessees;

   b) The DBE trucking firm will not receive credit for any work performed by non-DBE lessees; and

   c) Where a DBE trucking firm acts as a broker it shall only receive credit for its fees and services in accordance with 49 CFR 26.55(a)(2) provided it is certified as a broker on the DBE Directory.

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

9. 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, CDOT will not count the firm's participation toward any DBE goals, except as provided for in 49 CFR26.87(i).

10. CDOT will not count the dollar value of work performed under a contract with a firm after it has ceased to be certified toward CDOT overall goal.

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

Ref: 49 CFR 26.55

SUBPART D – DBE CERTIFICATION APPLICATION AND STANDARDS

Section 1: DBE Application

1. CDOT's certification application form and documentation requirements are found in **Subpart H, Exhibit M**.

2. For information about the certification process or to apply for certification, firms should contact CDOT at 303-512-4140 or www.coloradodot.info/business/equal-opportunity/dbe/certification.html.

Ref: 49 CFR 26.83

Section 2: Reporting Changes

1. Each year, on the anniversary of a firm's certification, CDOT will require DBEs to submit an affidavit stating that there has been no change in ownership or control along with documentation of the firm's size and gross receipts.

2. CDOT will notify all currently-certified DBE firms of these requirements at the time the firm is originally certified and with their annual review. This notification will inform DBEs to submit the no-change affidavit, and that their owners must swear or affirm that they meet all regulatory requirements of 49 CFR Part 26, including personal net worth. Likewise, if a firm's owner knows or should know that he, she, or the firm fails to meet a 49 CFR Part 26 eligibility requirement (e.g., personal net worth), the obligation to submit a notice of change applies.

3. The form used to report changes is found in **Subpart H, Exhibit N**.

Ref: 49 CFR 26.83

Section 3: Burdens of Proof

1. In determining whether to certify a firm as eligible to participate as a DBE, CDOT will apply the standards of 49 CFR 26.61.

2. The firm seeking certification has the burden of demonstrating to CDOT, by a preponderance of the evidence, that it meets the requirements of this subpart concerning social disadvantage, business size, ownership, and control.

3. CDOT will rebuttably presume that members of the designated groups identified in 49 CFR 26.67(a) are socially and economically disadvantaged. This means they do not have the burden of proving to CDOT they are socially and economically disadvantaged. In order to obtain the benefit of the rebuttable presumption, individuals must submit a signed, notarized statement that they are a member of one of the groups in 49 CFR 26.67(a). Applicants do have the obligation to provide CDOT with information concerning their economic disadvantage (see 49 CFR 26.67).

4. CDOT will make determinations concerning whether individuals and firms have met their burden of demonstrating ownership, control, and social and economic disadvantage by considering all the facts in the record, viewed as a whole.

Ref: 49 CFR 26.61

Section 4: Group Membership

1. If, after reviewing the signed notarized statement of membership in a presumptively disadvantaged group (see 49 CFR 26.61(c)), CDOT has a well-founded reason to question the individual's claim of membership in that group, CDOT will require the individual to present additional evidence that he or she is a member of the group.

2. CDOT will provide the individual a written explanation of its reasons for questioning his or her group membership and a written request for additional evidence as outlined in paragraph (4) of this section.

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

4. In determining a group membership classification, CDOT will consider whether the person has held himself out to be a member of the group over a long period of time prior to application for certification and whether the person is regarded as a member of the group by the relevant community. CDOT may require the applicant to produce appropriate documentation of group membership.

5. If there is a determination that an applicant claiming to be a member of a group presumed to be disadvantaged is not a member of a designated disadvantaged group, the applicant will be required to demonstrate social and economic disadvantage on an individual basis.

6. CDOT's decisions concerning membership classifications are subject to COUCP's certification appeals procedure. **Subpart H, Exhibit O** contains the full COUCP agreement.

Ref: 49 CFR 26.63

Section 5: Business Size Determinations

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

2. Even if it meets the requirements of paragraph (1) of this section, a firm is not an eligible DBE in any Federal fiscal year if the firm (including its affiliates) has had average annual gross receipts, as defined by SBA regulations (see 13 CFR 121.402), over the firm's previous three fiscal years, in excess of $22.41 million. The Secretary adjusts this amount for inflation from time to time.

Ref: 49 CFR 26.65

Section 6: Determination of Social and Economic Disadvantage

1. Determination of Social Disadvantage:

    a) CDOT will require all DBE applicants to submit a signed, notarized certification that the company's disadvantaged owner(s) have experienced social disadvantage based upon the effects of racial, ethnic or gender discriminations as a prerequisite to certification for CDOT projects.

b) Firms owned and controlled by individuals who are not presumed to be socially and economically disadvantaged (including individuals whose presumed disadvantage has been rebutted) may apply for DBE certification. CDOT will make a case-by-case determination of whether each individual whose ownership and control are relied upon for DBE certification is socially and economically disadvantaged. In such a proceeding, the applicant firm has the burden of demonstrating to CDOT, by a preponderance of the evidence, that the individuals who own and control it are socially and economically disadvantaged. An individual whose personal net worth exceeds $1.32 million shall not be deemed to be economically disadvantaged. In making these determinations, CDOT will use the guidance found in Appendix E of 49 CFR Part 26. CDOT will require that applicants provide sufficient information to permit determinations under the guidance of Appendix E of 49 CFR Part 26.

2. Determination of Economic Disadvantage:

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

b) CDOT will require each individual owner of a firm applying to participate as a DBE (except a firm applying to participate as a DBE airport concessionaire) whose ownership and control are relied upon for DBE certification to certify that he or she has a personal net worth that does not exceed $1.32 million.

c) CDOT will require each individual who makes this certification to support it with a signed, notarized statement of personal net worth, with appropriate supporting documentation. This statement and documentation will not be unduly lengthy, burdensome, or intrusive.

d) The personal net worth form is found in the DBE Certification application in **Subpart H, Exhibit M**; the Change Affidavit form is in **Subpart H, Exhibit N**.

e) In determining net worth, CDOT will exclude an individual's ownership interest in the applicant firm and the individual's equity in his or her primary residence (except any portion of such equity that is attributable to excessive withdrawals from the applicant firm). A contingent liability does not reduce an individual's net worth.

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

g) Notwithstanding any provision of Federal or state law, CDOT will not release an individual's personal net worth statement or any documents pertaining to it to any third party without the written consent of the submitter. Provided, that CDOT will transmit this information to DOT in any certification appeal proceeding under 49 CFR Part 26.89 of this part or to any other state to which the individual's firm has applied for certification under 49 CFR Part 26.85

h) If the statement of personal net worth that an individual submits under paragraph (a) of this section shows that the individual's personal net worth exceeds $1.32 million, the individual's economic disadvantage is rebutted. CDOT is not required to have a proceeding in order to rebut the DBE's status as economically disadvantaged.

3. The following guidance will be used when there is an application for DBE certification by an individual who is **not** a member of group presumed to be socially and economically disadvantaged.

a) Social Disadvantage:

Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as members of groups and without regard to their individual qualities. Social disadvantage must stem from circumstances beyond their control. Evidence of individual social disadvantage must include the following elements:

i. At least one objective distinguishing feature that has contributed to social disadvantage, such as race, ethnic origin, gender, disability, long-term residence in an environment isolated from the mainstream of American society, or other similar causes not common to individuals who are not socially disadvantaged.

ii. Personal experiences of substantial and chronic social disadvantage in American society, not in other countries.

iii. Negative impact on entry into or advancement in the business world. CDOT will consider education, employment and business history, where applicable, to see if the totality of circumstances shows disadvantage in entering into or advancing in the business world.

- Education. CDOT will consider such factors as denial of equal access to institutions of higher education and vocational training, exclusion from social and professional association with students or teachers, denial of educational honors rightfully earned, and social patterns or pressures which discouraged the individual from pursuing a professional or business education.

- Employment. CDOT will consider such factors as unequal treatment in hiring, promotions and other aspects of professional advancement, pay and fringe benefits, and other terms and conditions of employment; retaliatory or discriminatory behavior by an employer or labor union; and social patterns or pressures which have channeled the individual into non-professional or non-business fields.

- Business history. CDOT will consider such factors as unequal access to credit or capital, acquisition of credit or capital under commercially unfavorable circumstances, unequal treatment in opportunities for government contracts or other work, unequal treatment by potential customers and business associates, and exclusion from business or professional organizations.

With respect to this section, the Department notes that people with disabilities have disproportionately low incomes and high rates of unemployment. Many physical and attitudinal barriers remain to their full participation in education, employment, and business opportunities available to the general public. The Americans with Disabilities Act (ADA) was passed in recognition of the discrimination faced by people with disabilities. It is plausible that many individuals with disabilities - especially persons with severe disabilities (e.g., significant mobility, vision, or hearing impairments) - may be socially and economically disadvantaged.

b) Economic Disadvantage:

Economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged. Information that must be submitted includes:

i. Each individual claiming economic disadvantage must describe the conditions which are the basis for the claim in a narrative statement, and must submit personal financial information.

ii. When married, an individual claiming economic disadvantage also must submit separate financial information for his or her spouse, unless the individual and the spouse are legally separated.

iii. In considering diminished capital and credit opportunities, the factors to be examined, related to the personal financial condition of any individual claiming disadvantaged status, will include:

- Personal income for the past two years (including bonuses and the value of company stock given in lieu of cash), personal net worth, and the fair market value of all assets, whether encumbered or not.

- The financial condition of the applicant compared to the financial profiles of small businesses in the same primary industry classification, or, if not available, in similar lines of business, which are not owned and controlled by socially and economically disadvantaged individuals. This will be used to evaluate the individual's access to credit and capital. The financial profiles to be compared will include total assets, net sales, pre-tax profit, sales/working capital ratio, and net worth.

iv. In considering economic disadvantage, transfers of assets within two years will be considered as following:

- Assets will be attributed to an individual claiming disadvantaged status which have been transferred to an immediate family member, or to a trust, a beneficiary of which is an immediate family member, for less than fair market value, within two years prior to a concern's application for participation in the DBE program, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses or some other form of essential support.

- Assets will not be attributed to an individual claiming disadvantaged status which have been transferred by that individual to an immediate family member that are consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements.

- In determining an individual's access to capital and credit, assets that may be considered include ones that the individual transferred within such two-year period described above that are not considered in evaluating the individual's assets and net worth (e.g., transfers to charities).

Ref: 49 CFR 26.63 and 26.67

Section 7: Determination of Ownership

1. In determining whether the socially and economically disadvantaged participants in a firm own the firm, CDOT will consider all the facts in the record, viewed as a whole.

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

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

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

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

3. The firm's ownership by socially and economically disadvantaged individuals must be real, substantial, and continuing, going beyond pro forma ownership of the firm as reflected in ownership documents. The disadvantaged owners must enjoy the customary incidents of ownership, and share in the risks and profits commensurate with their ownership interests, as demonstrated by the substance, not merely the form, of arrangements.

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

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

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

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

6. The following requirements apply to situations in which expertise is relied upon as part of a disadvantaged owner's contribution to acquire ownership:

   a) The owner's expertise must be:

      i. In a specialized field;

      ii. Of outstanding quality;

      iii. In areas critical to the firm's operations;

      iv. Indispensable to the firm's potential success;

      v. Specific to the type of work the firm performs; and

      vi. Documented in the records of the firm. These records must clearly show the contribution of expertise and its value to the firm.

   b) The individual whose expertise is relied upon must have a significant financial investment in the firm.

7. CDOT will always deem as held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by a socially and economically disadvantaged individual:

a) As the result of a final property settlement or court order in a divorce or legal separation, provided that no term or condition of the agreement or divorce decree is inconsistent with this section; or

b) Through inheritance, or otherwise because of the death of the former owner.

8. CDOT will presume as not being held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual as the result of a gift, or transfer without adequate consideration, from any non-disadvantaged individual or non-DBE firm who is:

   a) Involved in the same firm for which the individual is seeking certification, or an affiliate of that firm;

   b) Involved in the same or a similar line of business; or

   c) Engaged in an ongoing business relationship with the firm, or an affiliate of the firm, for which the individual is seeking certification.

9. To overcome this presumption and permit the interests or assets to be counted, the disadvantaged individual must demonstrate to CDOT, by clear and convincing evidence, that:

   a) The gift or transfer to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and

   b) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a non-disadvantaged individual who provided the gift or transfer.

10. CDOT will apply the following rules in situations in which marital assets form a basis for ownership of a firm:

    a) When marital assets (other than the assets of the business in question), held jointly or as community property by both spouses, are used to acquire the ownership interest asserted by one spouse, CDOT will deem the ownership interest in the firm to have been acquired by that spouse with his or her own individual resources, provided that the other spouse irrevocably renounces and transfers all rights in the ownership interest in the manner sanctioned by the laws of the state in which either spouse or the firm is domiciled. CDOT does not count a greater portion of joint or community property assets toward ownership than state law would recognize as belonging to the socially and economically disadvantaged owner of the applicant firm.

b) A copy of the document legally transferring and renouncing the other spouse's rights in the jointly owned or community assets used to acquire an ownership interest in the firm must be included as part of the firm's application for DBE certification.

11. CDOT may consider the following factors in determining the ownership of a firm. However, CDOT will not regard a contribution of capital as failing to be real and substantial, or find a firm ineligible, solely because:

    a) A socially and economically disadvantaged individual acquired his or her ownership interest as the result of a gift, or transfer without adequate consideration, other than the types set forth in paragraph 8 of this section;

    b) There is a provision for the co-signature of a spouse who is not a socially and economically disadvantaged individual on financing agreements, contracts for the purchase or sale of real or personal property, bank signature cards, or other documents; or

    c) Ownership of the firm in question or its assets is transferred for adequate consideration from a spouse who is not a socially and economically disadvantaged individual to a spouse who is such an individual. In this case, CDOT will give particularly close and careful scrutiny to the ownership and control of a firm to ensure that it is owned and controlled, in substance as well as in form, by a socially and economically disadvantaged individual.

Ref: 49 CFR 26.69

Section 8: Determination of Control

1. In determining whether socially and economically disadvantaged owners control a firm, CDOT will consider all the facts in the record, viewed as a whole.

2. Only an independent business may be certified as a DBE. An independent business is one the viability of which does not depend on its relationship with another firm or firms.

    a) In determining whether a potential DBE is an independent business, CDOT will scrutinize relationships with non-DBE firms, in such areas as personnel, facilities, equipment, financial and/or bonding support, and other resources.

    b) CDOT will consider whether present or recent employer/employee relationships between the disadvantaged owner(s) of the potential DBE and non-DBE firms or persons associated with non-DBE firms compromise the independence of the potential DBE firm.

c) CDOT will examine the firm's relationships with prime contractors to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential DBE firm.

d) In considering factors related to the independence of a potential DBE firm, CDOT will consider the consistency of relationships between the potential DBE and non-DBE firms with normal industry practice.

3. A DBE firm must not be subject to any formal or informal restrictions which limit the customary discretion of the socially and economically disadvantaged owners. There can be no restrictions through corporate charter provisions, by-law provisions, contracts or any other formal or informal devices (e.g., cumulative voting rights, voting powers attached to different classes of stock, employment contracts, requirements for concurrence by non-disadvantaged partners, conditions precedent or subsequent, executory agreements, voting trusts, restrictions on or assignments of voting rights) that prevent the socially and economically disadvantaged owners, without the cooperation or vote of any non-disadvantaged individual, from making any business decision of the firm. This paragraph does not preclude a spousal co-signature on documents as provided for in 49 CFR 26.69(j)(2).

4. The socially and economically disadvantaged owners must possess the power to direct or cause the direction of the management and policies of the firm and to make day-to-day as well as long-term decisions on matters of management, policy and operations.

   a) A disadvantaged owner must hold the highest officer position in the company (e.g., chief executive officer or president).

   b) In a corporation, disadvantaged owners must control the board of directors.

   c) In a partnership, one or more disadvantaged owners must serve as general partners, with control over all partnership decisions.

5. Individuals who are not socially and economically disadvantaged may be involved in a DBE firm as owners, managers, employees, stockholders, officers, and/or directors. Such individuals must not, however, possess or exercise the power to control the firm, or be disproportionately responsible for the operation of the firm.

6. The socially and economically disadvantaged owners of the firm may delegate various areas of the management, policymaking, or daily operations of the firm to other participants in the firm, regardless of whether these participants are socially and economically disadvantaged individuals. Such delegations of authority must be revocable, and the socially and economically disadvantaged owners must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the socially and economically disadvantaged owners in the firm's overall affairs must be such that the recipient can reasonably conclude that the socially and economically disadvantaged owners actually exercise control over the firm's operations, management, and policy.

7. The socially and economically disadvantaged owners must have an overall understanding of, and managerial and technical competence and experience directly related to, the type of business in which the firm is engaged and the firm's operations. The socially and economically disadvantaged owners are not required to have experience or expertise in every critical area of the firm's operations, or to have greater experience or expertise in a given field than managers or key employees. The socially and economically disadvantaged owners must have the ability to intelligently and critically evaluate information presented by other participants in the firm's activities and to use this information to make independent decisions concerning the firm's daily operations, management, and policymaking. Generally, expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the firm is insufficient to demonstrate control.

8. If state or local law requires the persons to have a particular license or other credential in order to own and/or control a certain type of firm, then the socially and economically disadvantaged persons who own and control a potential DBE firm of that type must possess the required license or credential. If state or local law does not require such a person to have such a license or credential to own and/or control a firm, CDOT will not deny certification solely on the ground that the person lacks the license or credential. However, CDOT may take into account the absence of the license or credential as one factor in determining whether the socially and economically disadvantaged owners actually control the firm.

9. CDOT may consider differences in remuneration between the socially and economically disadvantaged owners and other participants in the firm in determining whether to certify a firm as a DBE. Such consideration shall be in the context of the duties of the persons involved, normal industry practices, the firm's policy and practice concerning reinvestment of income, and any other explanations for the differences proffered by the firm. CDOT may determine that a firm is controlled by its socially and economically disadvantaged owner although that owner's remuneration is lower than that of some other participants in the firm.

10. In a case where a non-disadvantaged individual formerly controlled the firm, and a socially and economically disadvantaged individual now controls it, CDOT may consider a difference between the remuneration of the former and current controller of the firm as a factor in determining who controls the firm, particularly when the non-disadvantaged individual remains involved with the firm and continues to receive greater compensation than the disadvantaged individual.

11. In order to be viewed as controlling a firm, a socially and economically disadvantaged owner cannot engage in outside employment or other business interests that conflict with the management of the firm or prevent the individual from devoting sufficient time and attention to the affairs of the firm to control its activities. For example, absentee ownership of a business and part-time work in a full-time firm are not viewed as constituting control. However, an individual could be viewed as controlling a part-time business that operates only on evenings and/or weekends, if the individual controls it all the time it is operating.

12. A socially and economically disadvantaged individual may control a firm even though one or more of the individual's immediate family members (who themselves are not socially and economically disadvantaged individuals) participate in the firm as a manager, employee, owner, or in another capacity.

    a) Except as otherwise provided in this paragraph, CDOT will make a judgment about the control the socially and economically disadvantaged owner exercises vis-à-vis other persons involved in the business as CDOT does in other situations, without regard to whether or not the other persons are immediate family members.

    b) If CDOT cannot determine that the socially and economically disadvantaged owners (as distinct from the family as a whole) control the firm, then the socially and economically disadvantaged owners have failed to carry their burden of proof concerning control, even though they may participate significantly in the firm's activities.

13. Where a firm was formerly owned and/or controlled by a non-disadvantaged individual (whether or not an immediate family member), ownership and/or control were transferred to a socially and economically disadvantaged individual, and the non-disadvantaged individual remains involved with the firm in any capacity, the disadvantaged individual now owning the firm must demonstrate to CDOT, by clear and convincing evidence, that:

    a) The transfer of ownership and/or control to the disadvantaged individual was made for reasons other than obtaining certification as a DBE; and

    b) The disadvantaged individual actually controls the management, policy, and operations of the firm, notwithstanding the continuing participation of a non-disadvantaged individual who formerly owned and/or controlled the firm.

14. In determining whether a firm is controlled by its socially and economically disadvantaged owners, CDOT may consider whether the firm owns equipment necessary to perform its work. However, CDOT will not determine that a firm is not controlled by socially and economically disadvantaged individuals solely because the firm leases, rather than owns, such equipment, where leasing equipment is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the firm.

15. CDOT will grant certification to a firm only for specific types of work in which the socially and economically disadvantaged owners have the ability to control the firm. To become certified in an additional type of work, the firm need demonstrate to CDOT only that its socially and economically disadvantaged owners are able to control the firm with respect to that type of work. CDOT may not, in this situation, require that the firm be recertified or submit a new application for certification, but CDOT will verify the disadvantaged owner's control of the firm in the additional type of work.

    a) The types of work a firm can perform (whether on initial certification or when a new type of work is added) shall be described via work codes that include the most specific available NAICS code for that type of work with an additional three digit extension.

    b) Firms and CDOT must check carefully to make sure that the work codes are kept up-to-date and accurately reflect work which the CDOT has determined the firm's owners can control. The firm bears the burden of providing detailed company information CDOT needs to make an appropriate work code designation.

    c) If a firm believes that there is not a work code that fully or clearly describes the type(s) of work in which it is seeking to be certified as a DBE, the firm may request that CDOT, in its certification documentation, supplement the assigned code(s) with a clear, specific, and detailed narrative description of the type of work in which the firm is certified. A vague, general, or confusing description is not sufficient for this purpose, and CDOT will rely on such a description in determining whether a firm's participation can be counted toward DBE goals.

    d) CDOT is not precluded from changing a certification classification or description if there is a factual basis in the record. However, CDOT will not make after-the-fact statements about the scope of a certification, not supported by evidence in the record of the certification action.

16. A business operating under a franchise or license agreement may be certified if it meets the standards in this subpart and the franchiser or licenser is not affiliated with the franchisee or licensee. In determining whether affiliation exists, CDOT will generally not consider the restraints relating to standardized quality, advertising, accounting format, and other provisions imposed on the franchisee or licensee by the franchise agreement or license, provided that the franchisee or licensee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee or licensee may not be controlled by virtue of such provisions in the franchise agreement or license, affiliation could arise through other means, such as common management or excessive restrictions on the sale or transfer of the franchise interest or license.

17. In order for a partnership to be controlled by socially and economically disadvantaged individuals, any non-disadvantaged partners must not have the power, without the specific written concurrence of the socially and economically disadvantaged partner(s), to contractually bind the partnership or subject the partnership to contract or tort liability.

18. The socially and economically disadvantaged individuals controlling a firm may use an employee leasing company. The use of such a company does not preclude the socially and economically disadvantaged individuals from controlling their firm if they continue to maintain an employer-employee relationship with the leased employees. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the employees, as well as ultimate responsibility for wage and tax obligations related to the employees.

Ref: 49 CFR 26.71

Section 9: Other Rules Affecting Certification

1. Consideration of whether a firm performs a commercially useful function or is a regular dealer pertains solely to counting toward DBE goals the participation of firms that have already been certified as DBEs. Except as provided in paragraph (2) of this section, CDOT will not consider commercially useful function issues in any way in making decisions about whether to certify a firm as a DBE.

2. CDOT may consider, in making certification decisions, whether a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program.

3. CDOT will evaluate the eligibility of a firm on the basis of present circumstances. CDOT will not refuse to certify a firm based solely on historical information indicating a lack of ownership or control of the firm by socially and economically disadvantaged individuals at some time in the past, if the firm currently meets the ownership and control standards of this part.

4. CDOT will not refuse to certify a firm solely on the basis that it is a newly formed firm, has not completed projects or contracts at the time of its application, has not yet realized profits from its activities, or has not demonstrated a potential for success. If the firm meets disadvantaged, size, ownership, and control requirements of 49 CFR Part 26, the firm is eligible for certification.

5. DBE firms and firms seeking DBE certification shall cooperate fully with CDOT requests (and DOT requests) for information relevant to the certification process. Failure or refusal to provide such information is a ground for a denial or removal of certification.

6. Only firms organized for profit may be eligible DBEs. Not-for-profit organizations, even though controlled by socially and economically disadvantaged individuals, are not eligible to be certified as DBEs.

7. An eligible DBE firm must be owned by individuals who are socially and economically disadvantaged. Except as provided in this paragraph, a firm that is not owned by such individuals, but instead is owned by another firm (even a DBE firm) cannot be an eligible DBE.

    a) If socially and economically disadvantaged individuals own and control a firm through a parent or holding company, established for tax, capitalization or other purposes consistent with industry practice, and the parent or holding company in turn owns and controls an operating subsidiary, CDOT may certify the subsidiary if it otherwise meets all requirements of this subpart. In this situation, the individual owners and controllers of the parent or holding company are deemed to control the subsidiary through the parent or holding company.

    b) CDOT may certify such a subsidiary only if there is cumulatively 51 percent ownership of the subsidiary by socially and economically disadvantaged individuals. The following examples illustrate how this cumulative ownership provision works:

        i. EXAMPLE 1: Socially and economically disadvantaged individuals own 100 percent of a holding company, which has a wholly-owned subsidiary. The subsidiary may be certified, if it meets all other requirements.

ii. EXAMPLE 2: Disadvantaged individuals own 100 percent of the holding company, which owns 51 percent of a subsidiary. The subsidiary may be certified, if all other requirements are met.

iii. EXAMPLE 3: Disadvantaged individuals own 80 percent of the holding company, which in turn owns 70 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is 56 percent (80 percent of the 70 percent). This is more than 51 percent, so CDOT may certify the subsidiary, if all other requirements are met.

iv. EXAMPLE 4: Same as Example 2 or 3, but someone other than the socially and economically disadvantaged owners of the parent or holding company controls the subsidiary. Even though the subsidiary is owned by disadvantaged individuals, through the holding or parent company, CDOT will not certify it because it fails to meet control requirements.

v. EXAMPLE 5: Disadvantaged individuals own 60 percent of the holding company, which in turn owns 51 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is about 31 percent. This is less than 51 percent, so CDOT will not certify the subsidiary.

vi. EXAMPLE 6: The holding company, in addition to the subsidiary seeking certification, owns several other companies. The combined gross receipts of the holding companies and its subsidiaries are greater than the size standard for the subsidiary seeking certification and/or the gross receipts cap of 49 CFR 26.65(b). Under the rules concerning affiliation, the subsidiary fails to meet the size standard and cannot be certified.

8. Recognition of a business as a separate entity for tax or corporate purposes is not necessarily sufficient to demonstrate that a firm is an independent business, owned and controlled by socially and economically disadvantaged individuals.

9. CDOT will not require a DBE firm to be prequalified as a condition for certification unless CDOT requires all firms that participate in its contracts and subcontracts to be prequalified.

10. A firm that is owned by an Indian tribe or Native Hawaiian organization, rather than by Indians or Native Hawaiians as individuals, may be eligible for certification. Such a firm must meet the size standards of 49 CFR 26.35. Such a firm must be controlled by socially and economically disadvantaged individuals, as provided in 49 CFR 26.71.

11. CDOT will apply the following special rules to the certification of Alaska Native Corporations (ANCs).

    a) Notwithstanding any other provisions of this subpart, a direct or indirect subsidiary corporation, joint venture, or partnership entity of an ANC is eligible for certification as a DBE if it meets all of the following requirements:

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

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

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

    b) As a recipient to whom an ANC-related entity applies for certification, CDOT will not use the DOT uniform application form (see Appendix F of 49 CFR Part 26). CDOT will obtain from the firm documentation sufficient to demonstrate that entity meets the requirements.

    c) If an ANC-related firm does not meet all the conditions of paragraph 11(a) of this section, then it must meet the requirements of paragraph 10of this section in order to be certified, on the same basis as firms owned by Indian Tribes or Native Hawaiian Organizations.

Ref: 49 CFR 26.73

SUBPART E – CERTIFICATION PROCEDURES

Section 1: Unified Certification Programs

1. In accordance with the requirements of 49 CFR 26.81, DOT recipients in Colorado adopted a Unified Certification Program. The Colorado Unified Certification Program (COUCP) Plan was submitted to FHWA and DOT and was subsequently approved on April 5, 2004. The UCP Program Plan and Approval can be found at **Subpart H, Exhibit O**.

2. A UCP Executive Committee (UCPEx) was established to oversee the COUCP.

3. In Colorado, there are two agencies authorized to certify firms as DBEs – CDOT's Civil Rights & Business Resource Center and the City and County of Denver's Division of Small Business Opportunity (DSBO).

4. Prior to establishment of the COUCP, CDOT and DSBO maintained separate DBE directories. All firms previously certified by at least one of those agencies were "grand-fathered" into the COUCP directory, thus consolidating the two directories. Firms certified by both entities at different times, with different expiration dates, were identified in the on-line directory with the longest expiration date and became the administrative responsibility of that entity.

5. New applicants are added to the directory as they are certified by CDOT or DSBO. The directory is updated daily to ensure on-time information is displayed.

6. DOT recipients in Colorado may use only firms from the COUCP directory to meet their DBE goals.

7. An applicant need apply only once in order to be eligible to meet the DBE goals of any DOT recipient within Colorado, thus meeting DOT's objective of "one-stop shopping."

8. All certifications by COUCP will be pre-certifications; i.e., certifications that have been made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE.

9. COUCP is not required to process an application for certification from a firm having its principal place of business outside the state if the firm is not certified as a DBE by the UCP in the state in which it maintains its principal place of business. The "home state" UCP will share its information and documents concerning the firm with other UCPs that are considering the firm's application.

10. Subject to DOT approval as provided in this section, recipients in two or more states may form a regional UCP. COUCP may also enter into written reciprocity agreements with other UCPs. Such agreements will outline the specific responsibilities of each participant. COUCP may accept the certification of any other UCP or DOT recipient.

11. Pending the establishment of UCPs meeting the requirements of this section, CDOT may enter into agreements with other recipients, on a regional or inter-jurisdictional basis, to perform certification functions required by this part. CDOT may also grant reciprocity to other recipient's certification decisions.

12. COUCP will maintain a unified DBE directory containing, for all firms certified by the UCP (including those from other states certified under the provisions of this section), the information required by 49 CFR 26.31. COUCP makes the directory available to the public electronically on the internet at www.coloradodbe.org, as well as in print. COUCP will update the electronic version of the directory by including additions, deletions, and other changes as soon as they are made, and shall revise the print version of the Directory at least once a year.

13. Except as otherwise specified in this section, all provisions of this subpart and subpart D of this part pertaining to recipients also apply to COUCP.

Ref: 49 CFR 26.81

Section 2: Procedures in Making Certification Decisions

1. CDOT will use the certification criteria stated above to determine the eligibility of firms to participate as DBEs. CDOT will make certification decisions based on the facts as a whole.

2. CDOT will ensure that only firms certified as eligible DBEs under this section participate as DBEs in its DBE program.

3. CDOT will take all the following steps in determining whether a DBE firm meets the standards of subpart D of this part;

    a) Perform an on-site visit to the offices of the firm. CDOT will interview the principal officers of the firm and review their resumes and/or work histories. CDOT will also perform an on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation in CDOT's jurisdiction or local area, and such a visit is feasible. CDOT may rely upon the site visit report of any other recipient with respect to a firm applying for certification;

    b) If the firm is a corporation, analyze the ownership of stock in the firm;

    c) Analyze the bonding and financial capacity of the firm;

    d) Determine the work history of the firm, including contracts it has received and work it has completed;

    e) Obtain a statement from the firm of the type of work it prefers to perform as part of the DBE program and its preferred locations for performing the work, if any;

    f) Obtain or compile a list of the equipment owned by or available to the firm and the licenses the firm and its key personnel possess to perform the work it seeks to do as part of the DBE program;

    g) Require potential DBEs to complete and submit an appropriate application form. CDOT will use the application form provided in Appendix F of 49 CFR Part 26 without change or revision. However, CDOT may provide in its DBE program, with the approval of the concerned operating administration, supplementing the form by requesting additional information not inconsistent with this part;

    h) CDOT will ensure that the applicant attests to the accuracy and truthfulness of the information on the application form. This shall be done either in the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the laws of the United States; and

4. CDOT will review all information on the form prior to making a decision about the eligibility of the firm. When another recipient, in connection with its consideration of the eligibility of a firm, makes a written request for certification information CDOT has obtained about that firm (e.g., including application materials or the report of a site visit, if CDOT has made one to the firm), CDOT will promptly make the information available to the other recipient.

5. Subject to the approval of the concerned OA, CDOT may impose a reasonable application fee for certification. Fee waivers shall be made in appropriate cases.

6. CDOT will safeguard from disclosure to unauthorized persons information gathered as part of the certification process that may reasonably be regarded as proprietary or other confidential business information, consistent with applicable Federal, state, and local law.

7. Once CDOT has certified a DBE, it shall remain certified for a period of at least three years unless and until its certification has been removed through the procedures of Section 4 of this subpart. CDOT may not require DBEs to reapply for certification as a condition of continuing to participate in the program during this three-year period, unless the factual basis on which the certification was made changes.

8. All DBEs must inform CDOT or the UCP in writing of any change in circumstances affecting the DBE's ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material change in the information provided in CDOT's application form.

    a) Changes in management responsibility among members of a limited liability company are covered by this requirement.

    b) The DBE must attach supporting documentation describing in detail the nature of such changes.

    c) The notice must take the form of an affidavit sworn to by the owners of the firm before a person who is authorized by state law to administer oaths or of an unsworn declaration executed under penalty of perjury of the laws of the United States. The DBE must provide the written notification within 30 days of the occurrence of the change. If the DBE fails to make timely notification of such a change, the DBE will be deemed to have failed to cooperate under 49 CFR 26.109(c).

9. A DBE must provide to CDOT, every year on the anniversary of the date of the DBE's certification, an affidavit sworn to by the firm's owners before a person who is authorized by state law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States. This affidavit must affirm that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material changes in the information provided in its application form, except for changes about which the DBE has notified the CDOT under paragraph 8 of this section. The affidavit shall specifically affirm that the DBE firm continues to meet SBA business size criteria and the overall gross receipts cap of this part, documenting this affirmation with supporting documentation of the DBE firm's size and gross receipts. If the DBE fails to provide this affidavit in a timely manner, the DBE will be deemed to have failed to cooperate under 49 CFR Part 26.109(c).

10. CDOT will make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under this part. CDOT may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. CDOT may establish a different time frame in CDOT's DBE program, upon a showing that this time frame is not feasible, and subject to the approval of the concerned OA. CDOT's failure to make a decision by the applicable deadline under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal to DOT under 49 CFR 26.89.

11. As a recipient or UCP, CDOT and COUCP will advise each applicant within 30 days from our receipt of the application whether the application is complete and suitable for evaluation and, if not, what additional information or action is required.

12. Except as otherwise provided in this paragraph, if an applicant for DBE certification withdraws its application before CDOT has issued a decision on the application, the applicant can resubmit the application at any time. As a recipient or UCP, CDOT and COUCP will not apply the waiting period provided under 49 CFR 26.86(c) before allowing the applicant to resubmit its application. However, CDOT may place the reapplication at the "end of the line" behind other applications that have been made since the firm's previous application was withdrawn. CDOT may also apply the waiting period provided under 49 CFR 26.86(c) to a firm that has established a pattern of frequently withdrawing applications before it makes a decision.

Ref: 49 CFR 26.83

Section 3: Interstate Certification

1. This section applies with respect to any firm that is currently certified in a home state outside Colorado.

2. When a firm currently certified in its home state applies to CDOT for DBE certification, CDOT may, at its discretion, accept the home state's certification and certify the firm, without further procedures.

    a) To obtain certification in this manner, the firm must provide to CDOT a copy of its certification notice from the home state.

    b) Before certifying the firm, CDOT must confirm that the firm has a current valid certification from the home state. CDOT can do so by reviewing home state's electronic directory or obtaining written confirmation from the home state.

3. In any situation in which CDOT chooses not to accept the home state's certification of a firm as provided in paragraph (2) of this section, the applicant firm must provide the information in paragraphs (3)(a) through (d) of this section to CDOT.

    a) The applicant must provide to CDOT a complete copy of the application form, all supporting documents, and any other information it has submitted to the home state or any other state related to the firm's certification. This includes affidavits of no change (see 49 CFR 26.83(j)) and any notices of changes (see 49 CFR 26.83(i)) that it has submitted to the home state, as well as any correspondence it has had with the home state's UCP or any other recipient concerning its application or status as a DBE firm.

    b) The applicant must also provide to CDOT any notices or correspondence from states other than the home state relating to its status as an applicant or certified DBE in those states. For example, if the firm has been denied certification or decertified in State C, or subject to a decertification action there, it must inform CDOT of this fact and provide all documentation concerning this action to CDOT.

    c) If the applicant has filed a certification appeal with DOT (see 49 CFR 26.89), it must inform CDOT of the fact and provide its letter of appeal and DOT's response to CDOT.

    d) The applicant must submit an affidavit sworn to by the firm's owners before a person who is authorized by State law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States.

i. This affidavit must affirm that it has submitted all the information required by 49 CFR 26.85(c) and the information is complete and, in the case of the information required by 49 CFR 26.85(c)(1), is an identical copy of the information submitted to the home state.

ii. If the on-site report from the home state supporting a firm's certification in the home state is more than three years old, as of the date of its application to CDOT, CDOT may require that the affidavit also affirm that the facts in the on-site report remain true and correct.

4. When it receives from an applicant firm all the information required by paragraph (3) of this section, CDOT must take the following actions:

a) Within seven days contact the home state and request a copy of the site visit review report for the firm (see 49 CFR 26.83(c)(1)), any updates to the site visit review, and any evaluation of the firm based on the site visit. As the home state, CDOT must transmit this information to a requesting state within seven days of receiving the request. A pattern by a state of not making such requests in a timely manner or by not complying with such requests in a timely manner is noncompliance.

b) Determine whether there is good cause to believe that the home state's certification of the firm is erroneous or should not apply in Colorado. Reasons for making such a determination may include the following:

i. Evidence that the home state's certification was obtained by fraud;

ii. New information, not available to the home state at the time of its certification, showing that the firm does not meet all eligibility criteria;

iii. the home state's certification was factually erroneous or was inconsistent with the requirements of this part;

iv. The State law of Colorado requires a result different from that of the State law of the home state; and

v. The information provided by the applicant firm did not meet the requirements of paragraph (3) of this section.

c) Unless CDOT determines that there is good cause to believe that the home state's certification is erroneous or should not apply in Colorado, CDOT will, no later than 60 days from the date on which it receives from the applicant firm all the information required by paragraph (3) of this section, send to the applicant firm a notice that it is certified and place the firm on its directory of certified firms.

d) If CDOT determines that there is good cause to believe that the home state's certification is erroneous or should not apply in Colorado, CDOT will, no later than 60 days from the date on which it receives from the applicant firm all the information required by paragraph (3) of this section, send to the applicant firm a notice stating the reasons for its determination.

i. This notice will state with particularity the specific reasons why CDOT believes that the firm does not meet the requirements of this Part for DBE eligibility and must offer the firm an opportunity to respond to CDOT with respect to these reasons.

ii. The firm may elect to respond in writing, to request an in-person meeting with CDOT's decision maker to discuss CDOT's objections to the firm's eligibility, or both. If the firm requests a meeting, CDOT will schedule the meeting to take place within 30 days of receiving the firm's request.

iii. The firm bears the burden of demonstrating, by a preponderance of evidence, that it meets the requirements of this Part with respect to the particularized issues raised by CDOT's notice. The firm is not otherwise responsible for further demonstrating its eligibility to CDOT.

iv. The decision maker for CDOT will be an individual who is thoroughly familiar with the provisions of this Part concerning certification.

v. CDOT will issue a written decision within 30 days of the receipt of the written response from the firm or the meeting with the decision maker, whichever is later.

vi. The firm's application for certification is stayed pending the outcome of this process.

vii. A decision under this paragraph may be appealed to the Departmental Office of Civil Rights under 49 CFR Part 26.89.

5. If CDOT does not receive from the home state a copy of the site visit review report by a date 14 days after it has made a timely request for it, CDOT may hold action required by paragraphs (4)(b) through (d) of this section in abeyance pending receipt of the site visit review report. In this event, CDOT will, no later than 30 days from the date on which it received from an applicant firm all the information required by paragraph (3) of this section, notify the firm in writing of the delay in the process and the reason for it.

6. When CDOT denies a firm's application, rejects the application of a firm certified in State A or any other State in which the firm is certified, through the procedures of paragraph (4)(d) of this section, or decertifies a firm, in whole or in part, CDOT will make an entry in the Department of Transportation Office of Civil Rights' (DOCR's) Ineligibility Determination Online Database. CDOT will enter the following information:

    a) The name of the firm;
    b) The name(s) of the firm's owner(s);
    c) The type and date of the action; and
    d) The reason for the action.

7. CDOT will check the DOCR Web site at least once every month to determine whether any firm that is applying to it for certification or that it has already certified is on the list.

8. For any such firm that is on the list, CDOT will promptly request a copy of the listed decision from the UCP that made it. As the UCP receiving such a request, CDOT will provide a copy of the decision to the requesting UCP within 7 days of receiving the request. As the UCP receiving the decision, CDOT will then consider the information in the decision in determining what, if any, action to take with respect to the certified DBE firm or applicant.

9. CDOT implemented the requirements of this section on January 1, 2012.

Ref: 49 CFR 26.85

Section 4: Denials of Initial Requests for Certification

1. When CDOT denies a firm's application or decertifies it, the firm may not reapply until 12 months have passed from CDOT's action.

2. When CDOT denies a request by a firm, which is not currently certified with CDOT, to be certified as a DBE, CDOT will provide the firm a written explanation of the reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based will be made available to the applicant, on request. The time period for reapplication begins to run on the date the explanation required by paragraph 1 of this section is received by the firm.

3. When CDOT denies DBE certification to a firm certified by the SBA, it will notify the SBA in writing. The notification will include the reason for denial.

4. When CDOT makes an administratively final denial of certification concerning a firm, the firm may appeal the denial to the USDOT under 49 CFR 26.89.

Ref: 49 CFR 26.86

Section 5: Removing a DBE's Eligibility

1. In the event CDOT proposes to remove a DBE's certification, CDOT will follow procedures consistent with 49 CFR26.87.

2. To ensure separation of functions in a decertification proceeding, CDOT has contracted with an individual outside CDOT and the Civil Rights & Business Resource Center to serve as hearing officer and decision maker in decertification proceedings. This individual is knowledgeable of the DBE Program and eligibility standards, and is not involved in initial eligibility determinations or any decision to initiate a decertification proceeding.

3. Ineligibility complaints.

    a) Any person may file with CDOT a written complaint alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. CDOT is not required to accept a general allegation that a firm is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants' identities must be protected as provided in 49 CFR Part 26.109(b).

    b) CDOT will review CDOT's records concerning the firm, any material provided by the firm and the complainant, and other available information. CDOT may request additional information from the firm or conduct any other investigation that CDOT deems necessary.

    c) If CDOT determines, based on this review, that there is reasonable cause to believe that the firm is ineligible, CDOT will provide written notice to the firm that CDOT proposes to find the firm ineligible, setting forth the reasons for the proposed determination. If CDOT determines that such reasonable cause does not exist, CDOT will notify the complainant and the firm in writing of this determination and the reasons for it. All statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based.

4. Recipient-initiated proceedings. If, based on notification by the firm of a change in its circumstances or other information that comes to CDOT's attention, CDOT determines that there is reasonable cause to believe that a currently certified firm is ineligible, CDOT will provide written notice to the firm that CDOT proposes to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

5. DOT directive to initiate proceeding.

    a) If the concerned OA determines that information in CDOT's certification records, or other information available to the concerned OA, provides reasonable cause to believe that a firm CDOT certified does not meet the eligibility criteria of this part, the concerned OA may direct CDOT to initiate a proceeding to remove the firm's certification.

    b) The concerned OA must provide CDOT and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information.

c) CDOT will immediately commence and prosecute a proceeding regarding as provided by paragraph 4 of this section.

6. Hearing. When CDOT notifies a firm that there is reasonable cause to remove its eligibility as provided in paragraph (3), (4), or (5) of this section, CDOT will give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

   a) In such a proceeding, CDOT bears the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.

   b) CDOT will maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing. If there is an appeal to DOT under 49 CFR 26.89, CDOT will provide a transcript of the hearing to DOT and, on request, to the firm. CDOT will retain the original record of the hearing. CDOT may charge the firm only for the cost of copying the record.

   c) The firm may elect to present information and arguments in writing, without going to a hearing. In such a situation, CDOT bears the same burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards, as CDOT would during a hearing.

7. Separation of functions. CDOT will ensure that the decision in a proceeding to remove a firm's eligibility is made by an office and personnel that did not take part in actions leading to or seeking to implement the proposal to remove the firm's eligibility and are not subject, with respect to the matter, to direction from the office or personnel who did take part in these actions.

   a) CDOT's method of implementing this requirement will be made part of CDOT's DBE program.

   b) The decision maker will be an individual who is knowledgeable about the certification requirements of CDOT's DBE program and this part.

   c) Before a UCP is operational in its state, a small airport or small transit authority (i.e., an airport or transit authority serving an area with less than 250,000 population) is required to meet this requirement only to the extent feasible.

8. Grounds for Decision. CDOT will not base a decision to remove eligibility on a reinterpretation or changed opinion of information available to the recipient at the time of its certification of the firm. CDOT may base such a decision only on one or more of the following:

    a) Changes in the firm's circumstances since the certification of the firm by the recipient that renders the firm unable to meet the eligibility standards of this part;

    b) Information or evidence not available to CDOT at the time the firm was certified;

    c) Information that was concealed or misrepresented by the firm in previous certification actions by a recipient;

    d) A change in the certification standards or requirements of the Department since CDOT certified the firm; or

    e) A documented finding that CDOT's determination to certify the firm was factually erroneous.

9. Notice of decision. Following CDOT's decision, CDOT will provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice will inform the firm of the consequences of CDOT's decision and of the availability of an appeal to the Department of Transportation under 49 CFR 26.89. CDOT will send copies of the notice to the complainant in an ineligibility complaint or the concerned OA that had directed CDOT to initiate the proceeding.

10. Status of firm during proceeding.

    a) A firm remains an eligible DBE during the pendancy of CDOT's proceeding to remove its eligibility.

    b) The firm does not become ineligible until the issuance of the notice provided for in paragraph (9) of this section.

11. Effects of removal of eligibility. When it removes firm's eligibility, CDOT will take the following action:

    a) When a prime contractor has made a commitment to use the ineligible firm, or CDOT has made a commitment to use a DBE prime contractor, but a subcontract or contract has not been executed before CDOT issues the decertification notice provided for in paragraph (9) of this section, the ineligible firm does not count toward the contract goal or overall goal. CDOT will direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to CDOT that it has made a good faith effort to do so;

    b) If a prime contractor has executed a subcontract with the firm before CDOT has notified the firm of its ineligibility, the prime contractor may continue to use the firm on the contract and may continue to receive credit toward its DBE goal for the firm's work. In this case, or in a case where CDOT has let a prime contract to the DBE that was later ruled ineligible, the portion of the ineligible firm's performance of the contract remaining after CDOT issued the notice of its ineligibility shall not count toward CDOT's overall goal, but may count toward the contract goal;

    c) Exception: If the DBE's ineligibility is caused solely by its having exceeded the size standard during the performance of the contract, CDOT may continue to count its participation on that contract toward overall and contract goals.

12. Availability of appeal. When CDOT makes an administratively final removal of a firm's eligibility under this section, the firm may appeal the removal to the Department under 49 CFR 26.89.

Ref: 49 CFR 26.87

Section 6: Appealing Certification Decisions to the USDOT

1. Any firm or complainant may appeal CDOT's decision in a certification matter to DOT. Such appeals may be sent to:

    Department of Transportation
    Office of Civil Rights
    Certification Appeals Branch
    400 7th St., SW, Room 2104
    Washington, DC 20590

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

3. If the person or firm is a complainant in an ineligibility complaint to CDOT (including the concerned OA in the circumstances provided in 49 CFR Part 26.87(c)), the person or firm may appeal to the Department if CDOT does not find reasonable cause to propose removing the firm's eligibility or, following a removal of eligibility proceeding, determines that the firm is eligible.

4. Pending the Department's decision in the matter, CDOT's decision remains in effect. The Department does not stay the effect of CDOT's decision while it is considering an appeal.

5. If the company denied eligibility wants to file an appeal, it must send a letter to the Department within 90 days of the date of CDOT's final decision, containing information and arguments concerning why CDOT's decision should be reversed. The Department may accept an appeal filed later than 90 days after the date of the decision if the Department determines that there was good cause for the late filing of the appeal.

    a) If you are an appellant whose owner's social disadvantage has been rebutted, is a firm which has been denied certification, or whose certification has been removed, your letter must state the name and address of any other recipient which currently certifies the firm, which has rejected an application for certification from the firm or has removed the firm's eligibility within one year prior to the date of the appeal, or before which an application for certification or a removal of eligibility is pending. Failure to provide this information may be deemed a failure to cooperate under 49 CFR Part 26.109(c).

    b) If you are an appellant other than one described in paragraph (5)(a) of this section, the Department will request, and the firm whose certification has been questioned shall promptly provide, the information called for in paragraph (c)(1) of this section. Failure to provide this information may be deemed a failure to cooperate under 49 CFR Part 26.109(c).

6. When it receives an appeal, the Department requests a copy of the recipient's complete administrative record in the matter. If CDOT is the recipient, CDOT will provide the administrative record, including a hearing transcript, within 20 days of the Department's request. The Department may extend this time period on the basis of a recipient's showing of good cause. To facilitate the Department's review of a recipient's decision, CDOT will ensure that such administrative records are well organized, indexed, and paginated. Records that do not comport with these requirements are not acceptable and will be returned to CDOT to be corrected immediately. If an appeal is brought concerning one recipient's certification decision concerning a firm, and that recipient relied on the decision and/or administrative record of another recipient, this requirement applies to both recipients involved.

7. The Department makes its decision based solely on the entire administrative record. The Department does not make a de novo review of the matter and does not conduct a hearing. The Department may supplement the administrative record by adding relevant information made available by the DOT Office of Inspector General; Federal, state, or local law enforcement authorities; officials of a DOT OA or other appropriate DOT office; a recipient; or a firm or other private party.

8. As a recipient, when CDOT provides supplementary information to the Department, CDOT shall also make this information available to the firm and any third-party complainant involved, consistent with Federal or applicable state laws concerning freedom of information and privacy. The Department makes available, on request by the firm and any third-party complainant involved, any supplementary information it receives from any source.

    a) The Department affirms CDOT decision unless it determines, based on the entire administrative record, that CDOT's decision is unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of this part concerning certification.

    b) If the Department determines, after reviewing the entire administrative record, that CDOT's decision was unsupported by substantial evidence or inconsistent with the substantive or procedural provisions of this part concerning certification, the Department reverses CDOT's decision and directs CDOT to certify the firm or remove its eligibility, as appropriate. CDOT will take the action directed by the Department's decision immediately upon receiving written notice of it.

    c) The Department is not required to reverse CDOT's decision if the Department determines that a procedural error did not result in fundamental unfairness to the appellant or substantially prejudice the opportunity of the appellant to present its case.

d) If it appears that the record is incomplete or unclear with respect to matters likely to have a significant impact on the outcome of the case, the Department may remand the record to CDOT with instructions seeking clarification or augmentation of the record before making a finding. The Department may also remand a case to CDOT for further proceedings consistent with Department instructions concerning the proper application of the provisions of this part.

e) The Department does not uphold CDOT's decision based on grounds not specified in CDOT's decision.

f) The Department's decision is based on the status and circumstances of the firm as of the date of the decision being appealed.

g) The Department provides written notice of its decision to CDOT, the firm, and the complainant in an ineligibility complaint. A copy of the notice is also sent to any other recipient whose administrative record or decision has been involved in the proceeding (see paragraph (d) of this section). The Department will also notify the SBA in writing when DOT takes an action on an appeal that results in or confirms a loss of eligibility to any SBA-certified firm. The notice includes the reasons for the Department's decision, including specific references to the evidence in the record that supports each reason for the decision.

h) The Department's policy is to make its decision within 180 days of receiving the complete administrative record. If the Department does not make its decision within this period, the Department provides written notice to concerned parties, including a statement of the reason for the delay and a date by which the appeal decision will be made.

9. All decisions under this section are administratively final, and are not subject to petitions for reconsideration.

Ref: 49 CFR Part 26.89

Section 7: Effect of USDOT Certification Appeal Decisions

1. If CDOT is the recipient from whose action an appeal under 49 CFR Part 26.89 is taken, the decision is binding. It is not binding on other recipients.

2. If CDOT is a recipient to which a DOT determination under 49 CFR Part 26.89 is applicable, CDOT will take the following action:

   a) If the Department determines that CDOT erroneously certified a firm, CDOT will remove the firm's eligibility on receipt of the determination;

b) If the Department determines that CDOT erroneously failed to find reasonable cause to remove the firm's eligibility, CDOT will expeditiously commence a proceeding to determine whether the firm's eligibility should be removed, as provided in 49 CFR 26.87;

c) If the Department determines that CDOT erroneously declined to certify or remove the eligibility of the firm, CDOT will certify the firm, effective on the date of CDOT's receipt of the written notice of the Department's determination;

d) If the Department affirms CDOT's determination, no further action is necessary.

3. Where DOT has upheld CDOT's denial of certification to or removal of eligibility from a firm, or recommended the removal of a firm's eligibility, other recipients with whom the firm is certified may commence a proceeding to remove the firm's eligibility under 49 CFR 26.87. Such recipients must not remove the firm's eligibility absent such a proceeding. Where DOT has recommended reversal of CDOT's denial of certification to or removal of eligibility from a firm, other recipients must take the DOT action into account in any certification action involving the firm. However, other recipients are not required to certify the firm based on the DOT decision.

Ref: 49 CFR 26.91

SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 1: Compliance Procedures Which Apply to CDOT

1. If CDOT fails to comply with any requirement of this part, CDOT may be subject to formal enforcement action under 49 CFR Parts 26.103 or 105 or appropriate program sanctions by the concerned OA, 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.

2. As provided in statute, CDOT will not be subject to compliance actions or sanctions for failing to carry out any requirement of this part because CDOT has been prevented from complying because a Federal court has issued a final order in which the court found that the requirement is unconstitutional.

Ref: 49 CFR 26.101

Section 2: Enforcement Actions under FHWA and FTA

1. Noncompliance complaints. Any person who believes that a recipient has failed to comply with its obligations may file a written complaint with the concerned OA's Office of Civil Rights.

2. If you want to file a complaint, you must do so no later than 180 days after the date of the alleged violation or the date on which you learned of a continuing course of conduct in violation of this part. In response to your written request, the Office of Civil Rights may extend the time for filing in the interest of justice, specifying in writing the reason for so doing. The Office of Civil Rights may protect the confidentiality of your identity as provided in 49 CFR Part 26.109. Complaints under this part are limited to allegations of violation of the provisions of this part.

3. Compliance reviews. The concerned OA may review the recipient's compliance with this part at any time, including reviews of paperwork and on-site reviews, as appropriate. The Office of Civil Rights may direct the OA to initiate a compliance review based on complaints received.

4. Reasonable cause notice. If it appears, from the investigation of a complaint or the results of a compliance review, that CDOT, as a recipient, is in noncompliance with this part, the appropriate DOT office promptly sends CDOT, return receipt requested, a written notice advising CDOT that there is reasonable cause to find CDOT in noncompliance. The notice states the reasons for this finding and directs CDOT to reply within 30 days concerning whether CDOT wishes to begin conciliation.

5. Conciliation:

    a) If CDOT requests conciliation, the appropriate DOT office shall pursue conciliation for at least 30, but not more than 120, days from the date of CDOT's request. The appropriate DOT office may extend the conciliation period for up to 30 days for good cause, consistent with applicable statutes.

    b) If CDOT and the appropriate DOT office sign a conciliation agreement, then the matter is regarded as closed, and CDOT is regarded as being in compliance. The conciliation agreement sets forth the measures CDOT has taken or will take to ensure compliance. While a conciliation agreement is in effect, CDOT remains eligible for FHWA or FTA financial assistance.

    c) The concerned OA shall monitor CDOT's implementation of the conciliation agreement and ensure that its terms are complied with. If CDOT fails to carry out the terms of a conciliation agreement, CDOT is in noncompliance.

    d) If CDOT does not request conciliation, or a conciliation agreement is not signed within the time provided in paragraph (d)(1) of this section, then enforcement proceedings begin.

6. Enforcement actions.

    a) Enforcement actions are taken as provided in this subpart.

    b) Applicable findings in enforcement proceedings are binding on all DOT offices.

Ref: 49 CFR 26.103

Section 3: Enforcement Actions in FAA Programs

1. Compliance with all requirements of this part by airport sponsors and other recipients of FAA financial assistance is enforced through the procedures of Title 49 of the United States Code, including 49 U.S.C. 47106(d), 47111(d), and 47122, and regulations implementing them.

2. The provisions of 49 CFR 26.103 (b) and this section apply to enforcement actions in FAA programs.

3. Any person who knows of a violation of this part by a recipient of FAA funds may file a complaint under 14 CFR part 16 with the Federal Aviation Administration Office of Chief Counsel.

Ref: 49 CFR 26.105

Section 4: Enforcement Actions for Participants in the DBE Program

1. If a firm that does not meet the eligibility criteria attempts to participate in a CDOT's DBE Program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against the firm under 2 CFR Parts 180 and 1200.

2. If a firm, in order to meet DBE contract goals or other DBE Program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria, the Department may initiate suspension or debarment proceedings against that firm under 2 CFR Parts 180 and 1200.

3. In a suspension or debarment proceeding brought under paragraph (1) or (2) of this section, the concerned OA may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude the Department from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.

4. The Department may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR Part 31.

5. The Department may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any program or otherwise violates applicable Federal statutes.

Ref: 49 CFR 26.107

Section 5: Confidentiality, Cooperation, and Intimidation or Retaliation

1. CDOT will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. The Colorado Open Records Act allows CDOT to protect certain records from inspection or disclosure, including contractor records that are privileged or confidential information, etc. Notwithstanding any contrary provisions of state or local law, CDOT will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

2. Availability of records.

    a) In responding to requests for information concerning any aspect of the DBE program, the Department complies with provisions of the Federal Freedom of Information (5 U.S.C. 552) and Privacy Acts (5 U.S.C. 552a). The Department may make available to the public any information concerning the DBE Program release of which is not prohibited by Federal law.

    b) Notwithstanding any provision of Federal or state law, CDOT will not release information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting documentation. However, CDOT will transmit this information to DOT in any certification appeal proceeding under 49 CFR Part 26.89 of this part or to any other state to which the individual's firm has applied for certification under 49 CFR 26.85.

3. Confidentiality of information on complainants. Notwithstanding the provisions of paragraph (a) of this section, the identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing. FAA follows the procedures of 14 CFR Part 16 with respect to confidentiality of information in complaints.

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

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

Ref: 49 CFR 26.109

SUBPART G – APPENDIX TO PART 26

Appendix A: Guidance Concerning Good Faith Efforts

1. When, as a recipient, CDOT establishes a contract goal on a contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn't meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

2. In any situation in which CDOT has established a contract goal, 49 CFR Part 26 requires CDOT to use the good faith efforts mechanism of this part. As a recipient, it is up to CDOT to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for CDOT to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that CDOT's determination concerning the sufficiency of the firm's good faith efforts is a judgment call: meeting quantitative formulas is not required.

3. The Department also strongly cautions CDOT against requiring that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits CDOT from ignoring bona fide good faith efforts.

4. The following is a list of types of actions which CDOT should consider as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

    a) Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.

b) Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

c) Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

d) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

e) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

f) Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

g) Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

h) Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.

i) Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

5. In determining whether a bidder has made good faith efforts, CDOT may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, CDOT may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, CDOT may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.

SUBPART H – EXHIBITS

Exhibit A	**2011 DBE Program Approval**
Exhibit B	**Policy Directive 611.0**
Exhibit C	**Prompt Payment Law**
Exhibit D	**Section 109.06 and Form 1418**
Exhibit E	**DBE Directory Sample Pages**
Exhibit F	**DBE Standard Special Provision**
Exhibit G	**CDOT DBE Participation, Monitoring, and Enforcement Forms**
Exhibit H	**Uniform Report of DBE Awards or Commitments and Payments**
Exhibit I	**Good Faith Effort Appeal Process**
Exhibit J	**DBE Monthly Report for Construction Contracts**
Exhibit K	**ESB Program Rules and Guidelines**
Exhibit L	**CDOT's Overall Goal Methodology**
Exhibit M	**Uniform Certification Application**
Exhibit N	**State of Colorado DBE Change Affidavit**
Exhibit O	**UCP Program Plan and Approval**
Exhibit P	**CDOT/City and County of Denver Local Agency MOU**

Exhibit A

2011 DBE Program Approval

U.S. Department of Transportation
Federal Highway Administration

Colorado Division

12300 W. Dakota Ave., Ste. 180
Lakewood, Colorado 80228
720-963-3000
720-963-3001

September 28, 2011

Mr. Don Hunt
Executive Director
Colorado Department of Transportation
4201 E. Arkansas Avenue
Denver, Colorado 80222
Attn: Debra Gallegos

Subject: Colorado Department of Transportation (CDOT) Disadvantage Business Enterprise (DBE) Program Plan

Dear Mr. Hunt:

I am pleased to advise you that the DBE program plan for the State of Colorado, submitted by CDOT is approved per 49 CFR 26.21 (b). Our review has verified that the CDOT DBE program plan contains all elements required under 49 CFR Part 26.

The DBE program plan is a living document and updates can be made to the program plan without FHWA approval, as long as CDOT remains in compliance. However, per 49 CFR 26.21 (b) (2) any significant changes in the program must be submitted for approval.

I would like to take this opportunity to thank you and your staff for your diligence and efforts in getting this program to the approval state.

Sincerely,

for

John M. Cater
Division Administrator

Exhibit B

Policy Directive 611.0

For a copy of CDOT Policy Directive 611.0

contact CDOT's Public Relations Office

at 303-757-9362

Exhibit C

Prompt Payment Law

Colorado Revised Statute

24-91-103. Public entity - contracts - partial payments.

(1) A public entity awarding a contract exceeding one hundred fifty thousand dollars for the construction, alteration, or repair of any highway, public building, public work, or public improvement, structure, or system shall authorize partial payments of the amount due under such contract at the end of each calendar month, or as soon thereafter as practicable, to the contractor, if the contractor is satisfactorily performing the contract. At least ninety percent of the calculated value of any work completed shall be paid until fifty percent of the work required by the contract has been performed. Thereafter, the public entity shall pay any of the remaining installments without retaining additional funds if, in the opinion of the public entity, satisfactory progress is being made in the work. The withheld percentage of the contract price of any such work, improvement, or construction shall be retained until the contract is completed satisfactorily and finally accepted by the public entity. If the public entity finds that satisfactory progress is being made in all phases of the contract, it may, upon written request by the contractor, authorize final payment from the withheld percentage to the contractor or subcontractors who have completed their work in a manner finally acceptable to the public entity. Before such payment is made, the public entity shall determine that satisfactory and substantial reasons exist for the payment and shall require written approval from any surety furnishing bonds for the contract work.

(2) Whenever a contractor receives payment pursuant to this section, the contractor shall make payments to each of his subcontractors of any amounts actually received which were included in the contractor's request for payment to the public entity for such subcontracts. The contractor shall make such payments within seven calendar days of receipt of payment from the public entity in the same manner as the public entity is required to pay the contractor under this section if the subcontractor is satisfactorily performing under his contract with the contractor. The subcontractor shall pay all suppliers, sub-subcontractors, laborers, and any other persons who provide goods, materials, labor, or equipment to the subcontractor any amounts actually received which were included in the subcontractor's request for payment to the contractor for such persons, in the same manner set forth in this subsection (2) regarding payments by the contractor to the subcontractor. If the subcontractor fails to make such payments in the required manner, the subcontractor shall pay said suppliers, sub-subcontractors, and laborers interest in the same manner set forth in this subsection (2) regarding payments by the contractor to the subcontractor. At the time the subcontractor submits a request for payment to the contractor, the subcontractor shall also submit to the contractor a list of the subcontractor's suppliers, sub-subcontractors, and laborers. The contractor shall be relieved of the requirements of this subsection (2) regarding payment in seven days and interest payment until the subcontractor submits such list. If the contractor fails to make timely payments to the subcontractor as required by this section, the contractor shall pay the subcontractor interest as specified by contract or at the rate of fifteen percent per annum whichever is higher, on the amount of the payment which was not made in a timely manner. The interest shall accrue for the period from the required payment date to the date on which payment is made. Nothing in this subsection (2) shall be construed to affect the retention provisions of any contract.

(3) The provisions of this section shall apply to contracts between contractors and subcontractors entered into on or after July 1, 1991.

Source: L. 79: Entire article added, p. 996, § 1, effective July 1. **L. 91:** Entire section amended, p. 904, § 1, effective July 1. **L. 2004:** (1) amended, p. 227, § 1, effective August 4.

Exhibit D

Section 109.06
and Form 1418

109.06 Partial Payments. Partial payments will be made once each month as the work progresses, when the Contractor is performing satisfactorily under the Contract. Payments will be based upon progress estimates prepared by the Engineer, of the value of work performed, materials placed in accordance with the Contract, and the value of the materials on hand in accordance with subsection 109.07. The amount of the progress estimate paid to the Contractor will be subject to the following:

(a) *Standard Amount Retained.* The Department will make a deduction from the progress estimate in the amount considered necessary to protect the interests of the State, pursuant to Section 24-91-103, CRS. The amount to be retained will be 3 percent of the value of the completed work, exclusive of mobilization and payments for materials on hand, to a maximum of 1 ½ percent of the original contract amount. No further amount will be retained if the Contractor makes satisfactory progress in the contract work. The amount retained will be in effect until such time as final payment is made, with the following exception which requires the Contractor's written request and consent of the Surety: Upon completion and acceptance of the project, after the project quantities are finalized, and the Contractor has submitted the necessary forms, the Engineer may make reduction in the amount retained.

The Contractor shall request release of retainage on work that has been partially accepted in accordance with subsection 105.21(a). The Contractor shall provide a certified invoice to the Engineer stating the percentage of the original contract amount constituted by the partially accepted work. The calculated percentage will be multiplied by the maximum retainage amount allowed to determine the retainage to be released.

(b) *Securities in Lieu of Standard Amount Retained.* When the original contract amount exceeds $80,000, the Contractor may withdraw all or any portion of the standard amount retained if acceptable securities are assigned to the Department, and deposited as set forth in Section 24-91-105, CRS and the implementing regulations. The securities shall at all times have a market value at least equal in value to the sums withdrawn. If at any time the Department determines that the market value of the securities has fallen below the sums withdrawn, the Contractor, shall deposit additional acceptable securities in an amount sufficient to reestablish a total deposit of securities equal in value to the sums withdrawn. This security substitution shall not apply if a part of the contract price is paid from federal, or other sources, and the federal or other source has requirements which are inconsistent with this subsection.

(c) *Subcontractor and Supplier Claims.* In addition to a standard amount retained, the Department will withhold funds for all claims against the Contractor filed by subcontractors and suppliers, pursuant to Sections 38-26-107 and 24-91-103, CRS.

(d) *No Payment.* A partial payment will not be made when the total value of the work done since the last estimate amounts to less than $500.

(e) *Prompt Payment*. The Contractor shall pay subcontractors and suppliers for all work which has been satisfactorily completed within seven calendar days after receiving payment for that work from the Department. For the purpose of this section only, work shall be considered satisfactorily complete when the Department has made payment for the work.

The Contractor shall include in all subcontracts a provision that this requirement for prompt payment to subcontractors and suppliers must be included in all subcontracts at every tier.

The Contractor shall ensure that all subcontractors and suppliers at every tier are promptly paid.

If the Contractor fails to comply with this provision the Engineer will not authorize further progress estimates until the required payments have been made and the Contractor agrees to make payments as specified.

The Contractor shall submit the Form 1418, Monthly Payment Report, along with the project schedule updates, in accordance with subsections 108.03 (b) or 108.03 (c) (3). Failure to submit a complete and accurate Form 1418 shall be grounds for CDOT to withhold subsequent payments or retainage to the Contractor.

(f) *Retainage by the Contractor*. The Contractor may withhold retainage of each progress estimate on work performed by subcontractors. If during the prosecution of the project, a subcontractor satisfactorily completes all work described on CDOT Form No. 205, as amended by changes directed by the Engineer, the following procedure will apply:

1. The subcontractor may make a written request to the Contractor for the release of the subcontractor's retainage.

2. Within ten working days of the request, the Contractor shall determine if all work described on Form 205 has been satisfactorily completed and shall inform the subcontractor in writing of the Contractor's determination.

3. If the Contractor determines that the subcontractor has not achieved satisfactory completion of all work described on Form 205, the Contractor shall provide the subcontractor with written notice, stating specifically why the subcontract work is not satisfactorily completed and what has to be done to achieve completion. A copy of this written notice shall be provided to the Engineer.

4. If the Contractor determines that the subcontractor has achieved satisfactory completion of all work described on Form 205, the Contractor shall release the subcontractor's retainage within seven calendar days.

5. In determining whether satisfactory completion has been achieved, the Contractor may require the subcontractor to provide documentation such as certifications and releases, showing that all laborers, lower-tiered subcontractors, suppliers of material and equipment, and others involved in the subcontractor's work have been paid in full. The Contractor may also require any documentation from the subcontractor that is required by the subcontract or by the Contract between the Contractor and the Department or by law such as affidavits of wages paid, material acceptance certifications and releases from applicable governmental agencies to the extent that they relate to the subcontractor's work.

6. Within 14 calendar days after receiving the Contractor's request, the Engineer will make inspection of all work described on Form 205. The Engineer will measure and furnish the final quantities to the Contractor of the items completed by the subcontractor. Agreement on these final quantities by the Contractor will not constitute the acceptance of the work described on Form 205 by the Engineer.

7. If the subcontractor performs only a portion of an item of work, the Contractor shall release retainage in accordance with the procedures stated above and when the subcontractor has completed all of the work included in the subcontract, however, final measurement of quantities will not be made until the item of work and all of the work on the associated Form 205 has been completed.

8. If additional quantities of a particular item of work are required at a later date after final measurement has been made, the Contractor shall perform this work in accordance with Contract requirements and at unit bid prices.

   For this subsection only, satisfactory completion of all work described on CDOT Form No. 205 is when all tasks called for in the subcontract as amended by changes directed by the Engineer have been accomplished and documented as required by the Department.

   The requirements stated above do not apply to retainage withheld by the Department from monies earned by the Contractor. The Department will continue to process the release of that retainage based upon the completion date of the project as defined in the Commencement and Completion of Work special provision.

9. If during the prosecution of the project a portion of the work is partially accepted in accordance with subsection 105.21(a), the Contractor shall release all subcontractors' retainage on the portion

of the partially accepted work performed by subcontractors. Prior to the Department releasing the Contractor's retainage on work that has been partially accepted in accordance with subsection 105.21(a), the Contractor shall submit to the Engineer a certified statement for each subcontractor that has participated in the partially accepted work. The statement shall certify that the subcontractor has been paid in full for its portion of the partially accepted work including release of the subcontractor's retainage. The statement shall include the signature of a legally responsible official for the Contractor, and the signature of a legally responsible official for the subcontractor.

10. The Contractor shall be solely responsible for all additional costs involved in paying retainage to the subcontractors prior to total project completion.

(f) *Good Cause Exception.* If the Contractor has "good cause" to delay or withhold a subcontractor's progress payment, the Contractor shall notify the Department and the subcontractor in writing within seven calendar days after receiving payment from the Department. The notification shall specify the amount being withheld and provide adequate justification for withholding the payment. The notice shall also clearly state what conditions the subcontractor must meet to receive payment. "Good cause" shall include but not be limited to the failure of the subcontractor to make timely submission of required paperwork.

COLORADO DEPARTMENT OF TRANSPORTATION **MONTHLY PAYMENT SUMMARY**	Contractor:	Project:	SA:	PE Initials:
	Payment Period: / / - / /	Date Paid: / /	Received By CDOT: / /	

Following the receipt of a payment from the Department, this form must be completed to show all payments due to subcontractors, including suppliers, in accordance with CDOT Standard Specifications for Road and Bridge Construction 109.06. Please follow the instructions below:

- List all subcontractors whose work you reported in the pay estimate or invoice to CDOT. Attach additional pages if necessary.
- Accurately describe the work performed or supplies provided by the subcontractor.
- Mark whether you have requested approval of a good cause exception. A good cause exception is required if you did not pay your subcontractor within seven days of receipt of payment from the Department.
- List the amount of the invoice and current payment to the subcontractor.
- Mark whether subcontractor has completed the subcontract/purchase order and whether you have released retainage to such subcontractor.
- Submit a signed copy of this form to the Project Engineer. Failure to timely complete this form will result in delay of your next payment from the Department. Failure to accurately complete this form could result in the delay of future payments from the Department.

Subcontractor	Payment Date	Exception Requested	Invoice Amount	Payment Amount	Work Completed	Retainage Released
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N
	/ /	☐Y ☐N	$	$	☐Y ☐N	☐Y ☐N

I declare under penalty of perjury in the second degree and any other applicable state or federal laws that the statements made in this document are complete, true and accurate and that my company has complied with CDOT Standard Specifications for Road and Bridge Construction and all other relevant contract provisions. I acknowledge that if payment has not been made consistent with the representations herein, my company may be liable for interest pursuant to CRS 24-91-103(2) and the Department may withhold payments to my company until all required payments have been made to subcontractors.

Contractor Representative Name	Signature	Title	Date

Exhibit E

DBE Directory Sample Pages

Pandora Radio - Listen to | Inbox - randy.liljenberg@ | State.co.us Executive Bran | Colorado Unified Certifica | Disadvantaged Business E | Coal Ridge Animal Hospit | Colorado Rule

https://coucp.dbesystem.com/FrontEnd/VendorSearchPublic.asp?XID=3786&TN=coucp

Apps | Pandora Radio - List... | ACA | CSECU | cyclingnews | EarthLink | eBay | Intranet | San Diego Union-Tri... | Subcontractor Surve... | DBE Directory | ESB Directory | Cert Management S... | Google | plone login | crlms | Imported From IE

Colorado Unified Certification Program

Home | DBE Directory

COLORADO UCP DBE AND ACDBE DIRECTORY

NAICS Work Codes | Work Code Crosswalk Map | Updates

The Directory lists certified DBE and ACDBE businesses that may be utilized by primes, contractors, or consultants to meet DBE and ACDBE project goals. Search the UCP DBE and ACDBE Directory by entering search parameters and clicking Search. You must select at least one certification type.

When conducting a DBE search please be aware that various methods may be necessary to find what you are looking for. For example, if you are searching for a company called ABC, Inc. and nothing appears you may want to try entering ABC or ABC Inc.

Search by Business Name or DBA

Business Name/DBA

Tip: Try just a few letters of the firm's name.

Search by Work Code

Work Code

Click to Lookup Work Code

(popup window will appear to browse and search available Work Codes)

Search by Contact Person

Contact Person/Owner

First name — Tip: Use the first letter.

Last name — Tip: Try just the first few letters.

Search by Location

City

State

Zip Code

Phone Area Code

Search by Certification Type

Certifications

- [x] Airport Concessionaire Disadvantaged Business Enterprise (ACDBE)
- [x] Disadvantaged Business Enterprise (DBE)

Search by Reference

Ethnicity: None selected

Gender: None selected

Search | Download Entire Directory: to Excel | to CSV

Include Work Codes in download

8:43 AM 12/23/2013

Colorado Unified Certification Program - Google Chrome

https://coucp.dbesystem.com/FrontEnd/VendorSearchPublicDetail.asp?XID=7474&TN=coucp&CID=78EC28FA82C5E728BA115A0A8948CA9D484E35646DDE7EBC

Vendor Information

CLOSE WINDOW

HELP

Vendor Information	
Business Name	Alert Traffic Control, Inc.
Owner	Ms. Susan Ward
Address > Map This Address	543 Sower Dr. Bayfield, CO 81122
Phone	970-884-0578
Fax	970-884-0590
Email	sward@alertraffic.com
Ethnicity	Caucasian
Gender	Female

Certification Information	
Certifying Agency	Colorado Department of Transportation
Certification Type	DBE - Disadvantaged Business Enterprise
Certified Business Description	Traffic control, striping, signing, equipment rental

Work Codes	
CO UCP NAICS 237310	Painting lines on highways, streets and bridges
CO UCP NAICS 237310	Sign erection, highway, roads street or bridge
CO UCP NAICS 238910	Demolition contractor
CO UCP NAICS 532412	Construction machinery and equipment rental or leasing without operator
CO UCP NAICS 561990	Flagging (i.e., traffic control) services

Customer Support

Print This Page

Copyright © 2013 B2Gnow. All rights reserved.

8:46 AM
12/23/2013

Exhibit F

DBE Standard Special Provision

December 26, 2013

DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

NOTICE

This is a standard special provision that revises or modifies CDOT's *Standard Specifications for Road and Bridge Construction*. It has gone through a formal review and approval process and has been issued by CDOT's Project Development Branch with formal instructions for its use on CDOT construction projects. It is to be used as written without change. Do not use modified versions of this special provision on CDOT construction projects, and do not use this special provision on CDOT projects in a manner other than that specified in the instructions unless such use is first approved by the Standards and Specifications Unit of the Project Development Branch. The instructions for use on CDOT construction projects appear below.

Other agencies which use the *Standard Specifications for Road and Bridge Construction* to administer construction projects may use this special provision as appropriate and at their own risk.

Instructions for use on CDOT construction projects:

Use this Standard Special Provision on all partially or wholly funded Federal-Aid Design-Bid-Build Projects. Use in conjunction with the Project Special Provision Worksheet, Disadvantaged Business Enterprise (DBE) Contract Goal.

The Designer should consult with the Regional Civil Rights Office (RCRO) to determine the use of this standard special and to obtain the contract goal. A contract goal of zero still requires the use of this standard special and the worksheet. Designers shall not set their own contract goal.

This standard special provision should not be used for CM/GC services, design-build or other innovative projects. For DBE provisions for these projects, contact the Civil Rights and Business Resource Center (CRBRC) at (303)757-9234.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS

1. Overview

The Disadvantaged Business Enterprise (DBE) Program is a federally-mandated program that seeks to ensure non-discrimination in the award of U.S. Department of Transportation (DOT)-assisted contracts and to create a level playing field on which DBEs can compete fairly for DOT-assisted contracts. To such end, CDOT sets a contract goal for DBE participation for each DOT-assisted Contract.

In order to be awarded the Contract, the bidder shall show that it has committed to DBE participation sufficient to meet the goal or has otherwise made good faith efforts to do so. CDOT will amend the goal prior to award if the lowest apparent bidder demonstrates that good faith efforts were made but sufficient commitments to meet the goal could not be obtained.

CDOT will monitor the progress of the Contractor throughout the project to ensure that the Contractor's DBE commitments are being fulfilled. Modifications to the commitments must be approved by CDOT. CDOT may withhold payment or seek other contractual remedies if the Contractor is not complying with the requirements of this special provision. Upon completion of the Contract, CDOT may reduce the final payment to the Contractor if the Contractor has failed to fulfill the commitments or made good faith efforts to meet the contract goal.

For general assistance regarding the DBE program and compliance, contact CDOT's Civil Rights and Business Resource Center (CRBRC) at (303)757-9234. For project specific issues, contact the Engineer.

All forms referenced herein can be found on the CDOT website in the forms library:

http://www.coloradodot.info/library/forms/cdot-forms-by-number

2. Contract Assurance

By submitting a proposal for this Contract, the bidder agrees to the following assurance and shall include it verbatim in all (including non-DBE) subcontracts:

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

3. Definitions

Terms not defined herein shall have the meaning provided in the CDOT Standard Specifications for Road and Bridge Construction.

A. *Commitment.* A commitment is a portion of the Contract, identified by dollar amount and work area, designated by the bidder or Contractor for participation by a particular DBE. Commitments are submitted to CDOT via Form 1414, Anticipated DBE Participation Plan, or via Form 1420, DBE Plan Modification Request. Once approved, commitments are obligations of the Contract that are enforceable by CDOT.

B. *Commercially Useful Function (CUF).* Responsibility for the execution of the work and carrying out such responsibilities by actually performing, managing and supervising the work as further described in Section 8 below.

C. *Contract Goal.* The percentage of the contract designated by CDOT for DBE participation. The contract goal for this contract is provided in the Project Special Provision Disadvantaged Business Enterprise

Contract Goal.

(1) The bidder/Contractor shall make good faith efforts to fulfill the contract goal with eligible DBE participation. For determining whether the contract goal was met prior to award, the contract goal shall be based upon the proposal amount excluding force account items. For determining whether the contract goal was met during and upon completion of the project, the contract goal shall be based upon the total earnings amount.

(2) If the lowest apparent bidder demonstrates that it was unable to meet the contract goal but made good faith efforts to do so, the contract goal will be amended and the revised contract goal will be provided on Form 1417, Approved DBE Participation Plan.

D. *Disadvantaged Business Enterprise (DBE).* A Colorado-certified Disadvantaged Business Enterprise listed on the Colorado Unified Certification Program (UCP) DBE Directory at www.coloradodbe.org.

E. *DBE Program Manual.* The manual maintained by the CRBRC which details CDOT's policies and procedures for administering the DBE program. A copy of the DBE Program Manual is available on the CRBRC webpage.

F. *Eligible Participation.* Work by a DBE that counts toward fulfillment of the contract goal as described in Section 4 below.

G. *Good Faith Efforts.* All necessary and reasonable steps to achieve the contract goal which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if not fully successful. Good faith efforts are evaluated prior to award and throughout performance of the Contract. For guidance on good faith efforts, see 49 CFR Part 26, Appendix A.

H. *Joint Check.* A check issued by the Contractor or one of its subcontractors to a DBE firm and a material supplier or other third party for materials or services to be incorporated into the work.

I. *Reduction.* A reduction occurs when the Contractor reduces a commitment to a DBE. A reduction constitutes a partial termination.

J. *Subcontractor.* An individual, firm, corporation or other legal entity to whom the Contractor sublets part of the Contract. For purposes of this special provision, the term subcontractor includes suppliers.

K. *Substitution.* Substitution occurs when a Contractor seeks to find another DBE to perform work on the contract as a result of a reduction or termination.

L. *Termination.* A termination occurs when a Contractor no longer intends to use a DBE for fulfillment of a commitment.

M. *Total Earnings Amount:* Amount of the Contract earned by the Contractor, including approved changes and approved force account work performed, but not including any deductions for liquidated damages, price reduced material, work time violations, overweight loads or liens. The amount of the Contract earned does not include plan force account items (i.e. OJT, pavement incentives, etc).

N. *Work Code.* A code to identify the work that a DBE is certified to perform. A work code includes a six digit North American Industry Classifications System code plus a descriptor. Work codes are listed on a firm's profile on the UCP DBE Directory. The Contractor may contact the CRBRC to receive guidance on whether a work code covers the work to be performed.

4. Eligible Participation

The following rules will be used to determine whether work performed by a DBE qualifies as eligible participation on the Contract:

A. *Work Must be Identified in Commitment.* The work performed by the DBE must be reasonably construed to be included in the work area and work code identified by the Contractor in the approved commitment.

(1) If the Contractor intends to use a DBE for work that was not listed in the commitment, the Contractor shall submit Form 1420, DBE Participation Plan Modification for approval of the modification. Unapproved work will not count toward the contract goal.

(2) A DBE commitment cannot be modified to include work for which the DBE was not certified at the time of the approval of the original commitment.

B. *DBE Must be Certified to Perform the Work.* The DBE must be certified to perform the work upon submission of the commitment and upon execution of the DBE's subcontract.

(1) When a commitment has been made, but upon review of Form 205 or 205B, Sublet Permit, CDOT determines that the DBE is no longer certified in the work code which covers the work to be performed, the Contractor may not use the DBE's participation toward the contract goal. The Contractor shall terminate the DBE commitment and seek substitute DBE participation in accordance with Section 9 below.

(2) A DBE's work will continue to count as eligible participation if the DBE was certified upon approval of Form 205 or 205B, Sublet Permit and the certification status changes during the performance of the work.

(3) Suppliers must be certified upon execution of the purchase order.

C. *DBE Performs the Work*. Eligible participation will only include work actually performed by the DBE with its own forces.

(1) Work performed by the DBE includes the cost of supplies and materials obtained by the DBE for its work on the Contract, including any equipment leased by the DBE, provided that such supplies or equipment are not purchased or leased from the Contractor or a subcontractor that is subletting to the DBE.

(2) If CDOT determines that a DBE has not performed a CUF on the project, no participation by such DBE shall count toward the contract goal.

D. *DBE Subcontracts to Another Firm.* When a DBE subcontracts part of the work, the value of the subcontracted work may only be counted toward the goal if the subcontractor is a DBE. Performance by non-DBE subcontractors, including non-DBE trucking firms and owner-operators, shall be deducted from the DBE's participation.

E. *DBE Received Payment for the Work.* Eligible participation only includes work for which the DBE has received payment, including the release of its retainage.

F. *Special Calculations for Suppliers.* When a DBE supplies goods on a project, the DBE may be classified as a manufacturer, dealer or broker. The DBE's status as a manufacturer, dealer or broker is determined on a contract-by-contract basis and is based upon the actual work performed.

(1) When a DBE is deemed to be acting as a manufacturer, one hundred percent of the commitment will count as eligible participation.

(2) When a DBE is deemed to be acting as a regular dealer (i.e. non-manufacturer supplier), only sixty percent of the commitment will count as eligible participation.

(3) When a DBE is deemed to be acting as a broker, only the reasonable brokerage fee will count as eligible participation.

G. *Reasonable Fee for Contract-Specific Services.* Services shall count toward the contract goal only if they are specifically required for the performance of the Contract. Non-contract specific expenses may not be counted toward the contract goal. Fees for services must be reasonable. Services include but are not limited to professional services, public involvement, etc. In the case of temporary employment placement agencies, only the placement fee for an individual to be specifically and exclusively used for work on the contract shall count as eligible participation.

H. *Pre-Approval for Joint Venture Participation.* When a DBE is a participant in a joint venture, the DBE must apply to CDOT to determine how much of the work performed by the joint venture will count toward the contract goal. The DBE shall complete Form 893, Information for Determining DBE Participation when a Joint Venture Includes a DBE. Form 893 shall be submitted to CDOT no less than ten days before the submission of the Proposal to ensure sufficient time for review.

5. Proposal Requirements

In order to be eligible for award, the following shall be submitted with the proposal, or, for electronic bidders, via email to cdot_hq_dbeforms@state.co.us by the proposal submission deadline. In order to avoid an error within the electronic bidding system, electronic bidders shall also enter the total percentage of anticipated eligible DBE participation into the Form 714 and electronically sign the form.

A. *Form 1413, Bidders List.* The bidder shall list each subcontractor (including both DBE and non-DBE subcontractors) that submitted a quote for participation on the project. Failure to submit a signed Form 1413 will result in rejection of the proposal.

B. *Form 1414, Anticipated DBE Participation Plan.* If the Contract Goal is greater than zero, the bidder shall submit Form 1414 to document anticipated DBE participation.

(1) If the Bidder has not obtained any DBE commitments, it shall still submit Form 1414 documenting zero anticipated participation. If the Contract Goal is greater than zero, failure to submit a signed Form 1414 shall result in rejection of the proposal.

(2) The bidder shall list the DBE, work area(s), commitment amount and estimated eligible participation for each commitment. Once Form 1414 is submitted, a commitment may only be terminated or reduced in accordance with Section 9 below. The bidder is responsible for ensuring that commitments, and the estimated eligible participation resulting therefrom, have been properly calculated prior to submitting its proposal.

(3) If the bidder is a DBE, the bidder must include itself in Form 1414 and list the work area(s) and amount that it intends to self-perform and count as eligible participation on the contract.

(4) Commitments may be made to second tier or lower DBE subcontractors; however, the Contractor is ultimately responsible for the fulfillment of the commitment and shall sign the Form 1415, Commitment Confirmation.

6. Additional Forms Due Prior to Award.

If the contract goal is greater than zero, or if the bidder has voluntarily made commitments, the Bidder shall submit the following forms within five calendar days of selection as the lowest apparent bidder:

A. *Form 1415, Commitment Confirmation*. A Form 1415, Commitment Confirmation shall be obtained from each DBE listed on Form 1414. The bidder shall complete Section 1 and the DBE shall complete Section 2 of Form 1415. Form 1415s shall be consistent with the commitments listed on Form 1414. The bidder shall not modify commitments listed on Form 1414 without good cause and approval from CDOT. The bidder shall contact CDOT if any issues arise which may require the bidder to alter or terminate a commitment.

B. *Form 1416, Good Faith Effort Report.* If the total eligible participation listed on Form 1414 does not meet the contract goal, the lowest apparent bidder shall also submit Form 1416, Good Faith Effort Report and any supporting documentation that the bidder would like considered by CDOT as evidence of good faith efforts.

7. Commitment and Good Faith Effort Review

A. *Commitment Review*. CDOT will evaluate the Form 1414 and each Form 1415 to ensure that it the commitment is valid and has been properly calculated. CDOT may investigate or request additional information in order to confirm the accuracy of a commitment. If CDOT determines that the total estimated eligible participation of the commitments does not meet the contract goal, within two business days of notice from CDOT or within the original five calendar day deadline, whichever is later, the bidder shall submit Form 1416 to CDOT.

B. *Good Faith Effort Review.* If the total eligible participation of Form 1414 and all supporting Form 1415s does not meet the contract goal, CDOT will review Form 1416 and all supporting documentation submitted by the bidder in order to determine whether the bidder has demonstrated good faith efforts to obtain DBE participation. CDOT will use 49 CFR Part 26, Appendix A as a guide for determining whether the bidder made good faith efforts to meet the contract goal. A bidder will be deemed to not have made good faith efforts if the bidder lists a DBE for a work area for which the DBE is not certified and the bidder cannot establish a reasonable basis for its determination. CDOT may consider and approve commitments made after submission of the bid if the Bidder demonstrates that (1) good faith efforts were made prior to submission of the bid and (2) there is a reasonable justification for not obtaining the commitments prior to submission of the bid.

C. *Administrative Reconsideration.* If CDOT determines that the bidder did not demonstrate good faith efforts to meet the contract goal, it will provide the bidder with written notice of its determination and an opportunity to appeal. The process for reconsideration is set forth in the *Good Faith Effort Appeal Process,* which is an Appendix I to the DBE Program Manual. A copy of the *Good Faith Effort Appeal Process* will be included in the written notice from CDOT.

D. *Form 1417, Approved DBE Participation Plan.* If CDOT determines that the bidder has met the contract goal or made good faith efforts to do so, CDOT will issue Form 1417, Approved DBE Participation Plan, documenting the approved commitments. If CDOT determines that the bidder did not meet the contract goal but made good faith efforts to do so, via the Form 1417 CDOT will amend the contract goal in accordance with the commitments that were obtained and attach an explanation of its determination.

8. Ongoing Oversight of DBE Participation

A. *Consistency Review.* CDOT will review Form 205 or 205B, Sublet Permit Application to determine whether the work being sublet is consistent with the DBE commitments. CDOT may withhold approval of the sublet or stop performance of the work if the Contractor has reduced, terminated, or otherwise modified the type or amount of work to be performed by a DBE without seeking prior approval.

B. *Form 1419, DBE Participation Report.* The Contractor shall submit Form 1419, DBE Participation Report

to the Engineer on a quarterly basis (January 15, April 15, July 15, and October 15) and upon completion of the Contract. CDOT may withhold progress payments if the quarterly Form 1419 is not received on time. CDOT will not provide final payment on the Contract in accordance with subsection 109.09 of CDOT's *Standard Specifications for Road and Bridge Construction* until the final Form 1419 has been reviewed and approved.

C. *Joint Checks*. All joint checks must be approved by CDOT before they are used in payment to a DBE. Joint checks used in payments to DBEs will be monitored closely to ensure (1) the DBE is performing a CUF and (2) the joint checks are not being used in a discriminatory manner. The Contractor shall request approval for the use of a joint check in a written letter signed by the DBE and the Contractor, stating the reason for the joint checks and the approximate number of checks that will be needed.

D. *Commercially Useful Function*. CDOT will monitor performance during the Contract to ensure each DBE is performing a CUF. If CDOT determines that a DBE is not performing a CUF, no work performed by such DBE shall count as eligible participation. The DBE, Contractor, and any other involved third parties may also be subject to additional enforcement actions.

(1) When determining whether a DBE is performing a CUF, CDOT will consider the amount of work subcontracted, industry practices, the amount the firm is to be paid compared to the work performed and eligible participation claimed, and any other relevant factors.

(2) With respect to material and supplies used on the Contract, in order to perform a CUF the DBE must be responsible for negotiating price, determining quality and quantity, ordering the material, installing the material, if applicable, and paying for the material itself.

(3) With respect to trucking, in order to perform a CUF, the DBE trucking firm must own and operate at least one fully licensed, insured and operational truck used on the Contract. Additionally, the DBE trucking firm must be responsible for the management and supervision of the entire trucking operation for which it is responsible on the Contract.

(4) A DBE does not perform a CUF when its role is limited to that of an extra participant in a transaction, contract or project through which funds are passed in order to obtain the appearance of DBE participation. CDOT will evaluate similar transactions involving non-DBEs in order to determine whether a DBE is an extra participant.

(5) If a DBE does not perform or exercise responsibility for at least 30 percent of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work than would be expected on the basis of normal industry practice for the type of work involved, CDOT will presume that the DBE is not performing a CUF. The DBE may present evidence to rebut this presumption.

(6) If the Contractor disagrees with CDOT's determination regarding CUF, in accordance with 49 CFR 26.55 the Contractor may seek review of the determination by the applicable USDOT operating administration, however, CUF determination is not subject to administrative appeal.

9. DBE Participation Plan Modifications

A. *Form 1420, DBE Participation Plan Modification Request***.** During the performance of the Contract, the Contractor shall use Form 1420, DBE Participation Plan Modification Request to communicate all requests for *termination*, reduction, substitution, and waivers to CDOT. One Form 1420 may include multiple requests and must be submitted at the time of the occurrence or, if that is not possible, within a reasonable time of the occurrence requiring termination, reduction, substitution or waiver.

B. *Commitment Terminations and Reductions.* No commitment shall be terminated or reduced without CDOT's approval. Terminations and reductions include, but are not limited to, instances in which a

Contractor seeks to *perform* work originally designated for a DBE subcontractor with its own forces, those of an affiliate, a non-DBE firm or with another DBE firm. In order to receive approval, the Contractor shall:

(1) Have good cause for termination or reduction. Good cause may include:

(i) the DBE fails or refuses to execute a written contract;

(ii) the DBE fails or refuses to perform the work of its subcontract consistent with normal industry standards, provided that such failure is not the result of bad faith or discriminatory actions of the Contractor or one of its subcontractors;

(iii) the DBE fails to meet reasonable, nondiscriminatory bond requirements;

(iv) the DBE becomes bankrupt, insolvent, or exhibits credit unworthiness;

(v) the DBE is ineligible to work because of suspension or debarment proceedings or other state law;

(vi) the DBE is not a responsible contractor;

(vii) the DBE voluntarily withdraws from the project and provides written notice to CDOT,

(viii) the DBE is ineligible to receive DBE credit for the work required;

(ix) the DBE owner dies or becomes disabled and is unable to complete the work;

(x) the DBE ceases business operations or otherwise dissolves;

(xi) or other documented good cause that compels termination. Good cause does not exist if the Contractor seeks to terminate a DBE it relied upon to obtain the contract so that the Contractor can self-perform the work for which the DBE was engaged or so that the Contractor can substitute another DBE or non-DBE contractor after contract award.

(2) Provide the DBE notice of the Contractor's intent to terminate or reduce the commitment and the reason for such termination or reduction, with a copy to CDOT;

(3) In the notice of intent, provide the DBE at least five calendar days to respond to the notice and inform CDOT and the Contractor of the reasons, if any, why it objects to the proposed termination or reduction and any reasons that it shall not be approved. The Contractor is not required to provide the five calendar days written notice in cases where the DBE in question has provided written notice that it is withdrawing from the subcontract or purchase order. The notice period may be reduced by CDOT if required by public necessity.

(4) Following the notice period, if the Contractor decides to proceed, submit Form 1420 requesting approval of the termination or reduction.

(5) When a commitment is terminated or reduced (including when a DBE withdraws), make good faith efforts to find another DBE to substitute. 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 participation that was terminated or reduced up to the contract goal.

C. *Contract Changes.* In the event of a contract change:

(1) If CDOT eliminates or reduces work committed to a DBE, such change shall be considered good cause for termination or reduction in accordance with Section 9.B above. The Contractor shall follow the processes outlined in Section 9.B but is not required to substitute. If the change reduces the Contractor's DBE participation to below the contract goal, the Contractor shall indicate so on a Form 1420 and request a waiver of the unmet participation.

(2) If CDOT issues a change which increases or adds new work items, the Contractor shall ensure that it has obtained sufficient DBE participation to meet the Contract Goal, or has made good faith efforts to do so.

D. *Process for Substitution or Increase in Participation to Meet the Contract Goal.* When the Contractor must obtain additional DBE participation to meet the Contract Goal, whether resulting from an approved termination or reduction or a change to the Contract, the Contractor shall:

(1) Increase the participation of a DBE for any work items previously identified in an approved commitment without seeking CDOT approval; provided, however, that at its discretion, CDOT may request a Form 1420 documenting such additional participation; or

(2) If the Contractor needs to add new work to a commitment or obtain additional participation from a DBE that is not already participating on the contract pursuant to an approved commitment, submit a Form 1420 and Form 1415 requesting approval of the additional participation; or

(3) If the Contractor determines that additional DBE participation cannot be obtained, submit a Form 1420 requesting waiver of the participation. The Contractor shall include its justification for not obtaining additional participation and, at its discretion, CDOT may require additional information regarding the efforts of the Contractor.

10. Payment Reduction

The Contractor's retainage will not be released until CDOT has determined whether the Contractor will be subject to a payment reduction. Payment reductions will be calculated as follows:

A. *Failure to Fulfill Commitments.* If the Contractor terminated or reduced a commitment, the Contractor will be subject to a payment reduction for any termination or reduction which was not approved via a Form 1420.

B. *Failure to Meet Contract Goal.* If the Contractor failed to meet the contract goal, the Contractor will be subject to a payment reduction for the portion of the contract goal that was not met and was not waived via an approved Form 1420.

C. *Duplication.* The contractor will not be subject to duplicate reduction for the same offense.

D. *Adjustments.* CDOT may adjust the payment reduction wherein the Contractor demonstrates that its failure to obtain DBE participation was due to circumstances outside of its control.

11. Other Enforcement

A. *Investigations.* As it determines necessary, CDOT may conduct reviews or investigations of participants. All participants, including, but not limited to, DBE firms and applicants for DBE certification, complainants, and contractors using DBE firms to meet contract goals, are required to cooperate fully and promptly with compliance reviews, certification reviews, investigations, and other requests for information.

B. *Intimidation and retaliation.* Participants shall not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by the DBE program or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under the DBE program.

C. *Consequences of Non-Compliance.* Failure to comply with subsections 11 A. or 11 B. shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).

D. *Fraud and Misrepresentation*. If CDOT determines that a Contractor or subcontractor was a knowing and willing participant in any intended or actual subcontracting arrangement contrived to artificially inflate DBE participation or any other business arrangement determined by CDOT to be unallowable, or if the Contractor engages in repeated violations, falsification or misrepresentation, CDOT may:

(1) refuse to count any fraudulent or misrepresented DBE participation;

(2) withhold progress payments to the Contractor commensurate with the violation;

(3) suspend or reduce the Contractor's prequalification status;

(4) refer the matter to the Office of Inspector General of the US Department of Transportation for investigation; or

(5) seek any other available contractual remedy.

Exhibit G

CDOT DBE Participation, Monitoring, and Enforcement Forms

COLORADO DEPARTMENT OF TRANSPORTATION

BIDDERS LIST

Project Name and Number	Project Code	Proposal Date	Contractor	Region

Subcontractors/Suppliers/Vendors: The bidder must list all firms seeking to participate on the contract. This information is used by the Colorado Department of Transportation (CDOT) to determine overall goals for the Disadvantaged Business Enterprise Program. Failure to submit this form may result in the proposal being rejected.

Firm Name	Email	Work Proposed (Select all that apply)	DBE (Y/N)	Selected (Y/N)

I certify that the information provided herein is true and correct to the best of my knowledge.

Name	Signature/Initials	Title	Date

Work Proposed Categories:

1. *Materials and Supplies*
2. *Flagging and Traffic Control*
3. *Trucking and Hauling*
4. *Precast Concrete, Foundations, and Footings*
5. *Concrete Paving, Flatwork and Repair*
6. *Lighting and Electrical*
7. *Signs, Signal Installation, and Guardrail*
8. *Fencing*
9. *Buildings and Vertical Structures*
10. *Utility, Water and Sewer Lines*
11. *Structural Steel and Steel Reinforcement*
12. *Riprap and Anchored Retaining Walls*
13. *Landscape and Erosion Control*
14. *Bridge and Bridge Deck Construction*
15. *Asphalt Paving*
16. *Road and Parking Lot Marking*
17. *Chip Seal, Crack Seal, Joint Seal and Crack Fill*
18. *Bridge Painting and Coating*
19. *Stairway and Ornamental Metal*
20. *Parking Lots and Commercial Sidewalks*
21. *Clearing, Demolition, Excavation and Earthwork*
22. *Engineering and Surveying Services*
23. *Public Relations and Involvement*
24. *Piles and Deep Foundations*
25. *Waste Management and Recycling*
26. *Site Clean Up*
27. *Mechanical and HVAC*
28. *Tunnel Construction*
29. *Profiling and Grinding*
30. *Environmental Health and Safety*

This form must be submitted by the proposal deadline. For CDOT projects, submit to cdot_hq_dbeforms@state.co.us.

COLORADO DEPARTMENT OF TRANSPORTATION

ANTICIPATED DBE PARTICIPATION PLAN

Bidder:		Project:	
Contact:		Project Code:	
Phone:		Date of Proposal:	
Email:		Contract Goal:	
Preferred Contact Method:		Region:	

DBE Commitments

DBE Firm Name	Work to Be Performed	Commitment Amount	Eligible Participation
		Total Eligible Participation	
		Total Bid Amount	
		Total Eligible Participation Percentage	#DIV/0!

Bidder Signature

This section must be signed by an individual with the authority to bind the Bidder. By signing this form, as an authorized representative of the Bidder, you declare under penalty of perjury in the second degree and any other applicable state or federal laws that the statements made in this document are true and complete to the best your knowledge. Further, you attest that you have read the Standard Special Provision Disadvantaged Business Enterprise Requirements and understand the following:

CDOT shall not award a contract until it has been determined that the contract goal has been met or that you have otherwise demonstrated good cause. Once your proposal has been submitted, commitments may not be modified or terminated without the approval of CDOT. If selected as the lowest apparent bidder, you shall submit a Form 1415 for each commitment listed above. If you have not met the contract goal, you will also be required to submit documentation of all good faith efforts to meet the contract goal.

It is your responsibility to ensure that the selected DBEs are certified for the work to be performed and that their eligible participation has been properly counted. For additional information and instructions on calculating eligible participation, see the Standard Special Provision Disadvantaged Business Enterprise Requirements.

Name	Title	Signature	Date

This form must be submitted by the proposal deadline. For CDOT projects, submit to cdot_hq_dbeforms@state.co.us.

COLORADO DEPARTMENT OF TRANSPORTATION

COMMITMENT CONFIRMATION

SECTION 1. This section must be completed by the Contractor.

Project:		Project Code:	
Bidder/Contractor:		Phone:	
Contact:		Email:	
DBE Firm Name:		DBE Phone:	
DBE Address:		DBE Email:	

Commitment Details

Category	Work to be Performed	DBE Work Code(s)	Commitment Amount	Eligible Participation
Construction				
Trucking				
Supplies				
Services				
		Total		

This section must be signed by an individual with the power to contractually bind the Bidder/Contractor. You declare under penalty of perjury in the second degree and any other applicable state or federal laws that the statements made in this document are complete, true and accurate to the best of your knowledge.

Bidder/Contractor Representative	Title	Signature	Date

SECTION 2. This section must be completed by the DBE. (Attach additional pages if necessary).

This document is not a contract with the Bidder/Contractor; it is an acknowledgement of the obligation that the Bidder/Contractor is making to CDOT. The amounts listed above may be less than the subcontractor or purchase order amount, but can never be more, and shall not reflect any mark up by the Bidder/Contractor. **All questions must be answered.**

Are you contracting directly with the Bidder/Contractor or with one of its subcontractors? If with a subcontractor, provide the firm name.	
Will you be purchasing supplies or materials or leasing or renting equipment from the Bidder/Contractor or its subcontractors? If so, explain.	
Do you intend to subcontract any portion of the work listed above? If yes, state to which firms, what work and the approximate amount. Include trucking subcontractors and owner-operators.	
Will you be providing trucking services on this project? If so, state how many of your own trucks and employees you will have on this project.	
Who within your firm will be supervising and responsible for your firm's work on this project?	
Will you be acting as a broker on this project? If so, state what you will be brokering and your approximate brokerage fee.	
Will you be acting as a supplier on this project? If so, please state what you will be supplying and whether you will manufacture the items.	

This section must be signed by an individual with the power to contractually bind the DBE. You declare under penalty of perjury in the second degree and any other applicable state or federal laws that the statements made in this document are complete, true and to the best of your knowledge. You attest that you are eligible to participate as a DBE on this contract for the work listed above and have the capacity to perform the work as stated.

DBE Representative	Title	Signature	Date

See the DBE Standard Special provision for additional information on completing and submitting this form.

Pre-award CDOT projects: Submit this form to the CDOT Civil Rights and Business Resource Center via fax to (303)757-9019. All originals must be sent to: CDOT Civil Rights and Business Resource Center, 4201 E. Arkansas Ave. Room 150, Denver, CO 80222.

Pre-award local agency projects: Submit this form to the local agency. All originals must be sent to: CDOT Civil Rights and Business Resource Center, 4201 E. Arkansas Ave. Room 150, Denver, CO 80222.

COLORADO DEPARTMENT OF TRANSPORTATION

GOOD FAITH EFFORT REPORT

Section 1. Contractor and Project Information

Bidder:		Project:	
Address:		Project Code:	
Contact Name:		Proposal Amount:	
Contact Phone:		Contract Goal Percentage:	
Contact Email:		Contract Goal Dollar Value:	

Section 2. Efforts to Achieve DBE Participation. Attach a narrative that answers the questions below and complete Page 2 (Subcontractor Quote Summary). Provide any supporting documentation which demonstrates your good faith efforts.

a. Describe your overall plan or approach to meeting the contract goal. Include how much and what work you intend to self-perform; how much and what work you intend to subcontract; what work areas were identified as subcontracting opportunities for DBEs; and the approximate number of DBEs per area.

b. Describe your efforts to obtain DBE participation (i.e. how you attempted to execute your plan or approach to meeting the contract goal). Include direct outreach (state the DBE solicited, date(s) and method of phone, email or fax); indirect outreach such as events, publications, and/or communication with minority and other organizations that you conducted to reach DBEs (state date(s), location and audience); other efforts you made to assist DBEs in competing for or obtaining contracts (accepting quotes from DBEs that may be higher than other subcontractors, modifications to contract scopes, unbundling, mentoring, etc.); and obstacles you encountered in assisting or contracting with DBEs. Cost alone shall not be a reason to reject a DBE and will be considered in the evaluation of Page 2.

c. If the eligible participation submitted on the Form 1414 was miscalculated, determined to be invalid, or otherwise did not meet the contract goal, provide your justification for such deficiencies and the remedies you have taken or intend to take to avoid the issue in the future. If you have obtained any additional commitments since submission of the bid, attach the Form 1415(s) and the reason why such commitments were not obtained prior to the proposal due date.

Section 3. Affidavit of Good Faith Efforts. The Bidder must show that it took all necessary and reasonable steps to achieve the DBE contract goal which by their scope, intensity and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if not fully successful. 49 CFR Part 26, Appendix A sets forth examples and guidance for good faith efforts. The contractor is not limited to the examples provided in 49 CFR Part 26, Appendix A and may provide any documentation that demonstrates good faith efforts to obtain DBE participation on this contract.

If, at any time, CDOT has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, CDOT may initiate suspension or debarment proceedings against the person or firm under 49 CFR Part 29, take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice or Office of the Inspector General for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal program.

By signing below, the Bidder hereby affirms that it has made good faith efforts and has documented all such efforts in this form and the attached supporting documentation.

I, _____, am the _____ of _____.

Representative Name Title Company

I have the authority to make this affidavit for and on behalf of my company. All information provided herein and attached as evidence of my company's good faith efforts is true and accurate to the best of my belief.

_____ _____

Signature Date

Notarization: Must be completed by a licensed notary.

County of _____ State of _____

Subscribed and sworn before me this _____ day of _____

Notary Signature _____

Notary Address _____

_____

SEAL

CDOT projects: Submit this form and all supporting documentation to the CDOT Civil Rights and Business Resource Center via fax to (303)757-9019. All originals must be sent to: CDOT Civil Rights and Business Resource Center, 4201 E. Arkansas Ave. Room 150, Denver, CO 80222.

Local agency projects: Submit this form and all supporting documentation to the local agency. All originals must be sent to: CDOT Civil Rights and Business Resource Center, 4201 E. Arkansas Ave. Room 150, Denver, CO 80222.

Subcontractor Quote Summary (Attach additional pages if necessary.)

Subcontractor	DBE (Y/N)	Work Type(s)	Quote Amount	Selected (Y/N)	Reason

COLORADO DEPARTMENT OF TRANSPORTATION

APPROVED DBE PARTICPATION PLAN

Section 1. Eligibility for Award. The Civil Rights and Business Resource Center has determined that the Bidder listed below has demonstrated good faith efforts to meet the contract goal. The approved commitments are listed below. If applicable, CDOT's determination of other good faith efforts shall be attached.

Contractor:		Region:		Contract Goal:	
Project Name:		Project Code:		Amended (Y/N):	

Section 2. Approved DBE Commitments. The Bidder has committed to the following DBE participation on this project.

DBE	Work	Commitment Amount	Eligible Participation
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
		$	$
	Total Participation	**$**	**$**

CRBRC Staff:		Date:	

CDOT Form #1417 01/14

COLORADO DEPARTMENT OF TRANSPORTATION

DBE PARTICIPATION REPORT

Project:				Project Code:	
Contractor:				Phone:	
Report Period (Quarter or Final):					

For the quarterly report, summarize the DBE participation during the reporting period. For the final report summarize all DBE participation on the contract. Attach additional pages as necessary.

DBE Firm				Work Status (In Progress/Completed)	
Work this Period		Paid to Date		Eligible Participation to Date	
Work Performed					
DBE Firm				Work Status (In Progress/Completed)	
Work this Period		Paid to Date		Eligible Participation to Date	
Work Performed					
DBE Firm				Work Status (In Progress/Completed)	
Work this Period		Paid to Date		Eligible Participation to Date	
Work Performed					
DBE Firm				Work Status (In Progress/Completed)	
Work this Period		Paid to Date		Eligible Participation to Date	
Work Performed					
DBE Firm				Work Status (In Progress/Completed)	
Work this Period		Paid to Date		Eligible Participation to Date	
Work Performed					
DBE Firm				Work Status (In Progress/Completed)	
Work this Period		Paid to Date		Eligible Participation to Date	
Work Performed					
DBE Firm				Work Status (In Progress/Completed)	
Work this Period		Paid to Date		Eligible Participation to Date	
Work Performed					

CONTRACTOR: I declare under penalty of perjury in the second degree and any other applicable state or federal laws that the statements made in this document are complete, true and accurate and that I have the authority to commit my company to statements made herein.

Signature: _____ Name: _____ Date: _____

PROJECT ENGINEER OR MANAGER: To my knowledge, the statements made in this document are complete, true and accurate. I have reviewed the contracting records and monitored the work sites as part of normal business practices.

Signature: _____ Name: _____ Date: _____

COLORADO DEPARTMENT OF TRANSPORTATION

DBE PARTICIPATION PLAN MODIFICATION REQUEST

Section 1. Contractor and Project Information.

Contractor:		Project Code:	
Project Name		Earned Amount:	$
Contact Name:		Estimated Total Contract Amount:	$
Contact Phone:		DBE Goal:	%
Contact Email:		DBE Participation to Date:	$ %

Section 2. Approval Request. Attach supporting documentation and additional pages as necessary.

Reason(s):		Termination/Reduction		Substitution		New Commitment		Waiver		Modification

Explanation of Request:

Contractor Signature:	Date:

Section 3. Regional Civil Rights Office Review

RCRO Staff Signature:	□ Approved □ Denied	Date:

Comments/Conditions:

Engineer Signature:	Date:

Exhibit H

Uniform Report of DBE Awards or Commitments and Payments

UNIFORM REPORT OF DBE AWARDS OR COMMITMENTS AND PAYMENTS - CONSTRUCTION

****Please refer to the Instructions sheet for directions on filling out this form****

1. Submitted to (check only one): [X] FHWA [ ] FAA [ ] FTA--Vendor Number _____

2. AIP Numbers (FAA Recipients Only):

3. Federal fiscal year in which reporting period falls: FY

4. Date This Report Submitted:

5. Reporting Period: [] Report due June 1 (for period Oct. 1-Mar. 31) [] Report due Dec. 1 (for period April 1-Sept. 30)

6. Name of Recipient: **Colorado Department of Transportation (CDOT)**

7. Annual DBE Goal(s): Race Conscious Goal % Race Neutral Goal % OVERALL Goal %

	A	B	C	D	E	F	G	H	I
AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD (total contracts and subcontracts awarded or committed during this reporting period)	Total Dollars	Total Number	Total to DBEs (dollars)	Total to DBEs (number)	Total to DBEs /Race Conscious (dollars)	Total to DBEs/Race Conscious (number)	Total to DBEs/Race Neutral (dollars)	Total to DBEs/Race Neutral (number)	Percentage of total dollars to DBEs
8. Prime contracts awarded this period									
9. Subcontracts awarded/committed this period									
TOTAL									

	A	B	C	D	E	F	G	H	I
DBE AWARDS/COMMITMENTS THIS REPORTING PERIOD-BREAKDOWN BY ETHNICITY & GENDER	**Black American**	**Hispanic American**	**Native American**	**Subcont. Asian American**	**Asian-Pacific American**	**Non-Minority Women**	**Other (i.e. not of any other group listed here)**	**TOTALS (for this reporting period only)**	**Year-End TOTALS**
10. Total Number of Contracts (Prime and Sub)									
11. Total Dollar Value									

	A	B	C	D	E
ACTUAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD	Number of Prime Contracts Completed	Total Dollar Value of Prime Contracts Completed	DBE Participation Needed to Meet Goal (Dollars)	Total DBE Participation (Dollars)	Percentage of Total DBE Participation
12. Race Conscious					
13. Race Neutral					
14. Totals					

15. Submitted by (Print Name of Authorized Representative) **Greg Diehl**

16. Signature of Authorized Representative

17. Phone Number: 303-757-9599

18. Fax Number: 303-757-9019

Exhibit I

Good Faith Effort
Appeal Process

CDOT Good Faith Effort Administrative Reconsideration Procedures

1. If the CDOT Disadvantaged Business Enterprise Liaison Officer (DBELO) determines that the Bidder did not make good faith efforts to meet the contract goal, the DBELO shall notify the Bidder in writing, via the email address provided on the Form 1416, that the Bidder is entitled to administrative reconsideration.

2. CDOT's independent administrative reconsideration official is the Chief Engineer or his or her designee, provided that such designee did not participate in the original determination. The DBELO shall provide the administrative reconsideration official with a copy of the notice to the Bidder.

3. The Bidder has five business days from the date of the notice from the DBELO to submit an appeal to the email addresses provided in the notice.

    a. The appeal must include the Bidder's basis for the appeal and any supporting documentation that the Bidder would like considered as part of the reconsideration.

    b. The Bidder is entitled to a hearing. The Bidder's request for a hearing must be included in the appeal and shall specify whether the Bidder would like an in-person or a telephone hearing.

4. Upon receipt of request for a hearing, the administrative reconsideration official will establish a date and time for the hearing and send written notice to the Bidder at least two days in advance of the hearing. If schedules permit, the DBELO and Bidder may agree to waive the two day requirement.

5. The administrative reconsideration official may request additional documentation from the Bidder or the DBELO. A copy of all requests and responses shall be provided to the other party and the other party shall be given an opportunity to respond.

6. The administrative reconsideration official shall issue the final determination as to whether the Bidder made good faith efforts to meet the contract goal. The determination is not appealable.

Exhibit J

DBE Monthly Report for Construction Contracts

COLORADO DEPARTMENT OF TRANSPORTATION

DBE MONTHLY REPORT FOR CONSTRUCTION CONTRACTS

Federal Fiscal Year to Date

Federal Dollars Only

	A	B	C	D	E	F	G	H	I
AWARDS/COMMITMENTS MADE DURING THIS REPORTING PERIOD (total contracts and subcontracts awarded or committed during this reporting period)	Total Dollars	Total Number	Total to DBEs (dollars)	Total to DBEs (number)	Total to DBEs /Race Conscious (dollars)	Total to DBEs/Race Conscious (number)	Total to DBEs/Race Neutral (dollars)	Total to DBEs/Race Neutral (number)	Percentage of total dollars to DBEs
1. Prime contracts awarded this period									
2. Subcontracts awarded/committed this period									
3. **TOTAL**									

	A	B	C	D	E	F	G
DBE AWARDS/COMMITMENTS THIS REPORTING PERIOD-BREAKDOWN BY ETHNICITY & GENDER	**Black American**	**Hispanic American**	**Native American**	**Asian American**	**Non-Minority Women**	**Other (i.e. not of any other group listed here)**	**TOTALS (for this reporting period only)**
4. Total Number of Contracts (Prime and Sub)							
5. Total Dollar Value							

	A	B	C	D	E
ACTUAL PAYMENTS ON CONTRACTS COMPLETED THIS REPORTING PERIOD	Number of Prime Contracts Completed	Total Dollar Value of Prime Contracts Completed	DBE Participation Needed to Meet Goal (Dollars)	Total DBE Participation (Dollars)	Percentage of Total DBE Participation
6. Race Conscious					
7. Race Neutral					
8. Totals					

Key to the
DBE MONTHLY REPORT FOR CONSTRUCTION CONTRACTS

The entries below explain the values reported on the DBE Monthly Report by row and column. Except for COSMIX, which uses a separate system, the report for "State & Federal Dollars" includes all CDOT highway construction projects, while the report for "Federal Dollars Only" includes only projects with federal funding, and the dollar amounts are prorated based on the federal funding level of each project.

A1, B1 – The total number and dollar amount of projects awarded during the reporting period.

C1, D1 – The number and dollar amount of projects reported in A1 and B1 that were awarded to DBE prime contractors.

E1, F1 – The number and dollar amount of projects reported in C1 and D1 that were bid as set-asides to DBE prime contractors.

G1, H1 – The number and dollar amount of projects reported in C1 and D1 that were open-market awards to DBE prime contractors.

I1 – The value of C1 as a percentage of A1.

A2, B2 – The total number and dollar amount of subcontracts approved during the reporting period as shown on Form 205.

C2 – The sum of E2 + G2.

D2 – The sum of F2 + H2.

E2 – The total dollar amount of DBE subcontract commitments from Form 715 on projects awarded during the reporting period up to the amount of the DBE goal on each project.

F2 – The number of DBE subcontract commitments submitted on Form 715 on projects awarded during the reporting period.

G2 – The total of the actual dollar amounts reported on Form 713 for DBE subcontracts approved during the reporting period that did not have a commitment on Form 715, plus the total dollar amount of DBE subcontract commitments from Form 715 that exceeded the amount of the DBE goal on each project awarded during the reporting period. If the Form 713 dollar amount was not entered for a DBE subcontract, the Form 205 dollar amount is substituted.

H2 – The number of subcontracts approved during the reporting period to DBE subcontractors that did not have a commitment on Form 715.

I2 – The value of C2 as a percentage of A2.

Row 3 columns C through H – The sum of row 1 plus row 2 for each column.

I3 – The value of C3 as a percentage of A1.

Row 4 columns A through F – The number of prime awards and subcontracts reported in D3 that went to each group by ethnicity and gender.

G4 – The sum of A4 through F4.

Row 5 columns A through F – The amount of money reported in C3 that went to each group by ethnicity and gender.

G5 – The sum of A5 through F5.

A6, B6 – The number and dollar amount of prime contracts closed during the reporting period that had a DBE goal and did not have a DBE prime contractor. For the purposes of this report, a project is considered closed when the Final Estimate Data (Form 325) has been submitted and the final DBE payment amounts from Form 17 have been recorded in the system.

C6 – The total dollar amount needed to meet the DBE goal on the projects reported in A6. This is calculated as the DBE goal percentage times the award (bid) amount on each project.

D6 – The total amount paid to DBE subcontractors from Form 17 for the projects reported in A6.

E6 – The value of D6 as a percentage of B6.

A7, B7 – The number and dollar amount of prime contracts closed during the reporting period that did not have a DBE goal or did have a DBE prime contractor.

D7 - The total amount paid to DBE subcontractors from Form 17 for the projects reported in A7 plus the total award (bid) amount of projects that had a DBE prime contractor.

E7 – The value of D7 as a percentage of B7.

A8, B8, D8 – The sum of row 6 plus row 7 for each column.

E8 – The value of D8 as a percentage of B8.

Exhibit K

ESB Program Rules and Guidelines

COLORADO DEPARTMENT OF TRANSPORTATION

TRANSPORTATION COMMISSION

2 CCR 604-1

EMERGING SMALL BUSINESS PROGRAM

CHAPTER 1 - GENERAL PROVISIONS

I. Statutory Authority

The statutory authority for the State of Colorado Transportation Commission ("The Commission") to adopt and amend the rules governing the Colorado Department of Transportation Emerging Small Business Program is contained in §§ 43-1-106(8)(j), (k) and (p), C.R.S. as amended.

II. Purpose

The general purpose of the Rules is to implement §43-1-106 (8)(p), C.R.S. which authorizes the creation of the Colorado Department of Transportation (CDOT) Emerging Small Business (ESB) Program. CDOT shall use the ESB program to provide assistance to and increase opportunities for certified small businesses, including minority-owned, women-owned and disadvantaged business enterprises. The assistance and opportunities provided by the ESB Program will aim to enable emerging small businesses to gain the knowledge, experience and resources needed to participate in the competitive process for CDOT contracts, thereby aiding in the development of Colorado's small business community, increasing competition for CDOT contract awards, and lowering the cost to the public for transportation-related work.

III. Applicability

These Rules shall govern the development and administration of the ESB Program and may be supplemented with other policies and procedures as permitted herein. In the case of a contract for which a part of the contract price is to be paid with funds from the United States Government and for which the United States Government's terms or conditions are inconsistent with provisions of the Rules, the provisions of the Rules shall not apply to such contract to the extent of such inconsistency.

CHAPTER 2 - DEFINITIONS

The following definitions shall apply to terms used in the Rules.

1) **Affiliate**: Businesses are affiliates of each other if:

   a. Directly or indirectly, either one controls or has the power to control the other;

   b. A third party controls or has the power to control both; or

c. Relationships or identity of interests between or among parties exist such that affiliation may be found by a reasonable person.

Indicia of control include, but are not limited to: interlocking management or ownership, identity of interests among family members, shared facilities and equipment, and/or common use of employees.

2) **Area of Work:** An additional descriptor created by CDOT to identify a practice or activity within the greater industry NAICS Code.

3) **Bid:** The offer of a Contractor, on the prescribed bid proposal form, to perform the work and to furnish the labor and materials in conformance with the invitation for bids.

4) **Business:** A sole proprietorship, partnership, corporation, limited liability company, joint venture, professional association or any other legal entity authorized by law and operating for profit, that is properly licensed or registered and otherwise authorized to do business in the State of Colorado.

5) **Certification:** A determination by CDOT that a Business is eligible to participate in the ESB Program as an ESB, subject to continued compliance with the Rules and any other supplemental policies or regulations related to the ESB Program. While certain courses or licenses may be required for Certification, Certification neither represents nor implies that a business or individual is qualified to perform on a contract.

6) **CDOT:** Colorado Department of Transportation.

7) **Construction:** Building, altering, repairing, improving, or demolishing work as described in a CDOT project. This term includes "capital construction" and "controlled maintenance" as defined §24-30-1301, C.R.S.

8) **Contract:** Any CDOT contract for the performance of Professional Services, Practice of Research or Construction work.

9) **Contractor:** A Business qualified to perform and contracting with or intending to contract with CDOT to perform Professional Services, Practice of Research or Construction work.

10) **Controlling Interest:** Ownership of 51 percent or more of the Business by one person, or ownership of the largest single portion of the Business by one person if no one person holds 51 percent or more.

11) **CFR**: Code of Federal Regulations

12) **C.R.S.:** Colorado Revised Statutes, as amended.

13) **Emerging Small Business (ESB):** Any Business certified by CDOT to participate in the ESB Program that has not otherwise lost such Certification due to graduation or revocation.

14) **Emerging Small Business Program (ESB Program)**: The program outlined by the Rules, which is intended to provide assistance to and increase opportunities for Emerging Small Businesses.

15) **Emerging Small Business (ESB) Program Guidelines:** Provisions published by CDOT that detail additional procedures and requirements pertaining to the ESB Program. The ESB Program Guidelines shall include those provisions specifically required by the Rules as well as any supplemental provisions necessary to carry out the purposes of the Rules.

16) **NAICS Code**: The six digit classification code assigned to the industry under the North American Industry Classification System (NAICS).

17) **Overall Cap**: The overall size limit for participation in the ESB Program, which shall be equal to fifty percent (50%) of the United States Department of Transportation Disadvantaged Business Enterprise (DBE) Program size limit which can be found at 49 CFR 26.65(b)(1).

18) **Practice of Research:** The performance of services involving the design, data collection and data analysis of studies such as evaluation studies, usage studies, feasibility studies, environmental impact studies, polling studies and other such studies performed by a person qualified by education or training or actual performance in the field, but does not include "Professional Services".

19) **Principal:** A sole proprietor, a general or limited partner, a person who owns twenty-five percent (25%) or more or a controlling interest, a director, or an officer of the business.

20) **Professional Services:** Those services defined in § 24-30-1402(6), C.R.S., including: 1) the practice of architecture, 2) the practice of engineering, 3) the practice of professional land surveying, 4) the practice of landscape architecture, and 5) the practice of industrial hygiene.

21) **Program Benefits:** The benefits of the ESB Program as detailed in Chapter 4 below.

22) **Receipts**: "Total income" (or in the case of a sole proprietorship, "gross income") plus "cost of goods sold" as these terms are defined and reported on Internal Revenue Service (IRS) tax return forms (such as Form 1120 for corporations; Form 1120S and Schedule K for S corporations; Form 1120, Form 1065 or Form 1040 for LLCs; Form 1065 and Schedule K for partnerships; Form 1040, Schedule F for farms; Form 1040, Schedule C for other sole proprietorships). Receipts do not include net capital gains or losses; taxes collected for and remitted to a taxing authority if included in gross or total income, such as sales or other taxes collected from customers and excluding taxes levied on the concern or its employees; proceeds from transactions between a concern and its domestic or foreign affiliates; and amounts collected for another by a travel agent, real estate agent, advertising agent, conference management service provider, freight forwarder or customs broker. For size determination purposes, the only exclusions from receipts are those specifically provided for in this paragraph. All other items, such as subcontractor costs, reimbursements for purchases a contractor makes at a customer's request, and employee-based costs such as payroll taxes, may not be excluded from receipts.

23) **Renewal of Certification:** Annual evaluation of the status of Certification of an ESB.

24) **Rules:** These regulations enacted by the State of Colorado Transportation Commission to govern the administration of the Emerging Small Business Program.

CHAPTER 3 - CERTIFICATION

I. Certification Procedures

1) Certification and Renewal of Certification. CDOT shall establish reasonable procedures and methods for the Certification and Renewal of Certification of Businesses in order to effectuate the purposes of these Rules. Such procedures shall be detailed in the ESB Program Guidelines.

2) Application. At a minimum, all applicants will be required to complete an application to be considered for Certification. The format and contents of the application shall be determined by CDOT, provided that the contents of the application reasonably relate to the determination of Certification as described herein. The application shall include questions regarding ethnicity and gender for the purpose of reporting the diversity of race-neutral participation in the ESB Program and on CDOT contracts. CDOT may investigate the information provided in the application through reasonable means, including but not limited to interviews and on-site investigations.

3) Certification Codes. In its determination of Certification, CDOT shall identify the NAICS Code and Areas of Work for which the Business shall be Certified. CDOT's determination shall be based upon the Business' demonstrated ability to perform in such Areas of Work. Among other factors, CDOT may consider the following in determining the appropriate NAICS Codes and Areas of Work for the applicant: the qualifications and knowledge of the owners, managers and key employees, the equipment and other assets of the firm, and the work history of the firm.

   a. CDOT shall only certify a Business for those NAICS Codes and Areas of Work which may reasonably be construed to be related to CDOT's transportation contracts.

   b. CDOT shall only certify a Business for those NAICS Codes for which the Business' size, as determined in accordance with Section (3)(II)(4) below, does not exceed fifty percent (50%) of the size standard established by the United States Small Business Administration's "Table of Small Business Size Standards Matched to North American Industry Classification System Codes" as set forth in 13 CFR 121.201, or a successor of such classification system.

   c. A Business may request a modification of the NAICS Codes and Areas of Work in accordance with the procedure set forth in the ESB Program Guidelines.

4) Appeal. Any applicant that is denied Certification in the program or in a particular area of work may appeal such denial in accordance with §§ 24-4-104 and 105, C.R.S.

5) Reapplication. Any applicant that is denied Certification must wait at least one (1) year from the date of denial in order to reapply for Certification. This waiting period shall not apply to an ESB that was denied participation in the program due to exceeding the previous applicable size standard ($2,000,000 or $4,500,000). All Business that were denied participation in the ESB Program for exceeding the previous size standards or fulfilling the active years of participation limit shall be eligible to reapply for Certification.

II. Minimum Certification Requirements

Only applicant Businesses that meet the criteria for Certification may participate in the ESB program. The applicant Business has the burden of proof that such Business meets the Certification criteria.

1) Registration. CDOT may require all applicant Businesses to register and maintain registration in an information database. Any such registration requirement shall be outlined in the ESB Program Guidelines.

2) Independence. The Business must be an independent business. To be independent, the Business must demonstrate that its viability does not depend upon a relationship with another Business or Businesses. In determining whether a Business is independent, CDOT may consider, but is not limited to, evaluating the quality and consistency of relationships with other Businesses and individuals in comparison to normal industry practices.

3) Qualifying Principal Area of Business. The Business' principal area of business must be to provide Professional Services, Practice of Research or Construction work that could reasonably be construed to be related to CDOT's transportation contracts, including contracts for aeronautic, transit and highway transportation.

4) Size Limit. The average annual Receipts of the Business for the preceding three years, combined with the average annual Receipts of all Affiliates for the preceding three years, shall not exceed the then-current Overall Cap or the size standards for all of the NAICS Codes for which CDOT has determined the Business is eligible for Certification. The calculation of average annual Receipts of the Business and any Affiliates shall be made in accordance with the provisions governing the size calculation of a Business for the DBE Program; provided however that CDOT may accept calculations of other organizations or attestations of size in lieu of self-performing the size calculations. The procedure used by CDOT to determine the size of a Business shall be set forth in the ESB Program Guidelines.

5) Training and Development. CDOT may establish minimum training and business development criteria for Certification and Renewal of Certification, including but not limited to CDOT-facilitated courses, financial or business courses, milestones demonstrating business development and management, and/or or any other requirement related to the ability to successfully perform on CDOT contracts. All training and development requirements shall be detailed in the ESB Program Guidelines.

6) Debarment and Conviction. The Business or any Principal thereof shall not have been debarred or convicted of bid-related crimes or violations within the past six years in any state or federal jurisdiction, or be under notice of intent to debar in any jurisdiction.

7) Truth and Honesty. The Business or any Principal thereof shall not have provided false, deceptive, or fraudulent statements in the application for ESB Certification or in any other information, statements, or documents submitted to CDOT.

8) Cooperation and Complete Disclosure. The Business must respond timely to and fully comply with all requests for information that are made by CDOT regarding participation in the ESB Program. If the Business fails to cooperate or to fully disclose any information relevant to participation in the ESB Program, CDOT shall have the right to deny or revoke the Business' Certification.

9) Additional Requirements. In addition to the minimum eligibility requirements listed above, CDOT may implement additional requirements for Certification in accordance with the purpose of these Rules. Such additional requirements shall be detailed in the ESB Program Guidelines.

III. Graduation and Revocation of ESB Certification

1) Graduation. An ESB shall be deemed to have graduated from the ESB Program if the size of the ESB, as determined in accordance with Section (3)(II)(4), exceeds the then-current Overall Cap or exceeds the size standard for all NAICS Codes for which the ESB had been Certified.

   a. Reapplication. If an ESB graduates from the ESB Program due to exceeding the Overall Cap neither it nor any Affiliate thereof shall be eligible for recertification.

   b. Graduation shall only occur upon the Renewal of Certification unless, due to mistake or other non-fraudulent activity, the determination of CDOT is called into question.

   c. Notice. CDOT shall provide the ESB with written notice that it has exceeded the size limits and the ESB shall have the opportunity to contest such determination.

   d. Effect on Participation. Graduation shall not affect the ESB's status for Contracts that were bid for or awarded prior to the ESB's graduation from the ESB Program.

2) Revocation.

   a. Reasons for Revocation. CDOT shall revoke the Certification of an ESB if:

      i. The ESB fails to comply with the procedures for Renewal of Certification or any other procedures set forth in the ESB Program Guidelines or ESB project specifications;

      ii. The ESB continuously fails to cooperate with CDOT;

iii. The ESB or any Principal thereof is reasonably believed to have made false, deceptive or fraudulent statements on its application for ESB Certification, in the course of any determination or hearing associated with ESB Certification, or in any documents or any other information submitted to CDOT;

iv. The Business or any Principal thereof commits any action or omission which evidences a lack of integrity or honesty in performing public projects; or

v. CDOT has reasonable grounds to believe that the public health, welfare, or safety imperatively requires immediate suspension of Certification.

b. Timing and Notice. Revocation may occur at any time. Except as provided in subsection (c) below, CDOT shall provide written notice to a Business that its Certification is pending revocation.

c. Automatic Revocation. If an ESB or any Principal thereof is debarred or convicted of bid-related crimes or violations such ESB's Certification shall be automatically revoked without notice from CDOT.

3) Appeals. The procedures contained in §§24-4-104 and 24-4-105, C.R.S. shall apply to any graduation from or revocation of ESB Certification.

CHAPTER 4 - PROGRAM BENEFITS

I. Objectives and Priorities

The programs and incentives outlined in this section shall aim to assist emerging small businesses in competing for CDOT contracting opportunities. To such end, CDOT may develop provisions within the ESB Program Guidelines which tailor the ESB Program Benefits to:

a. Increase ESB prime contracting opportunities;
b. Promote and assist smaller ESBs;
c. Promote and assist ESBs that have no or little previous CDOT experience;
d. Increase diversity in the work areas performed by DBEs and ESBs; and
e. Incentivize ESBs to grow in subcontracting areas needing participation.

II. Limitations

The ESB Program Benefits shall only be enacted to the extent allowed by all applicable federal and state laws, rules and regulations.

III. Development Assistance Tools

1) Technical Assistance. Based upon CDOT's evaluation of an ESB and its business needs, CDOT may, alone or in collaboration with other organizations, provide individualized technical assistance to an ESB in the following areas: Construction management; Time management and project work scheduling; Project financing requirements, including insurance; Personnel management; Bidding, estimating, job costing, and contract administration procedures; Evaluation and use of project plans; CDOT contracting procedures and

specifications; Marketing; and Construction, Professional Services and Practice of Research techniques and industry standards. CDOT may also authorize technical assistance in other areas if it is determined that such assistance reasonably relates to the development of a business in accordance with the purpose of these Rules.

2) Additional Training and Resources. CDOT, alone or in collaboration with other organizations, may also provide additional training and business development resources for ESBs. Such training and resources may include, but shall not be limited to, CDOT administered courses, mentor-protégé programs, online bidding access, and financial assistance to participate in industry activities and business development courses.

3) Discretionary Distribution of Assistance. CDOT shall have discretion to determine which ESBs shall receive the development assistance tools. Among other criteria, CDOT may consider the availability of funds, potential and need of the ESB, areas of need by CDOT, applicability of assistance to CDOT Contracts, past performance and assistance, and availability of resources from CDOT or other organizations to meet the needs of the ESB.

4) Cooperation. At any time, CDOT may modify or terminate assistance to an ESB. Failure of an ESB to cooperate with CDOT or to follow the ESB Program Guidelines while receiving technical assistance may result in revocation of Certification.

IV. Means to Increase Contracting Opportunities

1) Incentives. CDOT may provide the following incentives to prime contractors that are ESBs, commit to or demonstrate use of an ESB as a subcontractor, or agree to assist in the professional development of an ESB:

   a. Evaluation points in point-based selection;

   b. Financial incentives in cost-based selection;

   c. Mentor-Protégé Programs; and

   d. Other innovative incentives provided such incentives further the purpose of the ESB program.

2) Participation as a Condition of Contract. CDOT may make attainment of a certain level of ESB participation, or good faith effort to achieve such participation, a condition of Contract award. The procedures for evaluating such participation and good faith efforts shall be set forth in the advertisement for the Contract.

3) Restricted Contracts. CDOT may restrict the award of Contracts to ESB Contractors, joint ventures of which ESBs are a participant, and participants in CDOT's mentor-protégé program. CDOT shall evaluate the need for restricted contracts upon review and calculation of the DBE Overall Goal. At such time, CDOT shall establish objectives for restricted projects for the corresponding period. Additional criteria and processes for determining whether to restrict a project shall be set forth in the ESB Program Guidelines.

4) Restricted Contract Items. CDOT may identify items within a contract that shall be completed only by ESBs. Additional criteria and processes for determining whether to restrict a project shall be set forth in the ESB Program Guidelines.

5) Increase Smaller Projects**.** CDOT may increase the number of smaller-sized transportation Contracts in order to increase the opportunities for ESBs to participate on such projects as prime contractors. At a minimum, CDOT shall not unnecessarily or unjustifiably bundle CDOT work and shall take all reasonable steps to facilitate competition by small businesses on Contracts. CDOT shall evaluate its ability to unbundle projects upon review and calculation of the DBE Overall Goal. At such time, CDOT shall establish objectives for unbundling projects for the corresponding period.

6) Advertisement. For each Contract, the applicable incentives shall be detailed in the request for proposals, bidding advertisement, or other applicable advertising documents published by CDOT.

V. Prompt Payment

1) State Law. In accordance with state law, every prime Contractor shall pay the subcontractor within seven calendar days of receipt of the payment from CDOT, or within any shorter time provided in the contract between the prime contractor and CDOT.

2) ESB Program Requirements. In addition, CDOT may develop additional prompt payment requirements for projects involving ESB prime Contractors and ESB subcontractors on CDOT projects.

CHAPTER 5 - PROGRAM ADMINISTRATION

I. Enforcement.

1) Burden. Any Business that participates in or utilizes the benefits of the ESB Program shall have the burden of proving its compliance with the requirements of the Rules.

2) Monitoring and Investigations. CDOT shall monitor all Businesses that utilize the benefits of the ESB Program in order to assure compliance with the Rules. CDOT may also receive and investigate complaints and allegations and initiate its own investigations regarding compliance.

3) Contract Provisions. CDOT shall develop compliance requirements and contract provisions related to the utilization of the ESB Program Benefits. On any Contract for which a Business has received or is to receive ESB Program Benefits the failure to meet the obligations of the Contract with respect to ESB participation or assistance shall constitute a material breach of contract. Additionally, if a Business is found to be in violation of the provisions of the Contract CDOT may exercise any or all of its rights, including but not limited to withholding funds from the Contractor.

II. Directory. All certified ESBs shall be listed in an ESB Directory that shall be available to the public.

III. Outreach. CDOT may publicize the ESB Program via internet, events and other forms of outreach.

IV. Reporting. At a minimum, on an annual basis, CDOT shall report the progress of the ESB Program to the Transportation Commission. If necessary, the Transportation Commission may request additional periodic reports regarding the progress of and participation in the ESB Program. Detailed requirements for such reporting shall be outlined in the ESB Program Guidelines.

V. Program Evaluation. CDOT will utilize various methods to obtain feedback, evaluation, and advice concerning the operation and content of the ESB Program. These methods may include forums, surveys, and annual meetings to assess the effectiveness of the program and make recommendations for improving the program.

VI. Guidelines. CDOT shall have the power and authority to adopt additional regulations or guidelines to effectuate the purpose, procedures and operations of these Rules.

1) Adoption. The first version of the ESB Program Guidelines shall be adopted by the Transportation Commission DBE Committee.
2) Modifications. The ESB Program Guidelines shall not be modified more than once in a six month period. All changes to the ESB Program Guidelines shall be available for public comment at least one month prior to implementation. CDOT shall send electronic notification to all ESBs of pending changes to the ESB Program Guidelines and the changes shall be approved the Transportation Commission DBE Committee.

CHAPTER 6 – MISCELLANEOUS

I. **Severability.** If any provision of these rules or their application is held invalid or unenforceable, such invalidity or unenforceability shall not affect other provisions or applications of these rules which can be given effect without the invalid provisions or application. The remaining provisions are to remain in full force and effect.

COLORADO DEPARTMENT OF TRANSPORTATION

ESB Program Guidelines

Revised February 2013

COLORADO DEPARTMENT OF TRANSPORTATION
EMERGING SMALL BUSINESS PROGRAM GUIDELINES

A. Definitions

1) **Applicability of ESB Program Rule Definitions:** Capitalized terms not defined herein shall have the meaning provided in the ESB Program Rules.

2) **Additional Definitions.** The following definitions shall apply to the capitalized terms used herein:

   a. Application: Any application documents and supplemental materials necessary for CDOT to determine whether an applicant qualifies for ESB certification.

   b. Certification Year: The annual period for which an applicant's certification is valid.

   c. CRBRC: Colorado Department of Transportation Civil Rights and Business Resource Center (formally the Center for Equal Opportunity).

   d. Letter of Certification: Written notification from CDOT to the applicant stating that the business has been certified as an ESB for the current annual period.

   e. Level. The size category to which an ESB has been assigned within the ESB Program.

   f. Notice of Denial: Written notification provided by CDOT to the applicant stating that CDOT has determined that the applicant has failed to meet the criteria for certification.

   g. Notice of Incomplete Application: Written notification provided by CDOT to the applicant stating that more information is necessary to process the application, the applicant has failed to complete the required Small Business Orientation, and/or any other reason for which CDOT cannot make a determination regarding Certification.

   h. Notice of Pending Revocation: Written notification provided by CDOT to an ESB stating that the ESB's Certification is in pending revocation due to the conduct or status of the ESB.

   i. Primary Industry Classification: The North American Industry Classification System designation which best describes the primary business of the firm as determined by CDOT based upon the firm's revenue, equipment, expertise and percentage of time and work force dedicated to such business. One-half of the size standard established by the SBA for the Primary Industry Classification, but no more than one half of the DBE Program size standard, shall serve as the size standard for determining the firm's eligibility for ESB Certification.

B. Certification

1) **Application Materials:** Every Business seeking Certification must submit a completed, signed original application, with all supporting materials (originals not required), to the CRBRC. These forms shall be available online and in hard copy at the CRBRC.

2) **Review of the Application:** Upon review of the Application, CDOT will notify the applicant whether the Application is ready for evaluation and, if not, what additional action or information is required. Applications that are incomplete or include little or no supporting documentation may be rejected by CDOT and returned to the applicant.

3) **Requests for Information.** The applicant shall respond to all requests for information within fifteen (15) days of such request being made by CDOT. If the applicant does not respond to CDOT within fifteen (15) days, CDOT may, at its discretion, either:

   a. Make a determination based upon the information provided; or

   b. Close the application until additional information is provided by the applicant.

   When an applicant provides the information after the fifteen (15) days have passed but prior to CDOT making a Determination of Certification, the application will be placed last in the queue for review.

4) **Eligibility Determination.** Within ninety (90) days of receipt of a complete application, CDOT shall issue a Notice of Denial or Letter of Certification.

5) **Primary Industry Classification Determination.** The Primary Industry Classification which CDOT has assigned to the firm shall be included in the Letter of Certification. The Primary Industry Classification shall also be identified in the Notice of Denial if the denial is based upon exceeding the size standard for participation. The applicant may appeal CDOT's determination of the Primary Industry in accordance with CRS §§ 24-4-104 and 105.

6) **Level.** Certified ESBs shall be divided into two categories: Level 1 and Level 2 ESBs.

   a. For ESBs that are deemed to be primarily engaged in engineering and consulting services, such ESBs shall be certified as Level 1 if it is determined that their size, in accordance with the calculations outlined in the ESB Rules, does not exceed one million dollars average annual gross receipts. For ESBs that are deemed to be primarily engaged in construction work or related dealings, such ESBs shall be certified as Level 1 if it is determined that their size, in accordance with the calculations outlined in the ESB Rules, does not exceed three million dollars average annual gross receipts. All other ESBs shall be considered Level 2 ESBs.

   b. The Letter of Certification shall state the Level to be assigned to the Business. The applicant may appeal CDOT's determination of the Level in accordance with CRS §§ 24-4-104 and 105.

   c. The level of the ESB will be listed on the ESB Directory.

7) **Small Business Orientation.** Each applicant must complete a Small Business Orientation in order to become certified. The Small Business Orientation must be completed before submitting an application for Certification, but no more than six months prior to applying for Certification.

8) **DBE Certification Synchronization.** CDOT will synchronize the DBE and ESB certification month for any firm currently certified as a DBE at the time of ESB Certification. The initial Certification period may be less than a complete year, as the firm will be required to submit the Renewal of Certification documents at the time of the next DBE renewal date.

9) **Burden of Proof.** The applicant bears the burden of proving by a preponderance of the evidence to CDOT that it meets the criteria for Certification.

10) **Appeals.** Any full or partial denial for Certification shall be appealable in accordance with CRS §§ 24-4-104 and 105.

C. Modification of Primary Industry Classification

1) **Written Request for Modification.** An ESB that seeks a reconsideration of its Primary Industry Classification must submit a written request to CDOT Center for Equal Opportunity outlining the reasons for such request and any other supplemental information that will assist CDOT in making a determination. An ESB may only make one change request within a Certification Year.

2) **Appeals.** Denial of a Primary Industry Classification change request shall be appealable in accordance with CRS §§ 24-4-104 and 105.

D. Renewal of Certification

1) **Renewal Schedule.** Renewal of Certification shall occur on an annual basis at the end of the Certification Year. Unless otherwise stated, this period begins with the day in which CDOT issues the Notice of Certification and ends with the last day in the same month in the following year.

2) **Request to Change.** An ESB may request that CDOT change the Renewal of Certification month. To be considered, such request must be based upon a significant business reason for changing the Renewal of Certification month. If Renewal of Certification and an ESB's tax return preparation are incompatible, then such ESB must request a change in the Renewal of Certification month. CDOT retains the right to accept or deny requests to change the Renewal of Certification dates.

3) **Responsibility of Applicant.** The ESB is responsible for submitting Renewal of Certification information to CDOT before the end of its annual period. CDOT will send a courtesy notice regarding renewal approximately 45 days in advance, but the ESB is ultimately the responsibility of the ESB to ensure that all materials are received before the end of the Certification Year. If CDOT does not receive the Renewal of Certification information, it shall provide notice to the ESB that it intends to revoke the firm's Certification.

4) **Required Documentation.** In order to be considered for renewal, the ESB must submit the ESB Certification Renewal Application and all supporting documentation.

5) **Additional Investigation**. If CDOT has reason to believe that an ESB may no longer be eligible for Certification or that a substantial change has occurred in the ownership or operation of the business, it may further investigate the current position of the ESB and its owners.

6) **Extensions.** At its discretion, upon written request, CDOT may provide an extension for renewal for one month past the Renewal of Certification date. Such extension is valid only if confirmed in writing. A request for an extension will only be granted when the ESB has demonstrated extenuating circumstances requiring an extension. CDOT will not grant extensions for successive Renewal of Certification periods. If an ESB that is also a DBE is granted an extension for a DBE renewal, such extension does not apply to the firm's ESB Renewal of Certification date unless specifically stated in writing.

E. Revocation

1) **Intent to Revoke Letter.** Except in the case of debarment or conviction of a bid related crime, if CDOT determines that there are reasonable grounds to revoke the Certification of an ESB, CDOT shall send the ESB notice of its intent to revoke. The ESB shall have fifteen (15) days from the date the notice was issued to contest the revocation in writing. If the ESB does not respond within the fifteen (15) days, the revocation shall become effective upon the expiration of such period. If CDOT does receive a written contest from the ESB, revocation becomes effective upon such date. However, as a confirmation, CDOT will send the ESB a letter of revocation.

2) **Good Cause Required.** If the Intent to Revoke is based upon failure to renew, the ESB must demonstrate good cause for failing to timely submit completed documentation.

3) **Effect on Contract Participation.** The ESB shall be eligible to perform on and count toward the ESB incentives on all Contracts while revocation is pending in accordance with the contract terms.

4) **Appeals.** Revocation of Certification shall be appealable in accordance with CRS §§ 24-4-104 and 105.

F. Restricted Contracts

1) **Generally.** Subject to all applicable state and federal laws, CDOT may restrict certain Contracts for award to ESB Consultants and Contractors, joint ventures of which ESBs are a member, and ESB mentor-protégé participants where the contract award is expected to be $1,000,000 or less.

2) **Establishing Objectives.** During the review and determination of its tri-annual DBE overall goal, CDOT will also develop target objectives for restricted contracts. These targets shall be based upon projected upcoming work, availability of qualified prime ESBs to perform such work, the amount of ESB participation being generated through other means, and the impact of restriction on other objectives of CDOT.

3) **Restriction Process.** All eligible projects will be evaluated by the applicable CDOT regional office to determine whether they meet the criteria for restriction, which includes:

a. A sufficient number of qualified ESB primes are available to perform the work;

b. Without restriction, the available qualified ESB primes would not be able to successfully compete for award of the Contract; and

c. Restriction of the contract will not eliminate competition for award or compromise the quality of the work to be provided under the Contract.

G. **Restricted Items**

1) **Generally.** Subject to all applicable state and federal laws, CDOT may restrict certain items within Contracts for award only to ESB Consultants and Contractors, joint ventures of which ESBs are a member, and ESB mentor-protégé participants.

2) **Criteria for Restriction.** CDOT may decide to restrict items within a project based upon, but not limited to, the following:

   a. The size and type of Contract to be awarded;

   b. The subcontracting opportunities within such Contract;

   c. Whether the subcontracting items can be clearly delineated from other items within the Contract;

   d. The number of qualified ESBs available to fulfill the subcontracting opportunities; and

   e. The potential for adequate competition among qualified, available ESBs.

H. **Reporting**

1) With the tri-annual DBE goal analysis, CDOT shall review and report on the participation of and prospective opportunities for ESBs.

2) At a minimum, on an annual basis, CDOT shall report the following to the DBE Committee of the Transportation Commission:

   a. The number and total dollar amounts of contracts and subcontracts awarded to ESBs;

   b. The training, technical assistance and outreach provided by CDOT and other entities to ESBs;

   c. The effectiveness of the ESB Program incentives; and

   d. Other changes or progress in the ESB Program.

Exhibit L

CDOT's Overall Goal Methodology

Final Report
August 1, 2012

CDOT OVERALL ANNUAL DBE GOAL

Federal Highway Administration (FHWA)

Federal Fiscal Years 2013 – 2015

PREPARED BY:

Colorado Department of Transportation

Center for Equal Opportunity

DBE GOAL PROCESS

Historically, the Colorado Department of Transportation (CDOT) has submitted an annual Disadvantaged Business Enterprise (DBE) goal to the Federal Highway Administration (FHWA) each year. Beginning in FFY 2011 (October 1, 2010 to September 30, 2011), FHWA requested that state DOTs establish a multi-year DBE goal for the up-coming three years (FHWA FY 2013 – 2015) rather than continuing to establish an annual DBE goal each year. The same methodology for determining the DBE annual goal was used to establish the multi-year DBE goal.

Prior to establishing the three year DBE goal, FHWA requires outreach to various stakeholders, minority and small business organizations and trade groups to solicit information and input concerning the following:

- The availability of disadvantaged and non-disadvantaged businesses;
- The effects of discrimination on opportunities for DBEs; and
- CDOT's efforts to establish a level playing field for the participation of DBEs.

The overall goal period for CDOT's DBE Program is now three-years, beginning on October 1, 2012 and ending on September 30, 2015 covering FFY 2013, 2014, and 2015. The overall DBE goal has been set at **10.25%** utilizing the methodologies described in 49 CFR Part 26 and the guidance outlined in the USDOT OSDBU *Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program* (http://www.osdbu.dot.gov/dbeprogram/tips.cfm).

DBE GOAL SETTING METHODOLOGY

The methodology described in 49 CFR 26.45(c) (1) was used to determine the base figure for the relative availability of DBEs. A determination of the FFY 2013-2015 goal includes identifying a base figure for the relative availability of DBEs based on demonstrable evidence of the availability of ready, willing and able DBEs as compared to the availability of all businesses participating on federally-funded DOT-assisted contracts.

Market Area Analysis

The market area is a geographical area that represents where the majority of the contractors that do business with CDOT are located. Reviewing historical contracting data from the past three years, the type of work anticipated in CDOT's Statewide Transportation Improvement Program (STIP) for FY 2013 – 2015, and the location of previous bidders on similar-type projects, CDOT determined that the state of Colorado is the relevant market area for its 2013 – 2015 Overall DBE Goal Methodology.

Review of the market analysis conducted for the CDOT 2009 Disparity Study found that firms located in the state of Colorado received 96% of total Highway Construction (Contractors) contracting dollars and 95% of total Highway Design & Engineering (Consultants) contracting dollars awarded during the study period. This information combined with the analysis discussed above confirms the statewide relevant market area selection. The charts on the following page demonstrate the data captured in the Disparity Study.

Construction
Relevant Market Area
Colorado Department of Transportation
Calendar Years 2002 – 2007

	State of Colorado
Total Dollars	$1,635,918,584
Percent of Dollars	96.93%
Percent of Contracts	96.27%
Percent of Firms Utilized	91.38%

Source: Colorado Department of Transportation for the period of January 1, 2002 through June 30, 2007

Consultant
Relevant Market Area
Colorado Department of Transportation
Calendar Years 2002 – 2007

	State of Colorado
Total Dollars	$523,545,932
Percent of Dollars	95.87%
Percent of Task Orders	90.04%
Percent of Firms Utilized	82.00%

Source: Colorado Department of Transportation January 1, 2002 through December 31, 2007

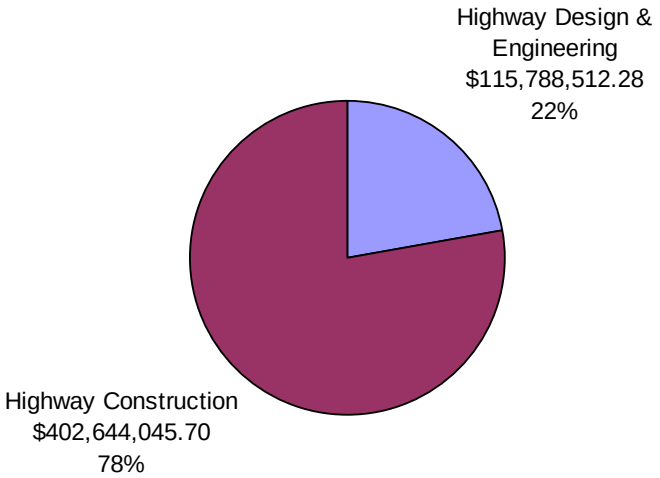
Goal Setting Approach

CDOT reviewed the alternatives for establishing a base figure listed in 49 CFR Part 26.45, and selected a combination of methods (i.e., DBE directories and census bureau data, prequalification lists, bidder's lists, and any relevant disparity studies) as the best approach for goal setting. Specifically, CDOT divided the overall highway contracting opportunities into the following two weighted categories and selected the most accurate method of goal-setting currently available for each:

- **Highway Construction (Contractors)**
- **Highway Design & Engineering (Consultants)**

Using the state of Colorado as the relevant market area, CDOT conducted a thorough analysis of FHWA-assisted contracting opportunities, available contractors and consultants and certified DBE firms. This information was supplemented with anecdotal evidence gathered through the public comment period, public meetings, focus groups and surveys.

Based upon an evaluation of the CDOT STIP, it is anticipated that the type of work projected for the next three years will be similar in nature. Line item work descriptions for all past projects representing CDOT contracting activities during FY 2009 – 2011 were reviewed and assigned to the most relevant NAICS. The percentage value for each type of NACIS code description was estimated based on this historical data and the three-year average spend in each category.



The total spent on Highway Construction projects during FY 2009 – 2011 was $1,207,932,137.09 making the average annual spend $402,644,045.70. For Highway Design & Engineering projects, the total contract spend over that same three-year period was $347,365,537 making the average annual spend $155,788,512.28. Based upon these averages, the percentage of total contracting dollars CDOT spent on Highway Construction was 78% and for Highway Design & Engineering it was 22%. CDOT predicts that the division of spending in these two categories will remain at these same levels during FY 2013 – 2015. Therefore, these percentages were used to determine the overall dollar value weight assigned to each contracting category and applied to the **Step 1 Base Figure**.

Relevant NAICS

The most refined data available within the North American Industry Classification System (NAICS) 2012 codes was used to identify the various components for projected highway projects over the next three years. Because CDOT captures more detailed contracting data for Highway Construction projects, this category was evaluated at a level using 6 digit NAICS codes. Highway Design & Engineering projects were analyzed using a higher level 4 digit NAICS and a single 6 digit NAICS. The number of available DBE firms and the number of all firms in CDOT's market area was determined for each respective NAICS code.

The overall active contractors available for projects planned in FFY 2013-2015 has been determined from the following NAICS codes:

Highway Design & Engineering (Consultants) NAICS

Highway Design & Engineering	Description
5413	Architectural, Engineering, and Related Services
541620	Environmental Consulting Services

Highway Construction (Contractors) NAICS

Highway Construction	Description
111421	Nursery and Tree Production
212321	Construction Sand and Gravel Mining
236220	Commercial and Institutional Building Construction
237110	Water and Sewer Line and Related Structures Construction
237310	Highway, Street, and Bridge Construction
237990	Other Heavy and Civil Engineering Construction
238110	Poured Concrete Foundation and Structure Contractors
238120	Structural Steel and Precast Concrete Contractors
238140	Masonry Contractors
238210	Electrical Contractors and Other Wiring Installation Contractors

Highway Construction	Description
238320	Painting and Wall Covering Contractors
238390	Other Building Finishing Contractors
238910	Site Preparation Contractors
238990	All Other Specialty Trade Contractors
324121	Asphalt Paving Mixture and Block Manufacturing
327320	Ready-Mix Concrete Manufacturing
335931	Current-Carrying Wiring Device Manufacturing
339950	Sign Manufacturing
484220	Specialized Freight (except Used Goods) Trucking, Local
541370	Surveying and Mapping (except Geophysical) Services
541380	Testing Laboratories
541690	Other Scientific and Technical Consulting Services
541910	Marketing Research and Public Opinion Polling
561730	Landscaping Services
561990	All Other Support Services
562991	Septic Tank and Related Services

STEP 1 – DETERMINING A BASE FIGURE REPRESENTING DBE RELATIVE AVAILABILITY

The first step included creating a base figure for the relative availability of ready, willing and able DBEs in CDOT's normal market area. Specifically, the market area is based on where the substantial majority of bidders, both successful and unsuccessful bidders, are located for the anticipated types of work that are to be performed in the coming three-year timeframe, and where CDOT has previously spent the substantial majority of funding for similar projects.

Data Sources

The 2009 Census Bureau's County Business Patterns data was used to estimate the number of contractors per NAICS code in the market area. This data is published annually and County Business Patterns statistics are available approximately 18 months after each reference year. Therefore, the most recent available data is from 2009. The U.S. Census Bureau assigns one NAICS code to each establishment based on its primary activity (generally the activity that generates the most revenue for the establishment) to collect, tabulate, analyze, and disseminate statistical data describing the economy of the United States. Generally, the U.S. Census Bureau's NAICS classification codes are derived from information that the business establishment provided on surveys, census forms, or administrative records.

The Colorado Unified Certification Program (UCP) DBE Directory was used to estimate the number of ready, willing and able DBE contractors per NAICS code in the market area. Because DBE firms may be certified in multiple NAICS and CDOT does not assign a primary NAICS, an analysis was conducted to determine the primary NAICS for each DBE. This allowed a single count of DBE firms to mirror the Census Bureau method for counting establishments.

Primary NAICS Selection
If a DBE firm had only one relevant NAICS, this was assigned as the primary code. If a DBE had multiple NAICS, the following three-step process was used to determine the primary code.

1. Conduct secondary research to identify the company's public primary NAICS using Dunn & Bradstreet, Manta, the Central Contractor Registry and the company's website.
2. Compare NAICS information to Bidder's List, DBE certification applications and files, and 2009 Disparity Study list of contractors.
3. Assign the primary NAICS that is publicly listed (i.e., matching Census data) or the most relevant to CDOT certified NAICS based upon the company's description of work and past bidding history.

Base Figure
Once the analysis of ready, willing and able DBE firms was complete, the **Step 1 Base Figure** for federal projects anticipated over the next three years was then calculated by counting the total number of DBE firms with headquarters in Colorado (numerator) and the number of DBE and non-DBE Census Bureau establishments operating in the state (denominator). These percentages were then measured against the estimate value per each NAICS code to determine the expected DBE percent participation per NAICS Code.

CDOT is able to track detailed information regarding Highway Construction contracts. However, the analysis uncovered various miscellaneous contract line items that could not be classified given the available data set. These items were grouped into an "Unclassified" category listed at the bottom of the relevant NAICS codes table below. It is important to include this data in order to maintain the integrity of the overall total contracting dollars spent on Highway Construction projects. As noted in the next section, Highway Design & Engineering contracts are tracked at a much higher level and the overall dollars spent is the total used for weighting that category. To be consistent, the total dollar amounts for both categories are being used to determine the **Step 1 Base Figure**.

Given the available Highway Construction funds estimated for each relevant contractor NAICS over a three year period, CDOT calculated a **Step 1 Highway Construction Base Availability Figure of 12.05%** (final row of the table below).

NAICS	Census CO Establishments	CO DBE Firms	Relative Availability	Historical 3 YR Contract Total (FY 2009 – 2011)	Forecast Weight	Weighted Availability
111421	N/A	0	N/A	$3,105.00	0.00%	0.00000
212321	61	0	0.00%	$170,578.00	0.01%	0.00000
236220	872	50	5.73%	$360,487.35	0.03%	0.00002
237110	302	8	2.65%	$10,144,576.18	0.84%	0.00022
237310	244	39	15.98%	$616,921,790.06	51.07%	0.08163
237990	76	7	9.21%	$35,867,050.34	2.97%	0.00273
238110	589	2	0.34%	$377,154.21	0.03%	0.00000
238120	96	30	31.25%	$88,473,622.82	7.32%	0.02289
238140	494	10	2.02%	$298,179.35	0.02%	0.00000
238210	1912	43	2.25%	$45,230,173.85	3.74%	0.00084
238320	969	22	2.27%	$2,224,664.59	0.18%	0.00004
238390	141	11	7.80%	$3,089,018.43	0.26%	0.00020
238910	939	26	2.77%	$140,804,550.98	11.66%	0.00323
238990	760	43	5.66%	$41,487,122.89	3.43%	0.00194
324121	14	0	0.00%	$2,719,643.91	0.23%	0.00000
327320	93	1	1.08%	$7,268,237.82	0.60%	0.00006
335931	6	0	0.00%	$880.00	0.00%	0.00000
339950	146	0	0.00%	$1,538.28	0.00%	0.00000
484220	654	100	15.29%	$260,295.16	0.02%	0.00003
541370	274	9	3.28%	$6,860,047.00	0.57%	0.00019
541380	140	8	5.71%	$2,850,397.63	0.24%	0.00013
541690	644	6	0.93%	$4,091,292.28	0.34%	0.00003
541910	124	42	33.87%	$1,441,439.42	0.12%	0.00040
561730	1904	34	1.79%	$27,040,445.38	2.24%	0.00040
561990	251	25	9.96%	$66,479,713.06	5.50%	0.00548
562991	74	0	0.00%	$535,986.73	0.04%	0.00000
Unclassified	N/A	N/A	N/A	$102,930,146.37	8.52%	0.00000
Totals	**11,779**	**516**	**--**	**$1,207,932,137.09**	**100.00%**	**12.05%**

The **Step 1 Base Figure** for Highway Design & Engineering was calculated based upon the combined relative availability of DBE firms within the two relevant NAICS. CDOT does not have the ability to track spending and utilization at the same level of detail for Highway Design & Engineering as it does for Highway Construction contracts. Therefore, CDOT does not have a breakdown of actual dollars historically spent in each of these two NAICS separately. Therefore, the combined totals of available Consultant firms are being used to determine the weighted availability shown in the chart below (172 DBE Firms ÷ 4,471 Total Firms).

Given the available Highway Design & Engineering firms and DBE firms certified within the relevant NAICS codes, CDOT calculated a **Step 1 Highway Design & Engineering Base Availability Figure of**

3.85%. This figure was compared to the base figure (3.89%) derived from estimating 80% of Highway Design & Engineering funds will be utilized for Architecture & Engineering services (NAICS 5413) while the remaining 20% will be used for Environmental services (NAICS 541620). Because the base figures are very similar, CDOT concluded that using the combined totals rather than an estimated weighting method (80/20 allocation) is an appropriate approach given the available data.

NAICS	Census CO Establishments	CO DBE Firms	Relative Availability	Historical 3 YR Contract Total (FY 2009 – 2011)	Forecast Weight	Weighted Availability
5413	4047	154	3.80%	N/A	N/A	N/A
541620	424	18	4.25%	N/A	N/A	N/A
Totals	**4,471**	**172**	**--**	**$347,365,537**	**--**	**3.85%**

After calculating the weighted availability of DBE firms for both the Highway Construction and Highway Design & Engineering categories, the forecasted percentage of allocated budget to each category was applied. As mentioned previously, the overall dollar value weight assigned to all Highway Construction NAICS is determined to be 78% and for Highway Design & Engineering it is 22%. This resulted in an **Overall Step 1 Base Figure of 10.25%**.

Category	Weighted Availability	Forecasted % of Budget	Weighted Step 1 Base Figure
Highway Construction	12.05%	78.00%	9.40%
Highway Design & Engineering	3.85%	22.00%	.85%
	FFY 2103 – 2015 Overall DBE Goal		**10.25%**

STEP 2 – EXAMINATION OF AVAILABLE EVIDENCE TO DETERMINE WHAT ADJUSTMENT, IF ANY, IS NEEDED TO THE BASE FIGURE

49 CFR Section 26.45 (d) and the goal and methodology guidelines contained on the Office of Small and Disadvantaged Business Utilization's (OSDBU) website identify numerous examples of the various types of data that can be examined in order to adjust the **Step 1 Base Figure** to narrowly tailor the goals to the precise local market. **Step 2** of the goal setting methodology is intended to adjust the base figure percentage from **Step 1** to reflect, as accurately as possible, the DBE participation CDOT would expect in the absence of discrimination. The factors listed as follows are considered in order to determine whether an adjustment to the **Step 2 Base Figure** is appropriate for the CDOT FY 2013 – 2015 goal. These guidelines include:

Disparity Study

CDOT conducted a comprehensive Disparity Study in 2009. The Study analyzed CDOT procurement activity from FY 2005 – 2007. Therefore, it was determined that current data available regarding the types of work, contractor/consultant utilization, and allocations of contracting dollars was more up-to-date and more relevant for this analysis. However, data from the Disparity Study concerning the relevant market area was reviewed and a comparison of NAICS assignments to the Disparity Study

contractor list was performed to assist in determining the **Step 1 Base Figure**. CDOT determined that given the availability of more current data sources, there is not relevant information that would contribute to a **Step 2 Adjustment**.

Public Comments

Public comments were gathered during the 45 day open comment period. The process for involving the public and capturing relevant comments is outlined in the *Public Participation* section of this document. In summary, commentators supported the continued application of race-conscious goals on CDOT projects. Anecdotal evidence was provided that demonstrates there are still lingering effects of discrimination in the contracting community. All comments collected from the public through various channels are provided in *Exhibit D*.

Based upon the comments provided by the public, as well as industry association partners and key stakeholders, CDOT concluded that discrimination still limits the opportunities for DBEs to perform on CDOT prime contracts and subcontracts. Therefore, to narrowly tailor the DBE Program to achieve the Program's objective of creating a level playing field for all firms, CDOT must judiciously apply contract goals to achieve its overall DBE goal. It was also determined that a race-conscious in addition to a race-neutral goal is still justified.

All other comments were taken into consideration and it was determined a **Step 2 Adjustment** or revision of the goal's methodology was not necessary.

Historical DBE Participation

Past DBE participation is based on the analysis of CDOT contracts similar to those anticipated for FY 2013 – 2015. The following is historical information on DBE participation on CDOT FHWA-assisted contracts. Adjustments based on historical DBE participation for the past 10 years were specifically considered and are analyzed as follows:

FFY	Annual DBE Goal	Actual DBE Achievement (Federal-Assisted Projects Only)	Difference
2002	10.93%	9.13%	-1.80%
2003	10.93%	7.25%	-3.68%
2004	12.69%	7.29%	-5.40%
2005	11.79%	14.80%	3.01%
2006	12.19%	9.78%	-2.41%
2007	13.76%	11.95%	-1.81%
2008	12.80%	11.00%	-1.80%
2009	12.80%	9.20%	-3.60%
2010	13.29%	24.79%	11.50%
2011	13.29%	15.47%	2.18%
	Historical Median	**10.39%**	

Using guidance outlined in the USDOT OSDBU *Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program,* adjusting the **Step 1 Base Figure** for past participation is more accurate by using "median" past participation percentages. The 10 years of historical DBE participation yields an actual participation median of **10.39%**, which is used in this analysis.

The USDOT OSDBU *Tips* state, "If your records suggest levels of past participation very similar to the number you calculated in Step 1, then it is not necessary to make any adjustment for past participation." Based upon a very minimal difference of .14%, CDOT determined that the **Step 1 Base Figure** (10.25%) and the historical median of past performance (10.39%) are similar enough to not constitute a **Step 2 Adjustment**.

Furthermore, the USDOT OSDBU *Tips* provide guidance on the relevance of DBE decertifications on the **Step 2 Adjustment** process. It states, "Decertifications may constitute a reason not to make an adjustment based on past participation where the newly decertified firms account for all, or the overwhelming majority, of past DBE participation and you have good reason to believe that other DBE firms will not be ready, willing, and able to participate in the contracts you intend to let." It is important to note that in FY 2010, CDOT achieved overall DBE participation of 24.79% which was 11.50% above the stated annual goal. This appears as an anomaly in the 10 years historical participation data. Further analysis showed that a significant portion of this achievement was the result of a single DBE contractor that was awarded a prime contract which contributed to the annual goal using a race-neutral measure. Of the $25,015,094 in DBE prime contracts awarded in FY 2010, a total of $23,723,233 (95%) was attributed to this single DBE firm. This DBE firm is no longer eligible as a DBE for this type of work due to graduating by exceeding the revenue size standard. Although there are 39 other DBE firms currently certified to perform this type of work, an evaluation of the business size, capabilities, bonding ability and resources concluded that these firms are not yet at the same level of maturity or ability as the graduated DBE. Therefore, a **Step 2 Adjustment** that includes a single year variance in which the goal was significantly exceeded is not recommended and has not been applied to the **Step 1 Base Figure**.

As a result, the **CDOT Overall Annual DBE Goal for FFY 2013 – 2015 remains 10.25%** without any **Step 2 Adjustments** necessary prior to future review of public comments.

BREAKOUT OF RACE-NEUTRAL AND RACE-CONSCIOUS PARTICIPATION

The federal regulations require CDOT to meet the maximum feasible portion of its overall goal by using race and gender-neutral means of facilitating DBE participation (hereafter referred to as race-neutral). Race-neutral participation includes:

- DBEs who win prime contracts through customary competitive procurement procedures;
- DBEs who are awarded subcontracts on prime contracts that do not carry a DBE goal (0% assigned DBE goal); and
- DBEs who are awarded subcontracts in excess of the stated DBE project goal.

CDOT is considering the following factors in projecting the portion of its overall goal that it will be able to meet through race-neutral means.

1) Amount by which overall goals have previously been exceeded;
2) Past participation by DBE prime contractors (100% race-neutral participation); and
3) Past participation by DBE subcontractors on contracts without goals and DBE participation in excess of stated project goals.

Note: *As mentioned previously, CDOT does not currently have the ability to track spending and historical DBE participation at the same level of detail for Highway Design & Engineering contracts as it does for Highway Construction contracts. Therefore, CDOT's projection for FFY 2013 – 2015 race–neutral participation relied on relevant Highway Construction DBE data to support its conclusions and calculations were weighted accordingly.*

Amount Overall Goals were Exceeded in the Past

Over the past 10 years, CDOT has exceeded its Overall Annual DBE Goal only three times, in FY 2005, 2010 and 2011. On average, CDOT has underperformed against its goal by .38% which takes into account the unusually high performance in FY 2010. The median difference is -1.81% which is a more accurate representation of past performance over the past 10 years. Although the FY 2013 – 2015 DBE Goal is slightly lower than recent past annual goals, it is based upon clear evidence of availability for future planned contracting activities and CDOT's demonstrated ability to attain that level of DBE participation given its past performance.

FFY	Annual DBE Goal	Actual DBE Achievement (Federal-Assisted Projects Only)	Difference
2002	10.93%	9.13%	-1.80%
2003	10.93%	7.25%	-3.68%
2004	12.69%	7.29%	-5.40%
2005	11.79%	14.80%	3.01%
2006	12.19%	9.78%	-2.41%
2007	13.76%	11.95%	-1.81%
2008	12.80%	11.00%	-1.80%
2009	12.80%	9.20%	-3.60%
2010	13.29%	24.79%	11.50%
2011	13.29%	15.47%	2.18%
Historical Median		**10.39%**	

As mentioned previously, CDOT exceeded its DBE Goal by 11.50% in FY 2010. This significant spike in DBE achievement was primarily due to a large prime contract awarded to a single DBE contractor which resulted in 95% of the total goal achieved being attained through race-neutral means. That contractor was able to graduate from the DBE Program in those work codes due in large part to that

particular contract award which was valued at nearly $24 million. This is undoubtedly a great success story for the DBE Program and for other DBE firms that are looking to grow and expand their capabilities. However, it is unreasonable to expect that a similar situation will occur during the next three years. After an analysis of currently certified DBE firms with the same work codes used for that FY 2010 prime construction project, CDOT determined that eligible firms are not yet at the same level of maturity to perform as a prime contractor on projects of that size and complexity planned for FFY 2013 – 2015.

Because CDOT has historically not been able to reach or exceed its DBE Goal with the exception of a year in which a DBE prime contractor was highlighted, it is not reasonable for CDOT to assume that companies will achieve participation over and above the race-conscious portion of next year's overall DBE goal. However, numerous strategies have been implemented to help increase the amount of race-neutral participation. These are detailed in the *Race-Neutral Methods* section of this document.

Past Participation by DBE Prime Contractors

As a result of CDOT obtaining a portion of its past participation through the use of DBE prime contractors, those attainments should be considered race-neutral and can be used as a basis for estimating a similar level of race-neutral participation in the next program year. In accordance with the USDOT OSDBU *Tips*, CDOT has calculated the median of the past 10 years' participation for DBE prime contractors as follows:

FFY	Total Contract Awards (Federal-Assisted Projects Only)	DBE Prime Contract Awards (Race-Neutral)	% of Total Awards
2002	$204,462,057	$5,765,830	2.82%
2003	$244,378,387	$757,573	.31%
2004	$294,267,463	$3,943,184	1.34%
2005	$188,560,129	$13,142,641	6.97%
2006	$228,193,670	$2,487,311	1.09%
2007	$185,502,752	$4,785,971	2.58%
2008	$174,460,144	$3,646,217	2.09%
2009	$221,858,367	$1,087,106	.49%
2010	$209,506,650	$25,015,094	11.94%
2011	$219,681,951	$2,702,088	1.23%
		Historical Median	**1.72%**

Again, it is important to note that the percentage of DBE Prime Contract Awards for FY 2010 was heavily influenced by the one large prime contract awarded to the DBE firm discussed previously. For this reason, and per the guidance outlined in the USDOT OSDBU *Tips*, CDOT used the historical median to evaluate the anticipated race-neutral and race-conscious split.

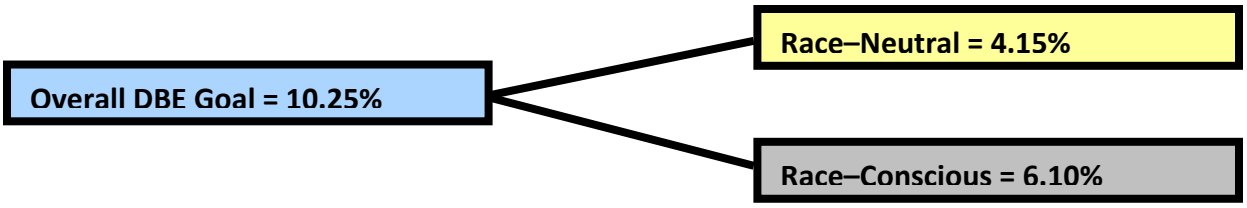
Past Participation by DBE Subcontractors on Contracts without DBE Goals or in Excess of Goals
In addition to utilizing DBE prime contractors, CDOT has also been able to achieve a portion of its past participation through DBE subcontractors on contracts without DBE goals or in excess of goals. Such attainments should be considered race-neutral and can be used as an additional source for projecting a comparable level of race-neutral participation in the following year. Again, in accordance with the USDOT OSDBU *Tips*, CDOT calculated the median participation for DBE subcontractors on contracts without goals or in excess of goals. Data was only available for the past 5 years therefore this analysis is inclusive of DBE subcontracts for FY 2007 – 2011.

FFY	Total Contract Awards (Federal-Assisted Projects Only)	DBE Race-Neutral Subcontract Awards	% of Total Subcontract Awards
2007	$185,502,752	$5,809,137	3.13%
2008	$174,460,144	$5,219,993	2.99%
2009	$221,858,367	$8,065,611	3.64%
2010	$209,506,650	$7,548,620	3.60%
2011	$219,681,951	$9,593,801	4.37%
		Historical Median	**3.60%**

Race-Neutral and Race-Conscious DBE Goals
Based upon the analysis of the three factors described above, CDOT calculated anticipated race-neutral participation FFY 2013 – 2015 by adding the historical median percentage of past participation by DBE prime contractors and the historical median past participation by DBE Subcontractors in excess of goals (i.e., on contracts without DBE goals or the amount achieved above the stated DBE project goal). This percentage was then weighted based upon the anticipated level of spending for Highway Construction (78%) as described in the *Goal Setting Approach*.

Median Past Participation by DBE Prime Contractors =	1.72%
Median Past Participation by DBE Subcontractors in Excess of Goals =	3.60%
Anticipated Race-Neutral Participation =	5.32%
Weighted Anticipated Race-Neutral Participation =	**4.15%**

As a result, CDOT anticipates meeting the FY 2013 – 2015 Overall Annual DBE Goal of 10.25% with 4.15% race-neutral participation and 6.10% race-conscious participation.



CDOT has determined that it must maintain a race-conscious goal in addition to a race-neutral goal in order to achieve the overall annual goal. This is based upon an analysis of past DBE achievements relative to each year's annual goal. Although the FY 2013 – 2015 DBE Goal is slightly less than in recent years, the percentage allocated to race-neutral participation has been increased. The methods for monitoring and increasing race-neutral efforts are discussed below.

Race-Neutral and Race-Conscious DBE Goal Monitoring
CDOT will carefully monitor the award and actual DBE participation and adjust future DBE goals to consider race-neutral and race-conscious participation accordingly.

In order to ensure that CDOT's DBE program will be narrowly tailored to overcome the effects of discrimination, the following actions will be taken when contract goals are used:

- Adjustments will be made to the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (49 CFR Part 26.51(f)).
- CDOT will separately track and report race-neutral and race conscious participation.
- Data will be maintained on DBE achievements in those contracts with and without contract goals, respectively.

Race-Neutral Methods
It is the goal of CDOT to meet the maximum feasible portion of its DBE goals by using race-neutral means of facilitating DBE participation. The ongoing initiatives described below seek to reduce discriminatory barriers, increase capacity and level the playing field for the participation of DBEs and other small contractors. They are also designed to assist CDOT in increasing race-neutral participation on its contracts. CDOT will meet the maximum feasible portion of its overall DBE goal through the race-neutral measures listed below.

Marketing and Outreach
CDOT engages in a number of outreach efforts to small business, minority and women's organizations in order to enhance DBE opportunities on CDOT projects. These efforts include but are not limited to:

- Plan and participate in statewide conferences, seminars and community outreach activities for the purpose of informing potential contractors of contracting procedures and available business opportunities.
- Maintain close partnerships with organizations such as; the Colorado Contractor's Association, American Council of Engineering Companies, Hispanic Contractors of Colorado, Conference of Minority Transportation Officials, the Women's Transportation Seminar, USDOT's Small Business Transportation Resource Center, Colorado Small Business Development Centers, Institute of Transportation Engineers, Rocky Mountain Minority Supplier Diversity Council, National Association of Minority Contractors, Colorado Black Chamber of Commerce, and other groups to promote the DBE Program.

- Conduct a bi-monthly Small Business Forum where industry, stakeholders and CDOT staff can share current news, provide education on relevant small business topics, discuss contracting issues, and network with prime contractors and other small business owners.
- Participate in the CDOT Transportation Commission DBE Committee.
- Participate in the maintenance of the UCP DBE directory as a source of identifying all DBEs currently certified by the Colorado UCP (www.coloradodbe.org), and make copies of the DBE directory available for download to prospective contractors desiring contract information for affected projects.
- Maintain a current list of certified Emerging Small Businesses (ESB) and make this list available electronically in spreadsheet format.
- E-mail contract notices and upcoming bid opportunities to those firms listed on the CDOT Bidder's Loop, Colorado UCP DBE Directory and ESB Directory in the market area.
- Ensure notices of contracting opportunities are published in a newspaper of general circulation in the area.
- Assist in identifying problems confronting DBEs in performing CDOT contracts and work diligently to arrive at acceptable solutions.
- Present workable procedures to facilitate the receipt of timely progress payments to DBEs for work completed, following such request for payment.
- Encourage DBE/ESB attendance at pre-bid/pre-proposal meetings.

Emerging Small Business Program

CDOT's Emerging Small Business Program (ESB) is a race-neutral program designed to aid small companies in obtaining work on CDOT's highway construction and design projects. Many of the small firms participating in the ESB Program are also certified DBEs. The program was revamped in 2011 based upon extensive industry research, numerous consultations, focus groups, surveys, and other communication with stakeholders, prime contractors and small businesses in the transportation community. Successful program elements have been maintained and the following new initiatives implemented:

- **Restricted Projects** – Identification and advertisement of construction projects of up to $1 million and consultant projects up to $150,000 for bidding by ESB certified firms only. CDOT estimates at least seven restricted projects will be offered in 2012-2013 and intends to increase that number in future years.
- **Target Participation Goal** – Optional goal for prime contractors to utilize ESB firms for a percentage of the contract with a financial reward or scoring point incentive for meeting or exceeding the project goal.
- **New Enforcement Mechanisms** – Where commitments are made to utilize ESB firms, CDOT is researching alternatives for effectively enforcing such commitments and thereby increasing small business participation on contracts.

Supportive Services

CDOT uses DBE supportive service funds to provide technical assistance to DBEs in accordance with 23 CFR 230.204. The program successfully assists minority, women and disadvantaged owned firms to build strong businesses able to successfully compete when bidding for federally funded transportation projects and consulting contracts, thus increasing equal opportunity, competition and diversity in CDOT's bridge and highway construction industry.

In July 2012, CDOT launched the **Connect2DOT Program** which is a cooperative agreement with the Colorado Small Business Development Centers (SBDCs). This program is being piloted at the Denver SBDC and will provide free web-based access to construction plans and online bidding (BidX) through a co-located kiosk; one-on-one consulting to assist DBEs with business management, marketing, bidding and estimating; and numerous workshops and training sessions for DBE and non-DBE firms on relevant business topics. A complete description of the program can be found at http://www.denversbdc.org/programs/connect2dot. The program will be rolled out to several other SBDCs statewide over the next year.

Other examples of assistance that CDOT and the SBDCs provide include:

- One-on-one technical and resource assistance with financial and business planning including accounting, invoicing and auditing practices, business planning, marketing/networking, and setting and achieving goals. Assistance with bonding, financial assistance, lease agreements, taxes, fringe benefits, and payroll. Assure capability to comply with all FHWA requirements and paperwork regarding personnel, EEO, Title VI, DBE, AA, training and Davis Bacon and related Acts.
- Technical and general assistance with awareness, process, estimating, and submitting quotes for CDOT federal aid contracts. Survey and report the bid items DBEs are capable of completing and share this information on the web and with prime contractors. Offer guidance to DBEs regarding CDOT project plans and website to keep up to date with contract opportunities and bid tabulations in their business areas.
- Technical support for computer systems, particularly in becoming compatible with CDOT standards and electronic bidding using the web and BidX. Also, hardware/software technical support and training.
- Technical support and education regarding partnering with other consultants/contractors /agencies and how to create and deliver products or services under a joint venture. Provide tools and skills to improve or expand their business capabilities.
- Workshops and education regarding a variety of business topics including how to do business with CDOT.
- Education regarding reading, writing and understanding construction contracts and subcontracts. Legal assistance in ensuring contracts and subcontracts protect the interest of the DBE, include all phases of the work, and contain all needed language for compliance when working on a FHWA funded projects.

- Technical assistance during the solicitation or bid period for any project, and assist with any explanation of documents, including language barriers, that may exist. Assist with proposal and bid review and preparation.
- Conduct reverse trade fairs that connect DBEs and other small business subcontractors with prime consultants and contractors. Participants are required to meet with an SBDC consultant or attend a workshop to become familiar with the process of working with primes on CDOT design-build projects. These trade fairs allow small businesses to promote their services to a niche market while capitalizing on various education and networking opportunities.
- Evaluation of DBEs and ESBs willing to participate in a mentoring program. Development of goals for mentoring and specific topics to cover. Assignment of willing prime contractors/consultants to formally mentor willing DBE contractors/consultants. Monitoring of the effort. Facilitate meetings as necessary.

SBDC and CDOT consultants use industry business standards and CDOT prequalification standards, as well as feedback from the primes and others to determine what each DBE should have for comparable skills and qualifications. This is done on a case by case basis as each company delivers a unique set of products and services. SBDC consultants use a variety of methods to assess a firm's current qualifications. These include, but are not limited to:

- One-on-one business review at the DBE's home office or via conference call
- Feedback from primes and from CDOT requesting assistance for a firm
- Requests from the DBEs themselves for assistance

Structuring Bids for Small Business Participation

CDOT Engineering, Contracting and Civil Rights staff evaluate all projects during the annual planning process and regularly throughout the year to determine if large projects can be unbundled or structured to facilitate competition by small business or participation in procurements as prime contractors.

Additionally, CDOT supports ESB firms in the bidding process for ESB Restricted Projects. This support includes extending the advertisement period beyond the required 3 week notice period to one month or more. This ensures that small businesses have ample time to prepare and submit their bids. CDOT will also expedite the ESB application review process for eligible small businesses that would like to bid on an ESB Restricted Project but have not yet been certified.

PUBLIC PARTICIPATION

During the past year, CDOT has continued to be involved with key chambers of commerce, as well as community and professional organizations that are involved with small businesses. CDOT attends various meetings, marketplace events, trade shows, seminars and conferences throughout

Colorado. As part of this outreach and involvement, CDOT encouraged public comments on the annual DBE goal setting methodology and overall annual goal percentage.

The following schedule outlines key outreach activities for the DBE goal setting process and various venues where public comments were solicited.

Pre-annual DBE goal calculation

- **May 14** – Identify interested organizations willing to provide feedback on the annual DBE goal
- **May 16** – Distribute online survey to organization stakeholders
- **May 31** – Hold open forum to discuss annual DBE goal setting process
- **June 1** – Obtain historical data and begin process to set FY 2013 – 2105 annual goals
- **June 4** – Determine the method CDOT will use to calculate and set the DBE goal
- **June 15** – Publish legal notice of proposed three year goal including 45 day comment period on CDOT website and in statewide newspapers and online media

Post-annual DBE goal calculation

- **June 20** – Presentation and comments at the CDOT Transportation Commission DBE Committee
- **July 18** – Presentation and opportunities for additional comments at the CDOT Transportation Commission DBE Committee
- **July 19** – Present DBE Goal Resolution to the CDOT Transportation Commission
- **July 24** – Discuss proposed three year goal and gather public feedback at the CDOT Small Business Forum and Connect2DOT Open House at the Denver SBDC
- **July 30** – Deadline for submitting comments on the annual DBE goal setting process
- **August 1** – Send annual DBE goal document to FHWA

Public Notice and Draft Methodology

CDOT provided notice of the goal setting process on its website and included an email link to collect public comments. A draft of the goal methodology was also posted on the website and made available to the public for review and comment 45 days prior to the final submission. This information is located at http://www.coloradodot.info/business/equal-opportunity/dbe/dbegoal2012.

CDOT also published legal notice of the proposed annual DBE goal for FFY 2013 – 2015 in the following regional newspapers.

- Greeley Tribune
- Pueblo Chieftain
- Durango Herald
- Trinidad Chronicle
- Grand Junction Daily Sentinel
- La Voz Hispana de Colorado
- Colorado Springs Gazette Telegraph
- Denver Business Journal
- Daily Journal

The notice informs the public that the proposed goal and its rationale are available for inspection during normal business hours at the CDOT Center for Equal Opportunity for 30 days following the

date of the notice, and informs the public that CDOT is accepting comments on the goals for 45 days from the date of the notice. The notice included an email address to which comments can be sent and the addresses and URL where the document can be reviewed.

Three comments were collected and reviewed to determine what, if any, impact they would have on the goal setting process. The comments provided support for the DBE Program and continued encouragement of project goals on CDOT and local agency projects.

Forums and Meetings

Prior to publishing the draft report and submitting legal notice on June 15, CDOT discussed the DBE goal setting methodology with various industry stakeholders and public attendees at the CDOT Small Business Forum on May 31. A presentation was provided to attendees that offered an overview of the DBE Program, the process for goal setting, and a calendar of planned events. The presentation slides have been provided as *Exhibit A*. An open question and comment period followed the presentation and attendees were encouraged to submit anonymous comments on index cards.

Presentations were also provided at three separate Transportation Commission meetings on June 20, July 18 and July 19. These were attended by the Commissioners, industry association representatives and the public. An additional presentation was given at the Connect2DOT Open House on July 24 hosted at the Denver Small Business Development Center. This was attended by a variety of small businesses and prime contractors. Public feedback was requested. No comments were received.

Online Survey

CDOT conducted an online survey of industry representatives from various professional associations and transportation-related organizations. Individuals were sent email invitations and asked to participate in the survey which covers topics regarding the current contracting environment and any lingering effects of discrimination. A list of contacts that received the invitation to participate in the survey has been provided in *Exhibit B*. The results of the survey and an analysis of responses has been included in *Exhibit C*.

COLORADO DEPARTMENT OF TRANSPORTATION DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

May 31, 2012

FFY 2013 – 2015
DBE Goal Setting Process

DOT
DEPARTMENT OF TRANSPORTATION

Current CDOT DBE Program

Federally-Mandated Program

- U.S. DOT program administered by CDOT Center for Equal Opportunity
- Federal statute 49 CFR Part 26
- Helps disadvantaged business owners compete for transportation contracts

Qualifications

- Small for-profit business concern 51% owned and controlled by socially and economically disadvantaged individual(s)
- Minority and women presumed to be disadvantaged
- Business size standard and personal net worth cap
- Commercially useful function

DOT
DEPARTMENT OF TRANSPORTATION

DBE Policy Objective

Consistent with requirements of 49 CFR Part 26, it is the policy of CDOT to ensure that DBEs have equal opportunities to receive and participate in U.S. DOT-assisted contracts. To accomplish this objective, CDOT will take the following actions:

1. Ensure nondiscrimination in the award and administration of U.S. DOT-assisted contracts
2. Create a level playing field on which DBEs can compete fairly for U.S. DOT-assisted contracts
3. Ensure that the DBE program is narrowly-tailored in accordance with applicable laws
4. Ensure that only firms, fully meeting the eligibility standards of 49 CFR part 26, are permitted to participate as DBEs
5. Help remove barriers to the participation of DBEs in U.S. DOT-assisted contracts
6. Assist in the development of DBE firms, enabling them to successfully compete outside the DBE program

DOT
DEPARTMENT OF TRANSPORTATION

Current CDOT DBE Program

State-Managed Program

- Required by Congress as a condition of receiving federal funds for transportation contracts
- CDOT acts as the steward for the federal program at the state level
- 1285 DBE's certified through UCP
- Individual project goals based upon availability and other factors
- DBE contracting dollars reviewed annually to determine if goal was met
- Race-neutral and race-conscious participation

DOT
DEPARTMENT OF TRANSPORTATION

Race Neutral DBE Participation

Federal regulations require maximum feasible portion of overall DBE goals be met by using race and gender-neutral means

- DBE prime contracts
- DBE participation above project goals
- DBE participation on contracts without goals
- Emerging Small Business (ESB) Program
- CDOT efforts that help all small businesses

DEPARTMENT OF TRANSPORTATION

Race Conscious DBE Participation

Overall annual DBE goal for utilizing minority and woman-owned firms on CDOT transportation contracts

- Use contract DBE goals to achieve the DBE participation not occurring through race-neutral means
- Goal percentage applied to projects with federal funds
- Prime contractor required to meet goal or show good faith effort
- CDOT monitors progress throughout the year

DEPARTMENT OF TRANSPORTATION

State DOT DBE Goal Comparison

FY 2011 Annual DBE Goals			
State DOT	**Race Conscious**	**Race Neutral**	**Annual DBE Goal**
Alaska	7.30%	5.70%	13.00%
California	6.75%	6.75%	13.50%
Colorado	**11.15%**	**2.14%**	**13.29%**
Hawaii	0.00%	8.70%	8.70%
Idaho	0.00%	10.50%	10.50%
Kansas	7.00%	2.30%	9.30%
Montana	0.00%	5.90%	5.90%
Nevada	0.00%	5.90%	5.90%
New Mexico	7.41%	3.94%	11.35%
North Dakota	3.73%	3.59%	7.32%
Oregon	1.00%	10.50%	11.50%
South Dakota	3.42%	3.78%	7.20%
Utah	7.70%	0.00%	7.70%
Washington	10.37%	5.15%	15.52%
Wyoming	0.00%	4.46%	4.46%

DOT
DEPARTMENT OF TRANSPORTATION

DBE Goal Setting Process FY 2013 - 2015

3 year goal submission

- Beginning 2010 CDOT DBE goals have been set for 3 year cycles
- CDOT proposed DBE goal will be submitted to FHWA in August 2012
- Applies to federal fiscal years 2013 – 2105

Annual federal goal submission requirements

- Data collection and analysis (directories, census, bidders list, etc.)
- Availability of ready, willing and able DBE firms
- Public participation
- Apply formulae per regulation

DEPARTMENT OF TRANSPORTATION

DBE Goal Setting Schedule

Pre-annual DBE goal calculation

- **May 14** – Identify interested organizations willing to provide feedback on the annual DBE goal
- **May 16** – Distribute online survey to organization stakeholders
- **May 31** – Hold open forum to discuss annual DBE goal setting process
- **June 1** – Obtain historical data and begin process to set FY 2013 – 2105 annual goals
- **June 4** – Determine the method CDOT will use to calculate and set the DBE goal
- **June 15** – Publish legal notice of proposed three year goal including 45 day comment period on CDOT website and in statewide newspapers and online media

Post-annual DBE goal calculation

- **June 20** – Presentation and comments at the CDOT Transportation Commission DBE Committee
- **July 18** – Presentation and opportunities for additional comments at the CDOT Transportation Commission DBE Committee
- **July 19** – Present DBE Goal Resolution to the CDOT Transportation Commission
- **July 24** – Discuss proposed three year goal and gather public feedback at the CDOT Small Business Forum and Connect2DOT Open House at the Denver SBDC
- **July 30** – Deadline for submitting comments on the annual DBE goal setting process
- **August 1** – Send annual DBE goal document to FHWA

DEPARTMENT OF TRANSPORTATION

DBE Goal Setting Discussion Topics

- Anecdotal evidence of discrimination based upon race/ethnicity or gender
- Effects of discrimination on opportunities for DBEs
- Any changes in the transportation contracting environment for minority and woman owned firms
- Scope and effectiveness of CDOT's efforts to establish a level playing field for the participation of DBEs
- Questions regarding the overall annual goal setting process

DEPARTMENT OF TRANSPORTATION

Additional Comments

Submit public comments and feedback on the annual DBE goal setting process for FY 2013 – 2015 by July 30 to:

Katherine Williams
CDOT Center for Equal Opportunity
(303) 757-9162
(800) 925-3427
K.Williams@dot.state.co.us

DEPARTMENT OF TRANSPORTATION

Exhibit B – CDOT Goal Setting Survey Outreach List

Organization	Contact
CDOT Regional Civil Rights Managers	
Region 1	Micki Perez
Region 2	Mary Dugan
Region 3	Chip Brazelton
Region 4	Anna Leiferman
Region 5	Alice Baker
Region 6	Darrell Wells
CDOT Transportation Commission	
District 1	Trey Rodgers
District 2	Edward Peterson
District 3	Gary Reiff
District 4	Heather Barry
District 5	Kathy Gilliland
District 6	Kathy Connell
District 7	Douglas Aden
District 8	Steve Parker
District 9	Les Gruen
District 10	Gilbert Ortiz
Industry	
Colorado Contractor's Association (CCA)	Jim Moody
Western Colorado Contractors Association	Chris Sorensen
Associated General Contractors of Colorado	Michael Gifford
American Institute of Architects	Sonia Riggs
American Council of Engineering Companies	Marilen Reimer
COMTO	Walter Bembry
Institute of Transportation Engineers (ITE)	Christopher Sheffer
American Subcontractors Association (ASA)	Debra Miller
Colorado Asphalt Pavement Association	Tom Peterson
Associated Builders and Contractors (ABC)	M Latimer
ABC of Western Colorado	Christine Sartoris
RMMCA	Freddie Hanns
Design Build Institute of America	Heather Clark
Rocky Mountain Masonry Institute	Nancy Partridge
Associated Landscape Contractors of Colorado	Kristen Fefes
Southern Colorado National Electrical Contractors	Sue King
Hispanic	
Hispanic Contractors of Colorado	Helga Grunerud
Denver Hispanic Chamber of Commerce	Bill Vidal
Women	
Colorado Women's Chamber of Commerce	Donna Evans
Women's Transportation Seminar (WTS)	Crissy Fangenello

Organization	Contact
Women Construction Owners & Executives	Cheryl Brooks
Mi Casa Resource Center for Women	Christine Marquez-Hudson
African American	
Colorado Black Chamber of Commerce	Erik Lee
Colorado Springs Black Chamber of Commerce	James Stewart
Colorado Association of Black Professional Engineers and Scientists	Dewey Brigham
Indian	
TiE Rockies	Barbara Mulroy
RM Indian Chamber of Commerce	Dee St. Cyr
Asian	
Asian Chamber of Commerce	John Wright
Asian Roundtable of Colorado	George Yoshida
General Minority and Business	
The Colorado Association of Commerce and Industry (CACI)	Lauren Furman
RMMSDC	Brenda Hooks
Denver Office of Economic Development	Leroy Romero
Denver Business Assistance Center	
ACLU of Colorado	Denise Maes
Denver Small Business Office	Jocelyn Robinson
RTD Civil Rights Office	Carla Perez
DRCOG	Greg MacKinnon
Denver Transit Partners	Linda Wilson
West Central SBTRC	Lavonna Stathes
MBDA Denver	Doris Crim
Colorado PTAC	Tom Elam
Minority Business Council	Ray Martinez

Exhibit C – CDOT Goal Setting Survey Analysis and Results

FY 2013 - 2015

FHWA Overall Annual Goal Setting

Industry Association & Stakeholder Survey

Presented by:

CDOT Center for Equal Opportunity

July 2012

INTRODUCTION

CDOT conducted a variety of outreach activities to solicit feedback from the Colorado transportation community regarding the FHWA FY 2013 – 2015 overall DBE goal setting process. One of the methods used to facilitate public participation and comments was an online survey of stakeholders and industry association representatives. These key contacts are engaged with the small business community and have a pulse on the highway contracting industry.

Participants were invited to take the survey and provide comments related to the current contracting environment in Colorado and any barriers or lingering effects of discrimination that are believed to still exist for small businesses working with CDOT or on other transportation projects.

METHODOLOGY

The CDOT Center for Equal Opportunity developed a set of 10 open and close-ended questions to explore attitudes relating the small business contracting community. A web-based survey was created to simplify the data collection process. An initial email was delivered to the primary contact for each trade association, partner organization and internal CDOT stakeholder on May 17, 2012. A follow up email was sent on May 23, 2012 and a final request was sent to all non-respondents on June 1, 2012.

A total of 16 out of 60 people responded to the survey which yielded a response rate of 26.6%. Although the information gathered from the survey is valuable, the sample size was not adequate to make definitive conclusions that would significantly affect the Disadvantaged Business Enterprise (DBE) goal setting methodology.

The survey results were analyzed using a combined approach that incorporated both quantitative and qualitative analysis:

- **Quantitative analysis:** The survey responses were tallied and the resulting data were analyzed to determine the current state of small business contracting for transportation projects and any barriers or lingering effects of discrimination in the contracting community.

- **Qualitative analysis:** Participant responses to open-ended questions were analyzed to identify patterns and common concerns that may affect CDOT's DBE goal setting methodology and require a Step 2 Adjustment. Respondents' comments were evaluated individually by question and integrated into the Public Participation section of the FY 2013 – 2015 Goal Setting report.

SUMMARY OF SURVEY RESPONSES

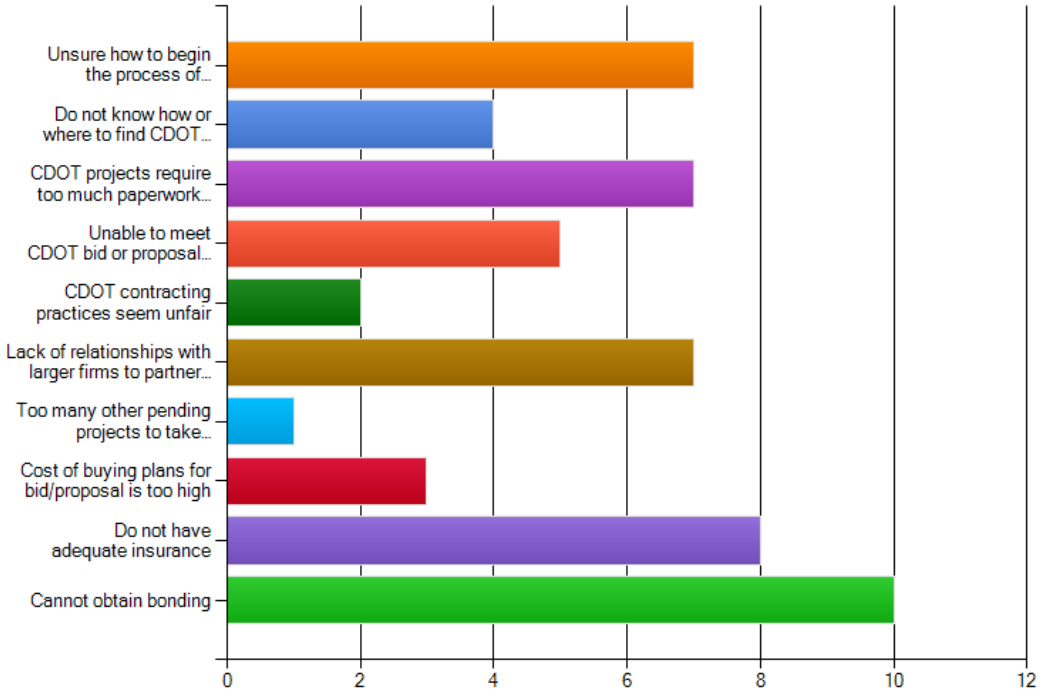
The following is a summary of the 16 representatives that responded to the survey. None of the questions were required which is why the response tallies for individual questions vary.

Barriers to Obtaining Work with CDOT

Participants were asked to review of list of barriers that they believe may prevent some small businesses from bidding or obtaining work with CDOT. They were then asked to select all answer choices that apply. The list of answer choices included:

- Unsure how to begin the process of working with CDOT
- Do not know how or where to find CDOT contracting opportunities
- CDOT projects require too much paperwork or too many resources
- Unable to meet CDOT bid or proposal specifications
- CDOT contracting practices seem unfair
- Lack of relationships with larger firms to partner with on CDOT projects
- Too many other pending projects to take on additional work
- Cost of buying plans for bid/proposal is too high
- Do not have adequate insurance
- Cannot obtain bonding

The following chart provides a graphic representation of the results. The inability to obtain bonding was the most frequently cited issue with 10 of the 15 respondents making this selection. More than half also indicated that inadequate insurance was a barrier to obtaining work. Most also believe that small businesses are unsure how to begin the process of working with CDOT and are lacking relationships with larger firms to partner with on CDOT projects. As one respondent commented, "Minority and women owned businesses tend to not have the network nor contacts within the company to get a fair shot at bidding on CDOT contracts."



When asked to describe any other issues that small businesses currently experience which prevent them from bidding or obtaining work with CDOT, respondents indicated that the lack of relationships and networking opportunities, as well a lack of knowledge regarding who is bidding are consistent issues. Also cited was the inability to obtain project plans due to associated costs and

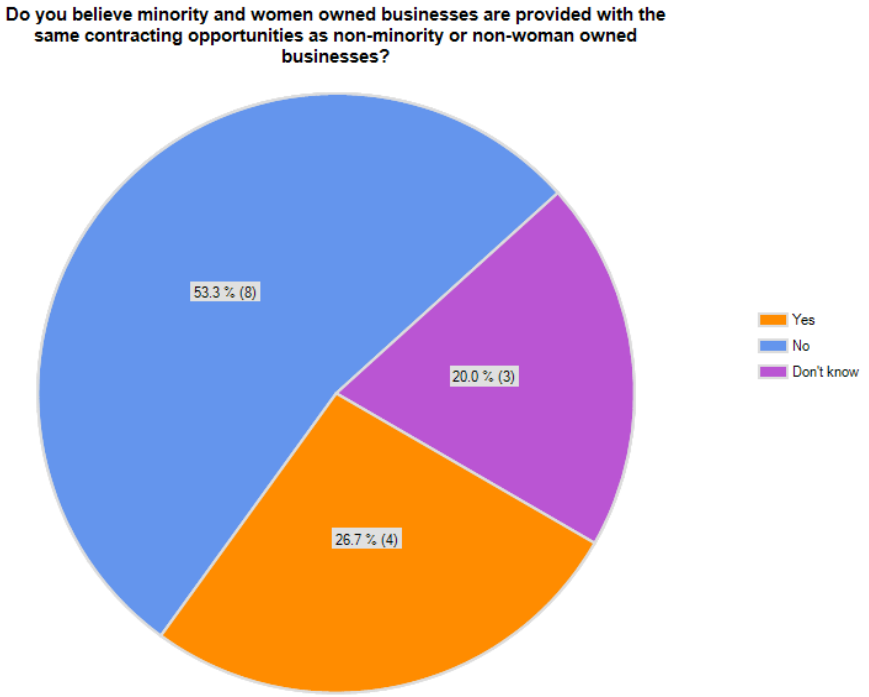
General Contractors opting to show a "Good Faith Effort" rather than utilize DBE firms as encourage by the federal regulations. Below is a summary of the individual responses.

1. "Many of the large prime contractors meet their DBE goals with truckers, stripers, guard rail, flaggers, etc, rather than contractors that do concrete, asphalt, rebar, etc. which the primes prefer to do themselves. With few contracting opportunities as described above, small contractors can't buy the equipment needed to compete and grow their businesses. Another problem is the lack of opportunity to build relationships."
2. "The process takes too long to get certified especially in regions that are far from Denver because staff has to travel to these areas to do the onsite interviews. There should be someone in the region that can do the onsite reviews."
3. "Association cannot make plans available to DBEs because the shipping fees CDOT charges the association makes even getting the plans unfeasible."
4. "No transparency in the CDOT bidding process to know exactly which primes will bid a particular project. Only a list of contractors that have pulled plans is available. Need a more definite list because don't want to send to quotes to contractors that are not bidding as primes. Also, no accountability of primes with what do with quotes received from subs. Primes can always say they didn't receive a quote and no one would know or hold them accountable."
5. "General Contractors for CDOT projects know that all they have to do is show a Good Faith Effort. Most would rather do the GFE than deal with a small business. General Contractors have said that dealing with small business is a waste of time, effort and good money that they could be keeping for themselves, and close friends. If a GC was required to include small minority business on CDOT projects like they are required to have insurance, or attend prebid meetings, there would be more small business participating. As long as General Contractors can, as they say, "Get around that DBE goal thing", the numbers for small business participation will always be low."
6. "I have heard no comments from small business owners, but I would imagine that a lack of relationships with larger firms is a factor."
7. "They don't know who to contact when jobs become available."

CDOT is currently working to alleviate many of these barriers through the Connect2DOT Program which was launched on July 24, 2012 after this survey was conducted. The program was established through a co-operative agreement with the Colorado Small Business Development Centers (SBDCs) to provide technical assistance and support services to small and disadvantaged businesses across the state. Trained business consultants will provide one-on-one consulting on a variety of topics including certification, bonding, financials, insurance, certified payroll, estimating, etc. They will also be offering workshops that provide information on how to do business with CDOT and reverse trade fairs that facilitate networking between prime contractors and small businesses.

Equal Opportunity in Contracting

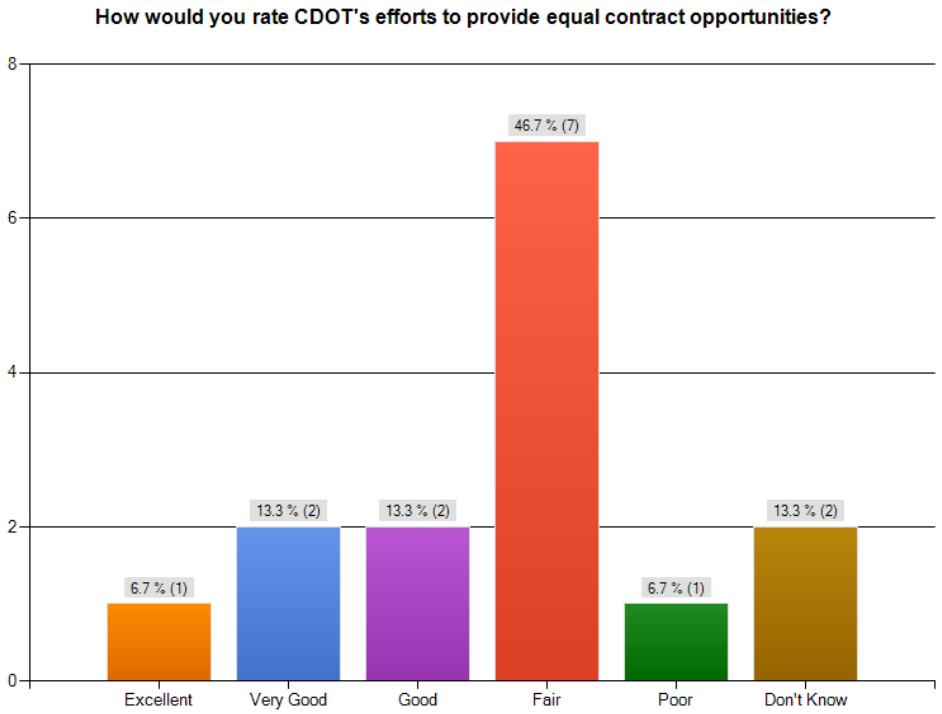
The survey also explored people's attitudes relative to minority and woman-owned business enterprises (M/WBE) being provided with the same contracting opportunities as non-minority or non-woman owned businesses. More than half (53.3%) indicated that M/WBE firms are not afforded the same opportunities.



For those that felt M/WBE's are not provided with the same contracting opportunities as non-M/WBE's, several reasons were provided. One responded said that, "they are generally smaller and can't compete on price against larger companies." However, another participant said that "in some areas of work, they have a distinct advantage—in other areas not so much." Overconcentration is an area of concern that is being addressed by CDOT through narrowly tailoring the DBE Program.

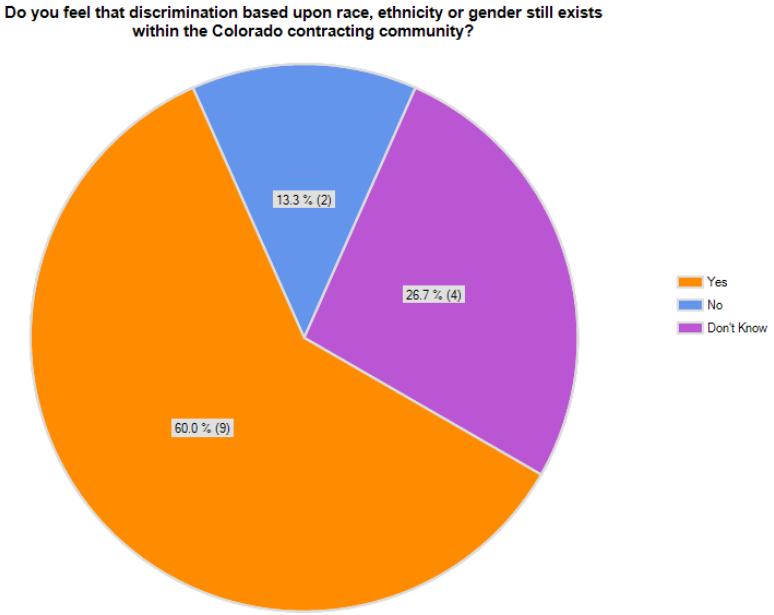
CDOT also manages an Emerging Small Business (ESB) Program that provides opportunities for all small businesses regardless of the race and gender of the owner. This "race-neutral" program is utilized to support the growth of all small businesses including DBE firms. A key benefit of this program is ESB Restricted Projects that only ESB certified firms may bid on. In support of this program element, one respondent commented that "The majority of CDOT contracts go to a limited number of top contractors. The restricted projects process is a good start to even out projects direct by CDOT. There still needs to be accountability of primes. Primes will make effort to reach minimum of goals, but not too many will exceed that goal."

Respondent were also asked to rate CDOT's efforts at providing equal contracting opportunities and the majority rated the agency's efforts as "fair." However, one-third of all respondents (5) rated their efforts as good to excellent. This indicates that CDOT is currently doing a good job of providing contract opportunities for disadvantaged businesses.



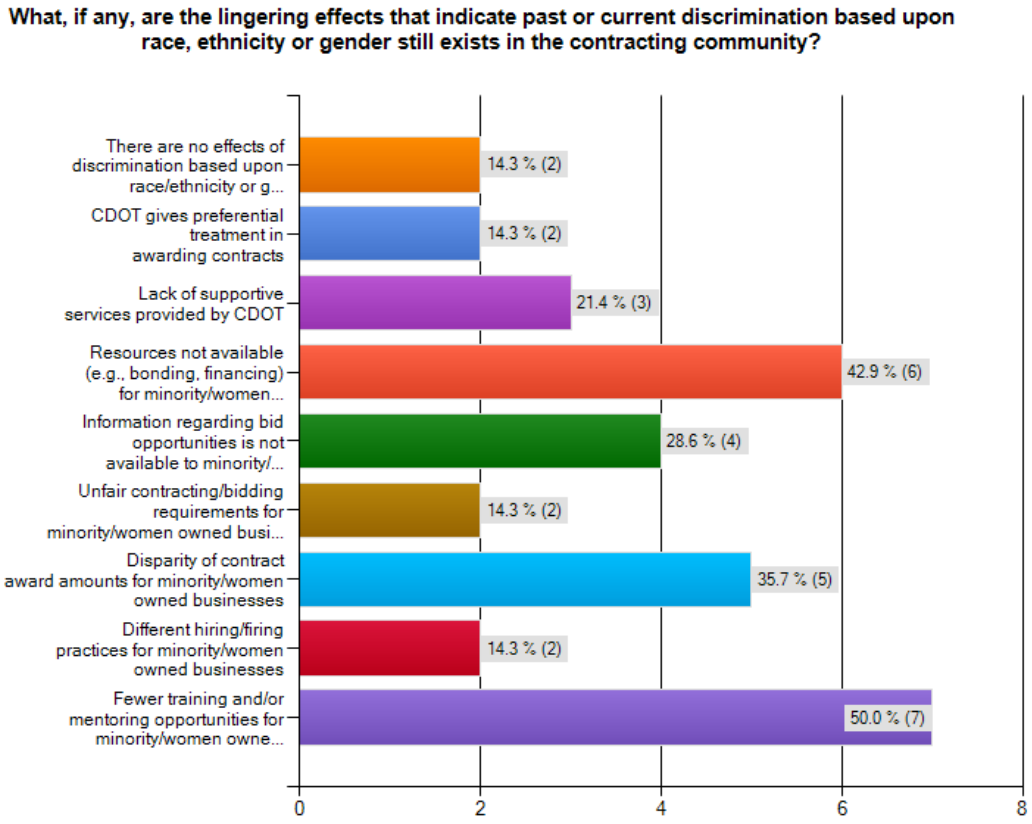
Discrimination the Contracting Community

One of the key supporting arguments for a race-conscious DBE goal program is the existence or lingering effects of discrimination based upon race, ethnicity or gender. Survey participants were asked if they felt discrimination based upon those three diversity characteristics still exists within the Colorado contracting community. A majority (60%) believe that discrimination does still exist. Only two respondents indicated that it did not. This provides solid anecdotal basis for continuing to support race-conscious goals on CDOT projects.



The survey also inquired about any lingering effects that indicate past or current discrimination based upon race, ethnicity and gender. Participants were given a set of common factors that indicate discrimination may still exist. The following are those factors.

- There are no effects of discrimination based upon race/ethnicity or gender
- CDOT gives preferential treatment in awarding contracts
- Lack of supportive services provided by CDOT
- Resources not available (e.g., bonding, financing) for minority/women owned businesses
- Information regarding bid opportunities is not available to minority/women owned businesses
- Unfair contracting/bidding requirements for minority/women owned businesses
- Disparity of contract award amounts for minority/women owned businesses
- Different hiring/firing practices for minority/women owned businesses
- Fewer training and/or mentoring opportunities for minority/women owned businesses



Half of all respondents to this question (7) indicated that there were fewer training and/or mentoring opportunities for minority/women-owned businesses. Similarly, nearly half (6) said that resources such as bonding and financing were not available for disadvantaged businesses. Again, the Connect2DOT Program may help change this perception because more extensive training and one-on-one consulting opportunities will be made available to DBE firms statewide in the future.

There was also a strong indication that disparity exists between contract award amounts for M/WBE firms. One participant said, "the biggest lingering effect is that very, very few minority/women owned companies have been able to grow and become prime contractors." CDOT

has established ESB Restricted Projects as a way to encourage small business participation on CDOT contracts as a prime contractor. Another respondent suggested that a way to help overcome

the lingering effects of discrimination would be by "increasing the transparency in the bidding process [and] holding primes accountable for subbing opportunities and quotes received." CDOT currently provides all bid tabulations online and has established a "grade" system to rate contractor performance related to DBE utilization. These grades are made public and posted on the CDOT website.

An analysis of the quantitative responses and qualitative comments to these questions seems to support the need for ongoing race-conscious DBE goals. Another respondent supported this conclusion by saying, "Maybe higher goals [will help]. Primes will take small minority business more seriously, and include them in CDOT projects. Maybe they will start spending more time trying to meet the goal with the spirit of the goal rather than finding ways to get around the goal. If Primes wanted to, or if CDOT wanted them to, there would be a reasonable representation of small business on almost all CDOT projects in some shape or form. Small minority businesses are not just going to go away."

There were a few instances of direct discrimination that were mentioned by participants. These included differential treatment based upon race/gender, self-performance by the prime contractor and discriminatory practices such as bid shopping. Below is a summary of two comments related to any instances of discrimination that have been mentioned by the construction or engineering community while contracting or attempting to contract on projects with CDOT funding.

1. "Diverse businesses are used to win bids, but then are not utilized to the extent indicated. Diverse businesses are awarded projects with low profit margins, ie, they get a small piece of the project and are scheduled to perform over a lengthy periods of time that may require several mobilizations. Price shopping. Intimidation to perform project changes without proper documentation, which then results in the small business not getting paid for the change."
2. "Primes don't treat minority and female owned subs the same as others. They require a bond or insurance when they don't require from all subs. Submit a bid, and the prime states they never received. Heard that quote was the lowest, but they selected someone else and never hear from. They try to renegotiate quote after award so sub will decrease quote. Prime requests bids on an item, then decided to self perform because sub was the only bidder or they didn't like the prices."

CONCLUSIONS

The public feedback received through the online survey did not represent a large enough sample to make broad generalizations related to the transportation contracting environment. Therefore, CDOT determined that is not appropriate to apply this information as a Step 2 adjustment in the Overall DBE Goal Setting Methodology. However, it was noted that several individual comments point to the fact that the lingering effects of discrimination do still exist. This provides a case for continuing a race-conscious goal on CDOT projects.

Generally, small businesses find it difficult to obtain bonding and adequate insurance to meet CDOT contracting requirements. Restructuring these requirements and providing support

services for DBE and ESB certified firms through the Connect2DOT will help alleviate these barriers and potentially increase overall participation. ESB Restricted Projects are currently being used to provide opportunities for small businesses to compete on a level playing field and these should help many grow by moving into prime contractor roles.

Additionally, the lack of relationships with prime contractors and the prime's reluctance to utilize different subcontractors or "go above and beyond" goals is a barrier to small business growth. As one respondent commented, "A constant issue is how to encourage primes to use some of the smaller companies so they can get their foot in the door. A small core of companies is generally utilized by primes – but that has to happen to some extent so they can grow." These issues may also be addressed through the Connect2DOT Program which provides education, reverse trade fairs and "meet and greet" sessions. The ESB Program is also piloting financial incentives for prime contractors to utilize small business on projects. CDOT will continue to monitor and test various strategies for increasing participation of all small businesses including those that are disadvantaged in an effort to support and grow the Colorado small business community.

Exhibit D – Summary of Public Comments

Public Meeting Comments

1. CDOT's effectiveness to train on site staff really needs improvement. Internal training regarding DBE goal setting and application on projects is needed.
2. Monitoring of contracts needs improvement for DBEs.
3. Why are goals set at 10%? Example: 5 contracts at $2.5M each is $12.5M and only $1.25M to DBEs. Seems very low.
4. CDOT cherry picks ex-CDOT employees for projects. The "good ole' boy" network is definitely discriminating against construction management and A&E firms.

Email Comments

1. What about material supply? We need to find a way to increase opportunity and thereby meet or expand the goals.
2. Dear Mr. Williams: Thank you for the notice on the proposed goal for DBE participation on CDOT projects. JFSA is a consulting engineering firm certified as a DBE by CDOT. We have noted that some local governments are including CDOT's goals for DBE participation in recent requests for proposals. We were pleased to learn of this requirement. With respect to the overall goal, I believe the methodology applied to arrive at the goal seems reasonable. Would it serve the community to publish the overall buy of CDOT and the percentage that were awarded or subcontracted to DBEs on a regular basis? Please continue to impress on local governments that federal funds that are managed by CDOT must include goals for DBE participation. We look forward to the continued leadership of CDOT in promoting DBE participation.

Written Comments

1. Horizon Environmental Services, Inc. (HES) is a CDOT DBE, #5823. The CDOT DBE Program has been integral to our success in the past several years and we would like to express our support for the program. When setting the tri-annual goals please keep in mind the number of businesses the program benefits. Let's keep DBE goals high so the disadvantaged businesses in our state can continue to prosper in this difficult market!

Online Survey Comments

Please describe any other issues you feel small businesses currently experience that prevent them from bidding or obtaining work with CDOT.

1. Many of the large prime contractors meet their DBE goals with truckers, stripers, guard rail, flaggers, etc, rather than contractors that do concrete, asphalt, rebar, etc. which the primes prefer to do themselves. With few contracting opportunities as described above, small contractors can't buy the equipment needed to compete and grow their businesses. This is why HCC has championed the concept of a pool of ESB projects. Another problem is the lack of opportunity to build relationships. The vast majority of CDOT contractors are not members of minority associations and chambers. A handful are members of RMMCA, but it is marginally active. Even on large projects like US 36, CDOT contractors (except for Kiewit) did not reach out to Hispanic Contractors of Colorado, the largest minority construction-focused association in the state. Finally, we

are concerned that the lack of diversity in CDOT management may lead to a lack of passion for these programs to be more inclusive and provide opportunities for minorities.

2. The process takes too long to get certified especially in regions that are far from denver because staff has to travel to these areas to do the onsite interviews. there should be someone in the region that can do the onsite reviews
3. Association cannot make plans available to DBEs because the shipping fees CDOT charges the association makes even getting the plans unfeasible.
4. No transparency in the CDOT bidding process to know exactly which primes will bid a particular project. Only a list of contractors that have pulled plans is available. Need a more definite list because don't want to send to quotes to contractors that are not bidding as primes. Also, no accountability of primes with what do with quotes received from subs. Primes can always say they didn't receive a quote and no one would know or hold them accountable.
5. General Contractors for CDOT projects know that all they have to do is show a Good Faith Effort. Most would rather do the GFE than deal with a small business. General Contractors have said that dealing with small business is a waste of time, effort and good money that they could be keeping for themselves, and close friends. If a GC was required to include small minority business on CDOT projects like they are required to have insurance, or attend prebid meetings, there would be more small business participating. As long as General Contractors can, as they say, "Get around that DBE goal thing", the numbers for small business participation will always be low.
6. I have heard no comments from small business owners, but I would imagine that a lack of relationships with larger firms is a factor.
7. They don't know who to contact when jobs become available.

Do you believe minority and women owned businesses are provided with the same contracting opportunities as non-minority or non-woman owned businesses?

8. They are generally smaller and can’t compete on price against larger companies. This, again, is why HCC encourages a pool of ESB projects where small contractors compete against each other.
9. The majority of CDOT contracts go to a limited number of top contractors. The restricted projects process is a good start to even out projects direct by CDOT. There still needs to be accountability of primes. Primes will make effort to reach minimum of goals, but not too many will exceed that goal.
10. What have the studies that CDOT has taken over the past years taught us? Why are so many minority and woman owned small business going under, and other non-minority business making way.
11. In some areas of work, they have a distinct advantage--in other areas not so much
12. Minority and women owned businesses tend to not have the network nor contacts within the company to get a fair shot at bidding on CDOT contracts

What, if any, are the lingering effects that indicate past or current discrimination based upon race, ethnicity or gender still exists in the contracting community?

13. The biggest lingering effect is that very, very few minority/women owned companies have been able to grow and become prime contractors.
14. Increasing the transparency in the bidding process, holding primes accountable for subbing opportunities and quotes received.
15. The Good Faith Effort being abused by General Contractors bidding on CDOT projects.

Please let us know about any instances of discrimination that have been mentioned by the construction or engineering community while contracting or attempting to contract on projects with CDOT funding.

16. 1) Diverse businesses are used to win bids, but then are not utilized to the extent indicated. 2) Diverse businesses are awarded projects with low profit margins, ie, they get a small piece of the project and are scheduled to perform over a lengthy periods of time that may require several mobilizations. 3) Price shopping 4) Intimidation to perform project changes without proper documentation, which then results in the small business not getting paid for the change.
17. That the issue is not with CDOT but rather with prime contractors discriminating
18. Bait and switch. Not honoring agreed upon scope or paying for change orders.
19. Primes don't treat minority and female owned subs the same as others. They require a bond or insurance when they don't require from all subs. Submit a bid, and the prime states they never received. Heard that quote was the lowest, but they selected someone else and never hear from. They try to renegotiate quote after award so sub will decrease quote. Prime requests bids on an item, then decided to self perform because sub was the only bidder or they didn't like the prices. Try to hold a sub responsible for events on a project, when prime made a decision and directed work. The PE or prime Superintendent will yell and scream at on a project site, then will act nice when at a meeting in office with others present. Prime will not inform sub about schedule, then get mad at, threaten, claim performance issues, or try to remove when sub can't meet their schedule. Prime doesn't pass along all project requirements, then sub may end up paying more, i.e. labor costs because didn't know about DB rates.
20. The fact that contractors and engineers select partners on the basis of skin color or gender rather than qualifications would suggest discrimination is occurring. Granted this is reverse discrimination. As a non DBE firm, if we overtly selected partners on the basis of race or gender, we would be labeled discriminatory. However, it is okay for us to be told by a CDOT program engineer that our qualifications are great by we can't be selected because of the race of our owners.
21. Many feel that the only way to "win" CDOT work is to employ former CDOT Engineer's, etc. Too many projects are being awarded to those companies with the "inside track"

Please rate the areas in which you feel small businesses need help to effectively contract with CDOT.

22. Project Management
23. Project Management
24. Primes strongly encouraged to break out feasible portions of a project for small business. If small business could have acquired just a small portion of the many million dollar

CDOT projects that are available, just think of how many small business would still be in business today.

If you have any other comments that may assist CDOT with setting the annual DBE contracting goal, please provide them below.

25. A constant issue is how to encourage primes to use some of the smaller companies so they can get their foot in the door. A small core of companies is generally utilized by primes – but that has to happen to some extent so they can grow. We believe CDOT is large enough to tackle both issues.
26. What happened with the Disparity Study that, I believe, was started and never finished?
27. All the items mentioned in #8 are provided by the construction community's associations. CDOT should encourage DBE's to take advantage of those programs that already exist rather than duplicating services and trying to implement new programs.
28. Maybe with higher goals Primes will take small minority business more seriously, and include them in CDOT projects. Maybe they will start spending more time trying to meet the goal with the spirit of the goal rather than finding ways to get around the goal. If Primes wanted to or if CDOT wanted them to, there would be a reasonable representation of small business on almost all CDOT projects in some shape or form. Small minority business are not just going to go away.
29. The nature of the contracting is something to consider. DRCOG manages non-specific services contracts with task orders that range from $15 - 60K. It is difficult for the prime contractor to cost-effectively parcel 10 - 12% of the task order to a DBE. The result, in my observation, is that the cost of the task order is increased while the value is not.

The Colorado Department of Transportation (CDOT)

Federal Transit Administration (FTA)

Disadvantaged Business Enterprise (DBE)

Goal Setting Methodology

&

Goal for FFY 2014-2016

Submitted by CDOT Division of Transit and Rail (DTR)

August 1, 2013

TABLE OF CONTENTS

INTRODUCTION 1

PROPOSED DBE GOAL FOR FFY 2014-2016 1

ANTICIPATED FTA FUNDING 1

DBE CONTRACTING OPPORTUNITIES 2

GOAL SETTING METHODOLOGY 4

STEP 1: DEVELOP A BASE FIGURE 5

STEP 2: ADJUST BASE FIGURE 8

RACE-NEUTRAL VS. RACE-CONSCIOUS BREAKDOWN 12

RACE-NEUTRAL INITIATIVES 12

PUBLIC PARTICIPATION 13

APPENDIX: GRANTEE SURVEY 14

INTRODUCTION

The Colorado Department of Transportation (CDOT) has prepared this document, which details the methodology for establishing its Disadvantaged Business Enterprise (DBE) overall goal for Federal Transit Administration (FTA) assisted contracts. The establishment of an overall goal is mandated in Section 26.45 of Title 49 of the Code of Federal Regulations (CFR), herein referred to as 49 CFR 26.45.

CDOT's Division of Transit and Rail (DTR) receives, distributes, and oversees the use of federal funds received by FTA. Most DTR FTA funds are granted to transit providers in rural areas. These grantees (or subrecipients) then contract for goods and services creating indirect FTA-assisted contracting opportunities for DBE firms.

Through the years, it has been CDOT's practice to establish DBE goals that strike a balance between being reasonable and attainable. The methodology below seeks to continue that balance by determining the actual contracting opportunities to be offered, the ready, willing and able DBEs to participate in such opportunities, and the measures that are needed to the achieve participation.

PROPOSED DBE GOAL FOR FFY 2014-2016

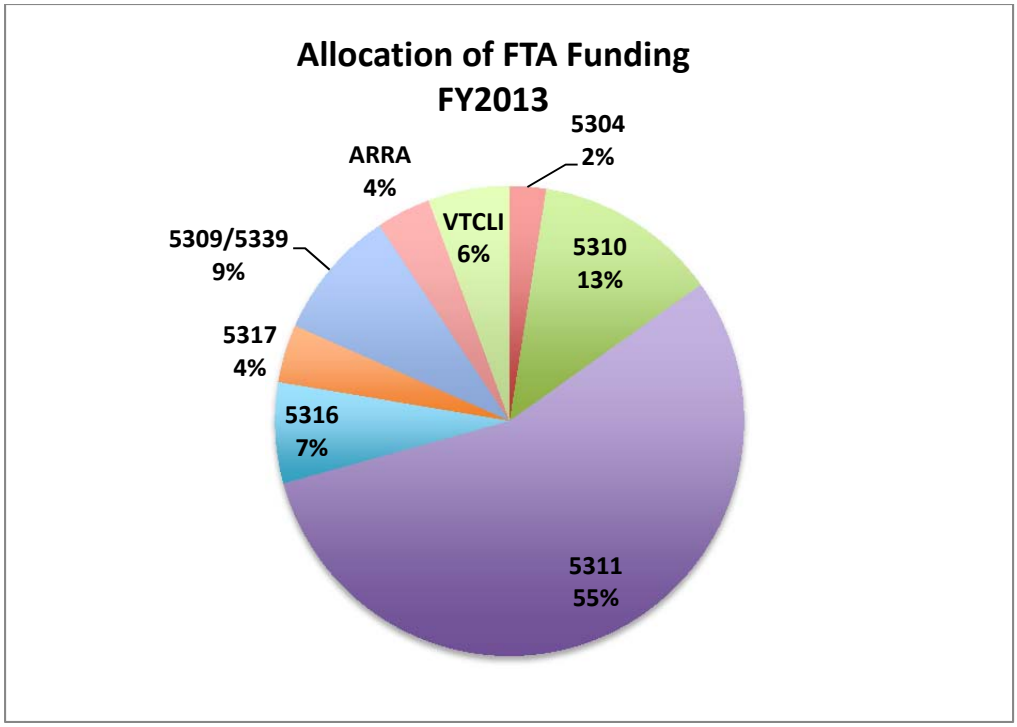
FTA requires that CDOT submit its overall DBE goal for Federal Fiscal Years (FFY) 2014 –2016 by August 1, 2013. To ascertain a reasonable and achievable DBE goal, based upon 49 CFR 26.45, CDOT used a two-step goal setting process outlined below. Based upon analysis of primary and secondary data, CDOT proposes an FTA DBE goal of **1.26%** for the three-year period from October 1, 2014 through September 30, 2016 (FFY 2014-2016).

ANTICIPATED FTA FUNDING

In FFY 2013, CDOT received approximately $13.5 million in FTA assistance. Going forward, CDOT anticipates receiving approximately the same amount of $13.5 million per year during the next three-year period, FFY 2014-2016. This estimated amount was determined by conservatively extending the amount of FTA assistance received during FFY 2013, without increases for inflation or anticipation of additional funding. While certain programs will be discontinued (ARRA, JARC and New Freedom), and Section 5309 will be replaced with 5339, CDOT anticipates that overall FTA funding will remain consistent through FFY 2014-2016. The chart below shows the approximate funding received and utilized by CDOT and its subrecipients during FFY 2013.

Table 1: Allocation of FTA Funding (FY 2013)

FTA Program Section	FY 2013	Description
5304	2%	Transit technical assistance, planning, demonstration projects, training, etc.
5310	13%	Transportation for elderly and disabled
5311	55%	Transportation for rural and small urbanized areas, general public
5316	7%	Job Access and Reverse Commute (JARC) for welfare and low-income
5317	4%	New Freedom program for disabled
5309/5339	9%	Transit capital investment for rolling stock, bus shelters, fare boxes, etc.
ARRA	4%	American Recovery and Reinvestment Act
VTCLI	6%	Veterans Transportation and Community Living Initiative
Total	100%	



DBE CONTRACTING OPPORTUNITIES

CDOT obtained its primary data on potential contracting opportunities through a survey that garnered more than an 80% response rate. Grantees that maintain their own DBE program were exempted from the survey. All others were asked to provide a breakdown of their use of the FTA funds.

Because subrecipients draw down CDOT-provided FTA funds over a course of multiple calendar years, there is not always a direct correlation between funds received from FTA and the contracting opportunities made available in the same year. Therefore, CDOT sought to obtain average expenditures of grantees. Any anomalies for special allocations within the year were taken into consideration in determining potential opportunities. CDOT also determined that it

would be most prudent to work with the average percentages of use in a particular area over the past year since actual funding amounts will vary in the future.

Of the total $13.5 million of FTA financial assistance received, CDOT determined that approximately $10.4 million (77%) needed to be deducted from the total before doing a weighted analysis of opportunities. The use of these funds does not present a viable contracting opportunity for one or more of the following reasons:

- The subrecipient meets the $250,000 threshold for its own DBE program (22%)
- Pursuant to MAP-21, the subrecipient will be reporting to a different direct recipient in the next three-year period (2%)
- The funds are used for purchases from transit vehicle manufacturers (TVMs) who already have their own DBE program (14%)
- The funds are used for operating expenses such as rent and utilities; payroll taxes, employment taxes and fringe benefits; license fees and other taxes; conferences and travel; and insurance (32%)
- The funds are used for transit service fuel, service and maintenance and other supplies provided by internal government offices (7%)

The largest deduction from the calculation is operating expenses that FTA has deemed non-contracting opportunities. Additionally, to be reasonable about potential contracting opportunities, CDOT has exempted expenditures made within government organizations. These purchases, often for vehicle service and maintenance, transportation materials and supplies, and fuel, are funds paid to other branches of the same government organization. The grantees do not have leeway or authority to contract out such opportunities.

For example, a subrecipient might use the services of a mechanical shop that is part of the city government to maintain its buses. As such, these expenditures with a local government do not represent a viable contracting opportunity for DBEs.

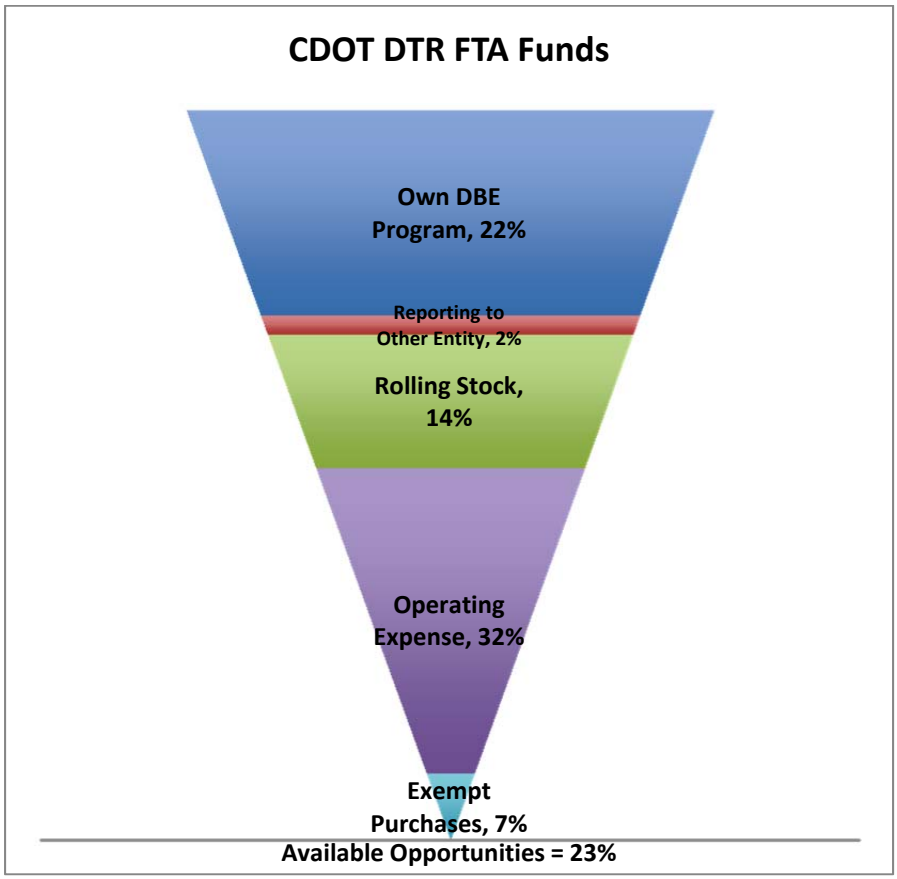
In some cases, grantees share funds under intergovernmental agreements (IGAs). If these IGAs allow for contracting opportunities, they have been included. If they provide only for internal exempt expenses, they have not.

The next largest deduction comes from organizations that maintain their own DBE program. These grantees are some of CDOT's largest and include:

- City and County of Boulder
- City of Breckenridge
- City of Durango
- Mesa County
- North Front Range Metropolitan Planning Organization
- City of Steamboat Springs
- Roaring Fork Transportation Authority

CDOT is currently implementing Memoranda of Understanding (MOU) with these subrecipients. These MOUs formally exempt the subrecipient from CDOT's DBE program. They will expire upon the next goal setting or the termination of the subrecipient's DBE program, whichever comes first.

Below is a visual depiction of the resulting funds available for contracting opportunities.



The FTA provides a significant and valuable financial contribution to support Colorado's transit system. Yet, when exemptions are factored in, the potential for DBE contracting opportunities is limited to approximately $3.1 million or 23% of the FTA funding allocated to CDOT.

GOAL SETTING METHODOLOGY

To derive the proposed DBE goal, CDOT used the two-step goal setting methodology specified in 49 CFR Section 26.45(c) of the DBE Regulations:

Step 1: Develop a base figure for relative availability of DBEs
Step 2: Adjust base figure, as needed, to arrive at an overall goal

What follows is CDOT's calculation of its base figure and a detailed analysis of the data and rationale for adjusting the base figure to arrive at a reasonable and achievable DBE goal.

STEP 1: DEVELOP A BASE FIGURE

In developing a base figure, CDOT first determined the relative availability of DBEs. The relative availability of DBEs is defined as the total number of DBE firms that are ready, willing and able to perform the types of contracts CDOT anticipates awarding. To establish the base figure, the following calculation was made:

Number of DBEs / Total number of firms = Base Figure

To optimize the relevance of the data and help to establish a realistic number of DBE firms, a crosswalk (Table 1) was conducted between the contracting opportunities identified by CDOT and its subrecipients, the North American Industry Classification System (NAICS) Codes, and CDOT UCP Certification Descriptions.

Table 2: Crosswalk of Contracting Opportunities, NAICS Codes and CDOT DBE Work Codes

Contracting Opportunity	2012 NAICS Code	CDOT UCP Certification Descriptions	#DBE Firms
Building Construction Total=115	236220	Bus shelter construction	1
		Bus terminal construction	0
		Office building construction	18
		Construction management, office & institutional building	105
		Parking garage construction	0
Road Construction Total=182	237310	Asphalt paving (i.e., highway, road, street, public sidewalk)	14
		Bridge construction	14
		Bridge decking construction	9
		Concrete paving (i.e., highway, road, street, public sidewalk)	42
		Construction management, highway, road, street and bridge	80
		Culverts, highway, road and street construction	35
		Grading, highway, road, street and airport runway	4
		Guardrail construction	25
		Painting lines on highways, streets and bridges	8
		Parking lot marketing and line painting	3
		Pothole filling, highway, road, street or bridge	2
		Repair, highway, road street, bridge or airport runway	4
		Resurfacing, highway, road, street, bridge or airport runway	9
		Sign erection, highway, roads, street or bridge	21
		Tarring roads	0
Vehicle Purchase (non TVM), Total=0	423110	Bus merchant wholesalers	0
Sign Production Total=10	339950	Signs and signboards (except paper, paperboard) mfg	7
	423990	Signs (except electrical) merchant wholesalers	3
Transportation Supplies, Total=0	336	Transportation Equipment Manufacturing	0
Office Equip, Total=1	423420	Office equipment merchant	1

Contracting Opportunity	2012 NAICS Code	CDOT UCP Certification Descriptions	#DBE Firms
Office-related Supplies, Total=2	424120	Office supplies	2
Fuel, Total = 2	424720	Fuel oil merchant wholesalers (except bulk stations, terminals)	2
Transit Service Provider, Total=0		*No commodity codes found.*	
	485113	NAICS 485113 Bus and Other Motor Vehicle Transit Systems	0
	485210	NAICS 485210 Interurban and Rural Bus Transportation	0
	485410	NAICS 485410 School and Employee Bus Transportation	0
	485991	NAICS 485991 Special Needs Transportation	0
Software, Total=60	541512	Computer systems integration analysis and design services	60
Lawyer, Total=2	541110	Attorneys' offices	2
Accounting, Total=13	541211	Accounting (i.e., CPAs) services, certified public	13
Urban Planning Total=64	541320	Urban planning services	64
Engineering Services Total=98	541330	Acoustical engineering consulting services	4
		Civil engineering services	68
		Construction engineering services	8
		Electrical engineering services	18
		Environmental engineering services	19
		Erosion control engineering services	1
		Geological engineering services	4
		Geophysical engineering services	8
		Mechanical engineering services	10
		Traffic engineering consulting services	16
Environmental Consulting, Total=73	541380	Environmental testing laboratories or services	7
	541620	Environmental consulting services	66
Marketing/PR Services, Total=100	541613	Marketing consulting services	23
	541810	Advertising agencies	14
	541820	Public relations services	21
	541910	Market research and public opinion polling	66
Other Professional Services, Total=35	541611	Administrative and general management consulting services	17
		Administrative management consulting services	6
		Financial management consulting (except investment advice)	3
		General management consulting services	11
		Records management consulting services	4
Facilities Maintenance, Total=28	561720	Janitorial services	20
		Window cleaning services	18
Vehicle Service Total=0	811118	Other automotive mechanical, electrical repair & maintenance	0
	811121	Automotive body, paint and interior repair & maintenance	0
	811192	Truck and bus washes	0
	811198	All other automotive repair and maintenance	0

Note: Number of "Total DBEs" under "Contracting Opportunity" represents the number of DBE firms after removing multiple listings of a DBE firm within a single NAICS, given CDOT's sub-categories.

The number of available DBE firms within each NAICS code was derived from the CDOT Unified Certification Program (UCP) DBE directory. The Colorado UCP was established to facilitate statewide DBE certification. This directory includes all DBE firms, certified by CDOT and the City

and County of Denver, and eligible to meet DBE participation requirements on FHWA, FAA and FTA-funded contracts in Colorado.

Then, the total number of firms within each NAICS code was identified from the most recent 2010 U.S. Census Bureau business data for Colorado. (Table 2)

Table 3: Relative and Weighted Availability of DBE Firms

Contracting Opportunity	2012 NAICS Code	# DBEs	Total Firms	Relative Availability	Annual Contracting	Forecast Weight	Weighted Availability
Building Construction	236220	115	820	14.02%	$0	0.00%	0.00%
Road Construction	237310	182	226	80.53%	$0	0.00%	0.00%
Vehicle Purchase (non TVM)	336120	0	1	0.00%			
	336211	0	14	0.00%			
	423110	0	108	0.00%	$458,483	18.61%	0.00%
Sign Production	339950	7	147	4.76%			
	423990	3	124	2.42%	$300	0.01%	0.00%
Transportation Supplies	336	0	131	0.00%	$12,615	0.51%	0.00%
Office Equipment	423420	1	53	1.89%	$4,757	0.19%	0.00%
Office-related Supplies	424120	2	82	2.44%	$57,325	2.33%	0.06%
Fuel	424720	2	39	5.13%	$190,827	7.74%	0.40%
Transit Service Provider	485113	0	6	0.00%			
	485210	0	2	0.00%			
	485410	0	2	0.00%			
	485991	0	28	0.00%	$928,951	37.70%	0.00%
Software	541512	60	1739	3.45%	$423,250	17.18%	0.59%
Lawyer	541110	2	3401	0.06%	$3,434	0.14%	0.00%
Accounting	541211	13	1385	0.94%	$11,720	0.48%	0.00%
Urban Planning	541320	64	222	28.83%	$17,758	0.72%	0.21%
Engineering Services	541330	98	2013	4.87%	$0	0.00%	0.00%
Environmental Consulting	541380	7	141	4.96%			
	541620	66	406	16.26%	$0	0.00%	0.00%
Marketing/PR Services	541613	23	963	2.39%			
	541810	14	322	4.35%			
	541820	21	215	9.77%			
	541910	66	119	55.46%	$10,538	0.43%	0.03%
Other Prof. Services	541611	35	1887	1.85%	$133,651	5.42%	0.10%
Facilities Maintenance	561720	28	1257	2.23%	$97,310	3.95%	0.09%
Vehicle Service	811118	0	66	0.00%			
	811121	0	548	0.00%			
	811192	0	254	0.00%			
	811198	0	39	0.00%	$113,365	4.60%	0.00%
	TOTAL	809	16,760	4.83%	$2,464,284	100.00%	1.48%

Based on the above totals, the base figure for relative availability of DBEs was calculated as:

Number of DBEs / Total number of firms = Relative Availability of DBEs (Base Figure)

809 / 16,760 = **4.83%**

The U.S. DOT recommends weighting to determine the overall goal. In Table 2 above, Forecast Weight represents the percentage each anticipated contracting opportunity represents of the total estimated annual budget during FFY 2014-2016. The estimated budget is based on the most recent annual contracting amounts spent by subrecipients. As one can see, the Forecast Weight identifies NAICS codes in which there are a high number of DBEs, but for which there are no contracting opportunities.

For example, a larger number of DBE firms provide products and services in NAICS codes related to projects typically funded by the Federal Highways Administration (FHWA), such as building construction, roadway construction, engineering services and environmental consulting. However, there are few FTA-funded contracting opportunities in these areas.

In addition, there are no certified DBEs in several NAICS codes with larger annual contract spending such as Transit Service Provider ($928,951), Non-TVM Vehicle Purchase ($458,483) and Vehicle Service ($113,365). Collectively, these 11 NAICS codes represent over $1.5 million in annual contracting opportunities for which there are no certified DBE firms.

The Weighted Availability (Base Figure) of DBEs was determined by summing the following:

Weighted Availability (Base Figure) = Relative Availability of DBEs x Forecast Weight

Weighted Availability (Base Figure) = **1.48%**

STEP 2: ADJUST BASE FIGURE

After calculating the base figure, the U.S. DOT recommends that additional adjustments be made in order to arrive at the three-year DBE goal. The weighted availability base figure of 1.48% essentially assumes 100% participation of DBEs within each of the NAICS codes, thus making the weighted availability figure potentially too high. Therefore, CDOT reviewed other data to arrive at its proposed FTA DBE goal.

Past Goal Evaluation

First CDOT evaluated past DTR goals. The DTR goals over the past 10 years have ranged from 2.68% to 9.00%. The most recent CDOT goal setting report dated June 16, 2010 set the FTA DBE goal at 4.75% for FFY 2011-2013.

CDOT's proposed DBE goal signifies a significant difference in the current and past methodologies. In the June 2010 report, the data analyzed included subrecipients along the

Front Range that are considered exempt from the current analysis. Because these subrecipients now report directly to the FTA, the subrecipients, their corresponding FTA funding, and the corresponding amount of DBE opportunities, have been exempt from the current calculations.

It is important to note that using the goal setting methodology set forth herein, the availability of DBE firms presented in the previous 2010 report is reduced by 50% just by eliminating the contracting opportunities provided by subrecipients that have their own DBE program. Purging the data of the largest subrecipients and the corresponding availability of DBE firms, helps to avoid double-counting and skewing the DBE goal unrealistically upwards, leading to a more reasonable and realistic FTA DBE goal going forward.

Additionally, in 2010, a single large FTA-assisted project in Summit County, which involved roadway construction, was added to the mix and given a DBE goal of 5%. At that time, the awarded amount and established goal were included as part of the data on FTA-assisted projects. This specific project can be considered an anomaly that does not accurately reflect the typical contracting opportunities available to DBEs on FTA-assisted projects.

However, between the past goals and the current, there remains a limited distribution of DBEs throughout Colorado. As documented in the previous report, "there is very limited availability of currently certified DBE firms outside of the Denver Metropolitan and surrounding area… Although there are numerous DBE firms available for both planning and other services located in the Denver metro and out of state, it has been CDOT's experience that these firms are not willing to travel or bid on contracts for such small amounts of money." The analysis conducted for this report revealed a similar trend.

Nonetheless, because of the unique Summit County project and the fact that the largest subrecipients no longer report through CDOT, an analysis and evaluation of the past DBE goals has limited relevance in deriving future DBE goals.

Past DBE Participation

Next, CDOT evaluated past participation. Currently, CDOT tracks awards and commitments on a semi-annual basis. Within the past few years, CDOT has strived to increase understanding of the FTA DBE program and is continually improving the accuracy of reporting on FTA-assisted projects. In so doing, it has become apparent that an increased number of subrecipients and expenditures are exempt.

With increased reporting accuracy, the base figure for availability of DBEs for FTA-assisted projects decreases. Therefore, DBE utilization from the past 12 months, rather than the past three-year period or even the past 10 years, is more indicative of DBE participation going forward.

Table 4: 2012 Awards Made on FTA-assisted Projects

Time Period	$ Awarded	# Awards	$ to DBEs	DBE Awards	Race Neutral	Race Conscious	% Total to DBEs
Jan-June 2012	$1,069,841	207	$46,711	2	2	0	4.37%
July-Dec 2012	$558,565	134	$9,793	1	1	0	1.75%
Total	$1,628,406	341	$56,504	3	3	0	3.47%

Table 3 shows that of all the awards made in 2012 on FTA-assisted projects, 3.47% were to DBEs. Of the DBE firms awarded, all awards were race-neutral. However, even since the last report, CDOT has determined that at least three more large subrecipients will be exempted from CDOT's DBE oversight and reporting because they maintain their own programs.

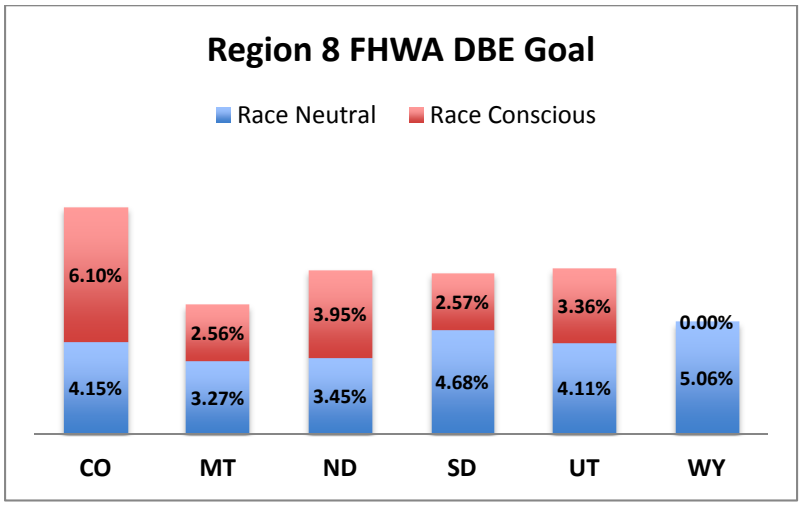
FTA Region 8 Comparison

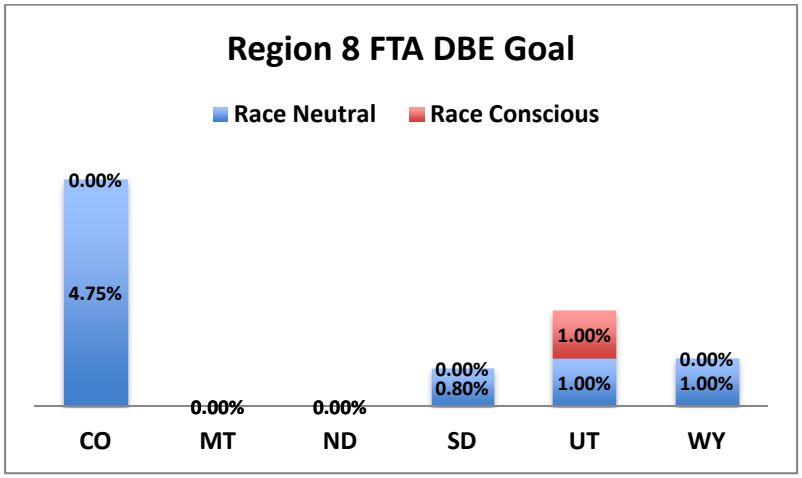
To add context and framework for establishing a reasonable DBE goal, an initial comparison of DBE goals within FTA Region 8 was conducted. The Region 8 area includes Colorado, Montana, North Dakota, South Dakota, Utah and Wyoming. These mid-western states share similar geographic characteristics (mountains, plateaus and plains) and rural demographics.

Funding from FHWA is considerably more than that received from FTA. However, it is interesting to note that in a comparison between CDOT's current FHWA DBE goal versus the comparative states, CDOT's goal is 50% to 100% higher. Meanwhile, CDOT's previously established FTA DBE goal versus the comparative states is 150% to 400% higher. Given the larger number of DBEs and the larger dollar amounts of contracts awarded to DBE firms for highway construction and services, one could consider the relative weight of FHWA DBE goals as a more accurate benchmark for FTA DBE goals. Thus, in order for CDOT to come closer in line with comparative states, the most recent FTA DBE goal would be reduced by 66% to 75%, falling in a more realistic range of 1.19% to 1.56%.

Table 5: Comparison with Region 8 States

State	FHWA DBE Goal	Race Neutral	Race Conscious	FTA DBE Goal	Race Neutral	Race Conscious
Colorado	10.25%	4.15%	6.10%	4.75%	4.75%	0.00%
Montana	5.83%	3.27%	2.56%	0.00%	0.00%	0.00%
North Dakota	7.40%	3.45%	3.95%	0.00%	0.00%	0.00%
South Dakota	7.25%	4.68%	2.57%	0.80%	0.80%	0.00%
Utah	7.47%	4.11%	3.36%	2.00%	1.00%	1.00%
Wyoming	5.06%	5.06%	0.00%	1.00%	1.00%	0.00%





Note: Montana and North Dakota both have FTA DBE goals of 0.00%.

DBE Geographic Distribution

CDOT also reviewed the geographic distribution of the DBE firms within NAICS codes that offered the greatest contracting opportunities. The review and analysis shows limited availability of DBE firms within areas that present upcoming opportunities on FTA-assisted projects. Most of the DBE firms are located within the Denver metropolitan area and along the Front Range, which extends from Ft. Collins through Colorado Springs to Pueblo. In fact, the data shows that out of 315 DBE firms only 4 (1.27%) of the DBE firms are located in rural or small urbanized areas. These DBE firms are located in Aspen, Breckenridge and Telluride, two of which operate independent DBE programs.

Table 6: DBE Geographic Distribution

Contracting Opportunity	2012 NAICS Code	# DBE Firms	Front Range	Out-of-State	Rural Areas	Weighted Availability
Office-related Supplies	424120	2	2	0	0	0.06%
Fuel	424720	2	2	0	0	0.40%
Software	541512	60	38	22	0	0.59%
Urban Planning	541320	64	52	9	3	0.21%
Marketing/PR	541613, 541810 541820, 541910	124	103	20	1	0.03%
Other Professional Services	541611	35	20	15	0	0.10%
Facilities Maintenance	561720	28	26	2	0	0.09%
Total		315	243	68	4	1.48%

After careful consideration of the factors that influence DBE participation, CDOT has determined that a slight adjustment to the Step 1 Base Figure of 1.48% is necessary in order to account for the extremely limited number of DBE firms in rural areas.

Although the base weighted availability of 1.48% lowers the FTA DBE goal from the past three-year period, the data provides rationale to support such a decrease. In addition, given the limited number of DBEs in Colorado's rural areas, it seems more realistic to strive for 85% attainment (rather than 100%) of the weighted availability. Therefore, CDOT proposes an overall FTA DBE goal of **1.26%** for FFY 2014-2016 for FTA-assisted contracts.

RACE-NEUTRAL VS. RACE-CONSCIOUS BREAKDOWN

To determine race-neutral and race-conscious split, CDOT evaluated the awards and commitments on FTA-funded projects to DBEs over the past year. By analyzing the past year's bi-annual reporting, it was determined that all were derived through race-neutral DBE participation. In keeping with the findings, CDOT proposes a 100% race-neutral DBE program that encourages widespread participation from minority-owned and women-owned businesses.

RACE-NEUTRAL INITIATIVES

CDOT intends to meet its overall DBE goal by using race-neutral methods in facilitating DBE participation. CDOT employs the following race-neutral initiatives to increase DBE participation throughout the state:

- CDOT helps to maintain the **UCP DBE directory** as a primary source of DBE firms, certified by CDOT and the City and County of Denver, eligible to meet DBE participation requirements on FHWA, FAA and FTA-funded contracts in Colorado. The availability of the DBE directory makes it easier for subrecipients to identify and contact DBEs for potential contracting opportunities.

- CDOT developed the **Connect2DOT Program,** which is a partnership between CDOT and the Colorado Small Business Development Centers (SBDCs). The program is designed to help small businesses in the transportation industry become more competitive and successful in bidding and contracting. Connect2DOT offers business and technical support tailored to contractors and engineers, online access to bid plans, and various networking events to connect prime contractors and subcontractors.
- CDOT provides **training to subrecipients** to help them understand the DBE program and to encourage them to seek DBE participation on contracts. CDOT also encourages subrecipients to reach out to local businesses that may be eligible for certification.

PUBLIC PARTICIPATION

To encourage public participation, CDOT is providing notice of its goal setting process on the CDOT DBE Program site at http://www.coloradodot.info/business/equal-opportunity/dbe. A copy of the goal setting methodology will also be posted from this web page.

In addition, CDOT is publishing legal notice of the proposed annual DBE goal for FFY 2014-2016 in the following regional newspapers:

- Colorado Springs Gazette Telegraph
- Denver Post
- Durango Herald
- Grand Junction Daily Sentinel
- Greeley Tribune
- La Voz Hispana de Colorado
- Pueblo Chieftain
- Trinidad Chronicle

The notice informs the public that the proposed goal and its rationale are available for review, and that CDOT is allowing inspection of the methodology and accepting comments on the goal for 45 days from the date of the notice.

The following schedule outlines key milestones for obtaining public comment regarding the FTA DBE goal setting process:

Table 7: Public Participation Schedule

Date	Milestone
June 3	DBE Goal and Methodology Published
June 3 - July 18	Public Comment Period
July 18	Resolution Presented to CDOT Transportation Commission

APPENDIX: GRANTEE SURVEY

Division of Transit and Rail Grantee Use of FTA Funds

✱1. Agency Name:

✱2. Individual Completing Survey:

✱3. Phone Number:

✱4. Email:

✱5. Do you have a DOT-approved DBE Program?

- Yes
- No

✱6. FTA Grant Subtotals: For each FTA grant listed below, state the amount you received or will receive from CDOT during the federal fiscal year beginning October 2012 and ending September 2013. If none, enter "0".

5304	
5310	
5311	
5316	
5317	
5309/5339	
ARRA	

✱7. Provide the total amount of the FTA grants listed in #6.

Total CDOT FTA Grants:

8. Exempt expenses: From the total amount of FTA grants (#7), how much did you use for the following? For the list of TVM manufacturers, please cut and paste the following in your browser: http://www.fta.dot.gov/12326_5626.html

Rent and utilities:	
Payroll, employment taxes, and fringe benefits:	
License fees and other taxes:	
Conferences and travel:	
Insurance:	
TVM bus purchases:	

✱9. Subtract the amount of the exempt expenses from the total amount of FTA grants (i.e. subtract the amount in #9 from the amount in #8). This is your remaining amount.

Remaining Amount:

10. Use of remaining amount: Of the remaining amount (#9), provide the approximate amount that went or will go to each of the following (Round to the nearest $100; If none, enter "0"). The total of the amounts listed below should equal the amount provided in your answer to #9.

Transit service providers (non-government):	
Transit service providers (government):	
Non-TVM vehicle purchase:	
Vehicle service and maintenance (non-government):	
Vehicle service and maintenance (government):	
Sign production (non-government):	
Transportation materials and supplies, i.e. fabricated bus shelters, bus supplies, etc. (non-government):	
Fuel (non-government):	
Sign production, transportation materials and supplies, and fuel (government):	
Building construction:	
Road construction and signage:	
Building/facility maintenance:	
Engineering Services:	
Urban planning:	
Environmental consulting services:	
Marketing and Public Relations Services:	
Accountants:	
Lawyers:	
Other professional services/consulting:	
Office related materials and supplies:	
Office equipment:	
Other - Please list and provide amount:	

11. Special Situations: If this fiscal year does not reflect your average spending or if you have a special situation (i.e., large FTA funding project) coming up in the next few years, please explain these anomalies:

Colorado Department of Transportation
Division of Aeronautics

Tri-Annual Overall Goal for DBE Participation FFY 2013-2015

This year the Colorado Department of Transportation's Division of Aeronautics will award over $250,000 of Federal Aviation Administration (FAA) funds in prime contracts. Therefore, pursuant to 49 CFR 26.45(a)(2), in addition to CDOT's overall goals for Federal Transition Administration (FTA) and Federal Highway Administration (FHWA) assisted contracts, CDOT is establishing an overall goal for FAA assisted contracts. The following methodology and goal will be incorporated into CDOT's DOT-approved DBE Program Manual.

CDOT has established a goal for FAA assisted contracts of 1.9% of which all 1.9% will be achieved by race-neutral measures and 0% by race-conscious measures.

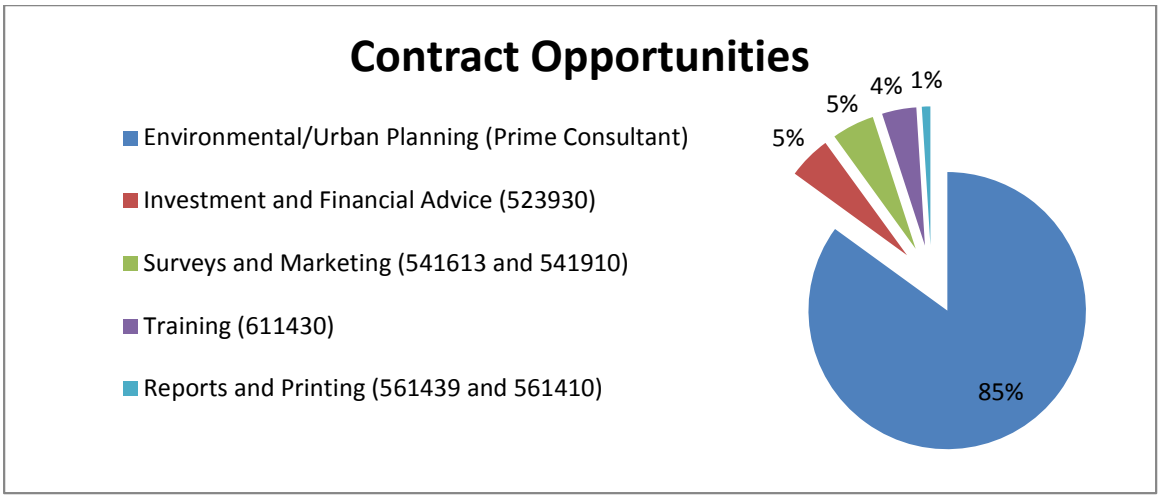
Step One – Determine a Base Figure for Relative Availability

In accordance with 49 CFR 26.45(c)(4), as a base figure for its overall goal, CDOT initially reviewed the Federal Fiscal Year 2011-2013 City and County of Denver's Denver International Airport DBE Goal (DIA Goal). The DIA Goal is 17.18%, with 17.54% availability in construction and 14.97% availability in professional services. The City and County of Denver used the state of Colorado as its DBE program market area.

Upon a more detailed review of the DIA Goal, CDOT determined that although the market area and DBE availability between DIA and the Division of Aeronautics are similar, the two programs differ greatly in terms of contracting opportunities. In contrast to the substantial construction and professional services opportunities offered by DIA, the Division of Aeronautics expects to award only one contract over the next three years. The primary purpose of the contract will be to conduct a statewide sustainability study for Colorado's airports, but its exact scope is not yet known.

Therefore, in lieu of utilizing the DIA Goal as a base figure, CDOT conducted an independent analysis of relative availability based upon potential contracting opportunities. The objective of the sustainability study is to determine how Colorado airports can become economically, socially and environmentally sustainable. To such end, the scope of the contract may include research of land use, environmental and financial best practices (prime), public involvement, outreach and surveying, training of stakeholders and report production and printing.

As shown in the chart below, CDOT identified environmental consulting and urban planning as the core of the project (approximately 85% of the scope) and four other areas for potential subcontracting.



CDOT then used the data from the 2010 Census to determine all firm availability in Colorado and the current

Colorado UCP directory to determine DBE availability.

Work Area	Firms	DBEs	Availability	Weight	Weighted Availability
Investment advice 523930	543	0	0	.05	000
Marketing consulting services 541613	1413	19	.020	.05	.013
Marketing research and public opinion polling 541910	124	63	.508		
Professional and management development training 611430	261	38	.146	.04	.006
Copy centers 561439	151	1	.006	.01	0
Document preparation services 561410	157	0	0		
				Total Weighted Availability	.019

The data provides a reasonable goal of 1.9% DBE participation, which the Division of Aeronautics intends to meet entirely with race-neutral measures. CDOT recently revised its Emerging Small Business (ESB) Program to be compliant with the small business element requirements of 49 CFR Part 26. Through the ESB Program, CDOT offers a points incentive for small business participation on consultant contracts. This incentive will be included in the Request for Proposals for the sustainability project and any subsequent contracts advertised during the next three years. Many ESBs are also DBEs, therefore CDOT expects the ESB incentive and other race-neutral measures will result in DBE participation sufficient to meet the DBE goal.

Exhibit M

Uniform Certification Application

Colorado Department of Transportation
Civil Rights & Business Resource Center
4201 E. Arkansas Ave., Room 150
Denver, CO 80222
303-512-4140
FAX 303-512-4146

City & County of Denver
Division of Small Business Opportunity
201 W. Colfax Ave., Dept. 907
Denver, CO 80202
720-913-1699
FAX 720-913-1809

Dear Business Owner:

Disadvantaged Business Enterprise certification is a federally initiated and mandated process established to ensure that only those firms meeting the prescribed standards receive the distinction as a DBE. As the only certifying members of Colorado's Unified Certification Program (UCP), the Colorado Department of Transportation and the City and County of Denver, consider it a privilege to provide you with this certification application.

This application is a UCP application. It was created by the United States Department of Transportation and cannot be modified or changed and is used in all 50 states for certification program evaluation. Please read the "Roadmap" portion thoroughly before you begin. You may choose to download the form and complete it or you may choose to complete it on-line. However, please note that the form cannot be returned to us electronically as all supporting documents relevant to your firm must be received with the application form.

Please be sure to retain a complete copy of all information submitted to us for your files. And remember, because of the UCP, you need only submit your file to ONE of the certifying entities – the City of Denver's Division of Small Business Opportunity OR the Colorado Department of Transportation's Civil Rights & Business Resource Center. Processing time varies but is relatively the same for both agencies.

You may mail your completed application form and supporting documents to:

Colorado Department of Transportation
Civil Rights & Business Resource Center
4201 E. Arkansas Ave., Room 150
Denver, CO 80222

OR

City & County of Denver
Division of Small Business Opportunity
201 W. Colfax Ave., Dept. 907
Denver, CO 80202

Sincerely,

Colorado Department of Transportation
Civil Rights & Business Resource Center

City & County of Denver
Division of Small Business Opportunity

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
49 C.F.R. PART 26

UNIFORM CERTIFICATION APPLICATION

ROADMAP FOR APPLICANTS

1. Should I apply?

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

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

2. Be sure to attach all of the required documents listed in the Documents Check List (see Page 15) at the end of this form with your completed application.

3. Where can I find more information?

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

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

Section 1: CERTIFICATION INFORMATION

A. Prior/Other Certifications

Is your firm currently certified as a DBE? ❑ Yes ❑ No *(If Yes, complete the appropriate boxes)*	Name of certifying agency:
	Has your firm's home-state UCP conducted an on-site visit? ❑ Yes, on ____/_____/ _____ State: _____ ❑ No

B. Prior/Other Applications and Privileges

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

❑ Yes, on ____/____ / ____ ❑ No

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

Section 2: GENERAL INFORMATION

A. Contact Information

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

B. Business Profile

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

(7) Type of firm *(check all that apply)*:
- ❑ Sole Proprietorship
- ❑ Partnership
- ❑ Corporation
- ❑ Limited Liability Partnership
- ❑ Limited Liability Corporation
- ❑ Joint Venture
- ❑ Other, Describe: _____

(8) Has your firm ever existed under different ownership, a different type of ownership, or a different name?
❑ Yes ❑ No
If Yes, explain:

(9) Number of employees: Full-time _____ Part-time _____ Total _____

(10) Specify the gross receipts of the firm for the last 3 years: Year _____Total receipts $ _____
Year _____Total receipts $ _____
Year _____Total receipts $ _____

C. Relationships with Other Businesses

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office space, yard, warehouse, facilities, equipment, or office staff, with any other business, organization, or entity?
❑ Yes ❑ No
If Yes, identify other firm's name: _____
Explain nature of shared facilities:

(2) At present, or at any time in the past, has your firm:	(a) been a subsidiary of any other firm?	❑ Yes	❑ No
	(b) consisted of a partnership in which one or more of the partners are other firms?	❑ Yes	❑ No
	(c) owned any percentage of any other firm?	❑ Yes	❑ No
	(d) had any subsidiaries?	❑ Yes	❑ No

(3) Has any other firm had an ownership interest in your firm at present or at any time in the past? ❑ Yes ❑ No

(4) If you answered "Yes" to any of the questions in (2)(a)-(d) and/or (3), identify the following for each *(attach extra sheets, if needed)*:

	Name	Address	Type of Business
1.			
2.			
3.			

D. Immediate Family Member Businesses

Do any of your immediate family members own or manage another company? ❑ Yes ❑ No
If Yes, then list *(attach extra sheets, if needed)*:

	Name	Relationship	Company	Type of Business	Own or Manage?
1.					
2.					

Section 3: OWNERSHIP

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

A. Background Information

(1) Name:	(2) Title:	(3) Home Phone #:
(4) Home Address (*street and number*):	City:	State: Zip:

(5) Gender: ❑ Male ❑ Female	(6) Ethnic group membership *(Check all that apply)*: ❑ Black ❑ Hispanic ❑ Native American ❑ Asian Pacific ❑ Subcontinent Asian ❑ Other (*specify*) _____
(7) U.S. Citizen: ❑ Yes ❑ No	
(8) Lawfully Admitted Permanent Resident: ❑ Yes ❑ No	

B. Ownership Interest

(1) Number of years as owner:	(2) Initial investment to acquire ownership interest in firm:	Type	Dollar Value
(3) Percentage owned:		Cash	$
(4) Familial relationship to other owners:		Real Estate	$
		Equipment	$
		Other	$

(5) Shares of Stock: Number Percentage Class Date acquired Method Acquired

(6) Does this owner perform a management or supervisory function for any other business? ❑ Yes ❑ No
If Yes, identify: Name of Business: _____ Function/Title: _____

(7) Does this owner own or work for any other firm(s) that has a relationship with this firm (*e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.*)? ❑ Yes ❑ No

If Yes, identify: Name of Business: _____ Function/Title: _____
Nature of Business Relationship:

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

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

(2) Has any trust been created for the benefit of this disadvantaged owner(s)? ❑ Yes ❑ No
If Yes, explain (*attach additional sheets if needed*):

Section 4: CONTROL

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

	Name	Title	Date Appointed	Ethnicity	Gender
(1) Officers of the Company	(a)				
	(b)				
	(c)				
	(d)				
	(e)				
(2) Board of Directors	(a)				
	(b)				
	(c)				
	(d)				
	(e)				

(3) Do any of the persons listed in (1) and/or (2) above perform a management or supervisory function for any other business? ❑ Yes ❑ No

If Yes, identify for each:

Person: _____ Title: _____

Business: _____ Function: _____

(4) Do any of the persons listed (1) and/or (2) above own or work for any other firm(s) that has a relationship with this firm (*e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.*)?

❑ Yes ❑ No

If Yes, identify for each:

Firm Name: _____ Person: _____

Nature of Business Relationship:

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

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

(10) Authorized to make Financial Transactions	a.			
	b.			

(11) Do any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business?

❑ Yes ❑ No

If Yes, identify for each:

Person: _____ Title: _____

Business: _____ Function: _____

(12) Do any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with this firm (*e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.*)?

❑ Yes ❑ No

If Yes, identify for each:

Firm Name: _____ Person: _____

Nature of Business Relationship:

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

(1) Equipment

Type of Equipment	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			

(2) Vehicles

Type of Vehicle	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			

(3) Office Space

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)		
(b)		

(4) Storage Space

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)		
(b)		

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

If Yes, explain:

E. Financial Information

(1) **Banking Information**:

(a) Name of bank: _____ (b) Phone No: (_____)_____

(c) Address of bank: _____ City: _____ State: _____ Zip: _____

(2) **Bonding Information**:

If you have bonding capacity, identify: (a) Binder No: _____

(b) Name of agent/broker _____ (c) Phone No: (_____)_____

(d) Address of agent/broker: _____ City: _____ State: _____ Zip: _____

(e) Bonding limit: Aggregate limit $ _____ Project limit $ _____

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

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

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

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

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

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

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

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

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

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

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

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

Section 1: CERTIFICATION INFORMATION

A. Prior/Other Certifications

If your firm is applying for DBE certification outside its home state (i.e., the state where its principal business office is located), indicate whether it is or is not certified as a DBE by the home state UCP. If yes, list the name of the certifying agency, whether or not an on-site visit was conducted, and the date of the most recent on-site visit.

B. Prior/Other Applications and Privileges

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

Section 2: GENERAL INFORMATION

A. Contact Information

(1) State the name and title of the person who will serve as your firm's primary contact under this application.

(2) State the legal name of your firm, as indicated in your firm's Articles of Incorporation.

(3) Indicate the primary phone number of your firm.

(4) Indicate a secondary phone number, if any.

(5) Indicate your firm's fax number, if any.

(6) Indicate your firm's or your contact person's email address.

(7) Indicate your firm's website address, if any.

(8) State the street address of your firm (i.e. the physical location of its offices -- not a post office box address).

(9) State the mailing address of your firm, if it is different from your firm's street address.

B. Business Profile

(1) In the box provided, briefly describe the primary business and professional activities in which your firm engages.

(2) Give the Federal Tax ID number of your firm as provided on your firm's filed tax returns, if you have one. This could also be the Social Security number of the owner of your firm.

(3) Give the date on which your firm was officially established, as stated in your firm's Articles of Incorporation.

(4) Give the date on which you and/or each other owner took ownership of the firm.

(5) Check the appropriate box that describes the manner in which you and each other owner acquired ownership of your firm. If you checked "Other," explain in the space provided.

(6) Check the appropriate box that indicates whether your firm is "for profit."

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

(7) Check the appropriate box that describes the legal form of ownership of your firm, as indicated in your firm's Articles of Incorporation. If you checked "Other," briefly explain in the space provided.

(8) Check the appropriate box that indicates whether your firm has ever existed under different ownership, a different type of ownership, or a different name. If you checked "Yes," specify which and briefly explain the circumstances in the space provided.

(9) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time and part-time basis.

(10) Specify the total gross receipts of your firm for each of the past three years, as declared in your firm's filed tax returns.

C. Relationships with Other Businesses

(1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, or any office staff with any other business, organization, or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and briefly explain the nature of the shared facilities or other items in the space provided.

(2) Check the appropriate box that indicates whether at present, or at any time in the past:

(a) your firm has been a subsidiary of any other firm;

(b) your firm consisted of a partnership in which one or more of the partners are other firms;

(c) your firm has owned any percentage of any other firm; and

(d) your firm has had any subsidiaries of its own.

(3) Check the appropriate box that indicates whether any other firm has ever had an ownership interest in your firm.

(4) If you answered "Yes" to any of the questions in (2)(a)-(d) or (3), identify the name, address and type of business for each.

D. Immediate Family Member Businesses

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

Section 3: OWNERSHIP

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

A. Background Information

(1) Give the name of the owner.

(2) State his/her title or position within your firm.

(3) Give his/her home phone number.

(4) State his/her home (street) address.

(5) Check the appropriate box that indicates this owner's gender.

(6) Check the appropriate box that indicates this owner's ethnicity (check all that apply). If you checked "Other," specify this owner's ethnic group/identity not otherwise listed.

(7) Check the appropriate box to indicate whether this owner is a U.S. citizen.

(8) If this owner is not a U.S. citizen, check the appropriate box that indicates whether this owner is a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner. This, however, does not necessarily disqualify your firm altogether from the DBE program if another owner is a U.S. citizen or lawfully admitted permanent resident and meets the program's other qualifying requirements.

B. Ownership Interest

(1) State the number of years during which this owner has been an owner of your firm.

(2) Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment.

(3) State the percentage of total ownership control of your firm that this owner possesses.

(4) State the familial relationship of this owner to each other owner of your firm.

(5) Indicate the number, percentage of the total, class, date acquired, and method by which this owner acquired his/her shares of stock in your firm.

(6) Check the appropriate box that indicates whether this owner performs a management or supervisory function for any other business. If you checked

"Yes," state the name of the other business and this owner's title or function held in that business.

(7) Check the appropriate box that indicates whether this owner owns or works for any other firm(s) that has any relationship with your firm. If you checked "Yes," identify the name of the other business and this owner's title or function held in that business. Briefly describe the nature of the business relationship in the space provided.

C. Disadvantaged Status

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

(1) Indicate in the space provided the total Personal Net Worth (PNW) of each owner who is applying for DBE qualification. Use the PNW calculator form at the end of this application to compute each owner's PNW.

(2) Check the appropriate box that indicates whether any trust has ever been created for the benefit of this disadvantaged owner. If you answered "Yes," briefly explain the nature, history, purpose, and current value of the trust(s).

Section 4: CONTROL

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

(1) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each officer of your firm.

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

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

(4) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm. If you answered "Yes," identify the name of the firm, the officer or director, and the nature of his/her business relationship with that other firm.

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

(1) Making of financial decisions on your firm's behalf, including the acquisition of lines of credit, surety bonds, supplies, etc.;

(2) Estimating and bidding, including calculation of cost estimates, bid preparation and submission;

(3) Negotiating and contract execution, including participation in any of your firm's negotiations and executing contracts on your firm's behalf;

(4) Hiring and/or firing of management personnel, including interviewing and conducting performance evaluations;

(5) Field/Production operations supervision, including site supervision, scheduling, project management services, etc.;

(6) Office management;

(7) Marketing and sales;

(8) Purchasing of major equipment;

(9) Signing company checks (for any purpose); and

(10) Conducting any other financial transactions on your firm's behalf not otherwise listed.

(11) Check the appropriate box that indicates whether any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.

(12) Check the appropriate box that indicates whether any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with your firm. If you

answered "Yes," identify the name of the firm, the name of the person, and the nature of his/her business relationship with that other firm.

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

(1) Equipment
State the type, make and model, and current dollar value of each piece of equipment held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm.

(2) Vehicles
State the type, make and model, and current dollar value of each motor vehicle held and/or used by your firm. Indicate whether each vehicle is either owned or leased by your firm.

(3) Office Space
State the street address of each office space held and/or used by your firm. Indicate whether your firm owns or leases the office space and the current dollar value of that property or its lease.

(4) Storage Space
State the street address of each storage space held and/or used by your firm. Indicate whether your firm owns or leases the storage space and the current dollar value of that property or its lease.

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

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

E. Financial Information

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

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

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

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

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

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

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

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

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

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

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

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

AFFIDAVIT & SIGNATURE

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

DBE UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST

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

All Applicants

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

Partnership or Joint Venture

- ❑ Original and any amended Partnership or Joint Venture Agreements

Corporation or LLC

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

Trucking Company

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

Regular Dealer

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

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

AFFIDAVIT OF CERTIFICATION

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

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

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

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

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

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

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

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

I hereby certify that I am a (circle all that apply):

Female	Black American	Hispanic American
Native American	Asian-Pacific American	Subcontinent Asian American

Other (specify) _____

I have held myself out as a member of that group and have acted as a member of that group. I certify that I am an owner of the company seeking DBE certification and that I have been subjected to racial or ethnic prejudice or cultural bias within American society because of my identity as a member of the above circled group.

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

I declare, under penalty of perjury, that the information provided in this application and supporting documents relating to my disadvantaged status and me is true and correct.

Signature: _____ Date: _____

NOTARY CERTIFICATE:

CONFIDENTIAL

PERSONAL FINANCIAL STATEMENT

AS OF _____ , _____

(BOTH PAGES MUST BE COMPLETED BY EACH DISADVANTAGED OWNER-THIS FORM MAY BE COPIED)

Complete this form for: (1) each socially disadvantaged proprietor, (2) each socially disadvantaged limited and general partner whose combined interest totals 51% or more, or (3) each socially disadvantaged stockholder making up 51% or more of voting stock.

Name	Business Phone ( )
Residence Address	Residence Phone ( )
City, State & Zip Code	
Business Name of Applicant	

ASSETS (Omit Cents)		**LIABILITIES** (Omit Cents)	
Cash on hand and in Banks	$ _____	Accounts Payable	$ _____
Savings Accounts	$ _____	Notes Payable to Banks and Others (Describe in Section 1)	$ _____
IRA or Other Retirement Account	$ _____	Installment Account (Auto)	$ _____
Accounts and Notes Receivable	$ _____	Installment Account (Other)	$ _____
Life Insurance - Cash Surrender Value Only (Complete Section 7)	$ _____	Loan on Life Insurance	$ _____
Stocks and Bonds (Describe in Section 2)	$ _____	Mortgages on Real Estate (Describe in Section 3)	$ _____
Real Estate (Describe in Section 3)	$ _____	Unpaid Taxes (Describe in Section 5)	$ _____
Automobile(s) - Present Value	$ _____	Other Liabilities (Describe in Section 6)	$ _____
Other Personal Property (Describe in Section 4)	$ _____		
Other Assets (Describe in Section 4)	$ _____	**Total Liabilities**	$ _____
Total Assets	$ _____	**Net Worth** (Total Assets minus Total Liabilities)	$ _____

Source of Income		**Contingent Liabilities**	
Salary	$ _____	As Endorser or Co-Maker	$ _____
Net Investment Income	$ _____	Legal Claims & Judgments	$ _____
Real Estate Income	$ _____	Provision for Federal Income Tax	$ _____
Other Income	$ _____	Other Special Debt	$ _____

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

Name and Address of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Endorsed Type of Collateral

Section 2. Stocks and Bonds (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

Number of Shares	Name of Securities	Cost	Market Value Quotation/Exchange	Date of Quotation/Exchange	Total Value

Section 3. Real Estate Owned (List each parcel separately. Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

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

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

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

Section 6. Other Liabilities (Describe in detail.)

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

I authorize the Civil Rights & Business Resource Center at the Colorado Department of Transportation to verify the accuracy of the statements made in order to determine whether I meet the standards of economic disadvantage for participation in the DBE Programs of the partners of Colorado's Uniform Certification Program. These statements are true and correct to the best of my belief.

Printed/typed name:	Signature and date:

County of _____ State of _____

Subscribed and sworn before me this _____ day of _____ , _____

Signed _____
(Notary Public)

_____

_____
(Address of Notary)

COLORADO DEPARTMENT OF TRANSPORTATION

FINANCIAL INSTITUTION AUTHORIZATION

Civil Rights & Business Resource Center
4201 East Arkansas Avenue, Room 150
Denver, Colorado 80222
303 512-4140, FAX 303 512-4146

THIS FORM MUST BE COMPLETED AND MUST ACCOMPANY YOUR COMPLETED APPLICATION

DBE Applicants: Complete and sign this section only, then have your financial institution complete the remainder. This form is part of your application and must be returned with it, fully completed.

Dear _____ :
(name of financial institution)

I have authorized the Office of Certification to seek information about my firm's relationship with your company.

Please complete this form. My application for DBE Certification will not be considered complete unless I return this form with my DBE application.

Thank you.

Name of Firm		
Printed Name of Owner/President	Owner/President's Signature	Date

TO BE COMPLETED BY THE FINANCIAL INSTITUTION

1. Indicate the services your institution provides to this company:

   a) Checking accounts:
   - ❑ Payroll Number of authorized signatures:_____
   - ❑ Regular Number of authorized signatures:_____
   - ❑ Other Number of authorized signatures:_____

   Identify "Other" accounts: _____

   b) List the names of authorized signers according to account type:

   _____

   _____

2. List any outstanding commercial/business loans:

Origination Date	Original Amount	Current Balance	Collateral (if secured)

   a) Are there personal guarantors for any of the loans? ❑ Yes ❑ No

   If yes, list their names:_____

CONFIDENTIAL

3. Does the company have a line of credit? ❑ Yes ❑ No

a) Is it secured? ❑ Yes ❑ No List the collateral:_____

_____

_____

b) Are there personal guarantors? ❑ Yes ❑ No

If yes, list their names:_____

4. List the names of all company individuals who signed promissory notes:

_____

Name of Financial Institution			
Address	City	State	Zip

Printed name of bank official	Title
Signature	Date

CONFIDENTIAL

Exhibit N

State of Colorado DBE Change Affidavit

COLORADO DEPARTMENT OF TRANSPORTATION

CHANGE AFFIDAVIT

for Disadvantaged Business Enterprise (DBE) Program

I. Instructions

NOTE: IF THE FIRM'S **LEGAL STRUCTURE** or **OWNERSHIP** HAS CHANGED SINCE IT WAS LAST CERTIFIED YOU MUST SUBMIT A NEW APPLICATION.

This form is to be completed by currently certified DBE firms to update the information necessary for continued eligibility. Failure to provide information requested in this form **MAY RESULT IN THE FIRM'S DECERTIFICATION** Reviews of certified firms may, with cause, be periodically performed and additional information and documentation required at that time.

Return the completed Change Affidavit and all supporting documents to:

Civil Rights & Business Resource Center
4201 East Arkansas Avenue, Room 150
Denver, Colorado 80222

Please call the Civil Rights & Business Resource Center at (303) 512-4140 for clarification or if you have questions.

II. Current Certification

Description of work specialty for which certified:

III. General information

1. Legal name of business			Today's date
List dba, if any			
2. Street address	City	State	Zip + 4
3. Mailing address (if different)	City	State	Zip + 4
4. Business telephone number ( )	Fax number ( )		
5. E-mail address	Web address		
6. Name of contact person	7. Name of person preparing this application (if different from contact)		

IV. Eligibility update

1. During the past year have changes occurred in the:
   a. Legal structure of business (Proprietorship, Partnership, Corporation, etc.)? ❑ Yes ❑ No
   b. Firm's ownership? ❑ Yes ❑ No
   (includes changes in interests of existing owners and the addition or removal of owners)
   c. Corporation's Directors/Officers? ❑ Yes ❑ No
   or its bylaws? ❑ Yes ❑ No
   d. Partnership Agreement? ❑ Yes ❑ No
   e. Joint Venture Agreement? ❑ Yes ❑ No
   f. Limited Liability Company Operating Agreement? ❑ Yes ❑ No
   g. Duties of the owner(s) or other key personnel? ❑ Yes ❑ No
2. Did any stockholder, director, officer, partner and/or manager establish a new business relationship with, or purchase ownership interest in, any other firm? (A business relationship may include, but is not limited to, ownership, shared space or employees, utilities, equipment or financing, etc.) ❑ Yes ❑ No
3. Has the firm entered into written employment contracts with any of its employees? ❑ Yes ❑ No
4. Has the firm entered into new agreements for outside management or consulting services? ❑ Yes ❑ No

V. Additional information to be submitted:

1. ____ Copies of personal Federal income tax returns, **with all attached schedules and w-2s**, for all owners for the current year.
2. ____ A copy of the firm's most current Federal income tax return with all schedules and attachments (or individual's income tax return, if a sole proprietorship).
3. ____ Copies of current Federal income tax returns, with all attached schedules, of each affiliate. Also, Federal income tax returns, with all attached schedules, for each new affiliate.
4. ____ Each disadvantaged owner must complete and sign the enclosed Personal Financial Statement (make additional copies if necessary).

DBE ELIGIBILITY AFFIDAVIT

(to be completed by each owner-copy this page if necessary)

_____

(Name of Certified Firm)

The owner of the above named firm agrees:

1. To abide by the requirements of the DISADVANTAGED BUSINESS ENTERPRISE PROGRAM and all of the applicable rules/regulations/policies and guidelines of the Civil Rights & Business Resource Center and the US Department of Transportation governing the certification process and project activity.

2. To notify the Civil Rights & Business Resource Center within thirty (30) working days of any change in the ownership, control, management or status of the firm, and of any denial or decertification of the firm as an eligible DBE by any other certifying agency.

3. That in order to monitor the continued eligibility of the firm, the Civil Rights & Business Resource Center has the right, from time to time, to review the firm's books, contracts, facilities, and records, and to request and review any additional information deemed necessary to complete such process.

4. That failure to answer any question or to supply the Civil Rights & Business Resource Center with documentation requested at any time in the application process may cause denial of this certification request.

5. That the Civil Rights & Business Resource Center may, for cause, withdraw certification after applying its own approved procedures.

6. That the Civil Rights & Business Resource Center may deny certification or revoke certification and initiate action under Federal, state, or city laws concerning false statements if, during or after the certification process, it finds that the undersigned have submitted false, inaccurate, or misleading information.

7. That the Civil Rights & Business Resource Center has the right to deny certification to any firm, based on its implementation of the DBE eligibility standards, despite the fact that the firm may be certified by another public agency.

8. That the Civil Rights & Business Resource Center may, with the applicant's written consent, release any information contained in this application, or obtained during on-site reviews, when requested by transportation agencies of other states to which the firm has applied for DBE Certification.

The undersigned swears under penalty of perjury: that he or she has read and understands this eligibility affidavit and has the authority to sign it; that the responses and accompanying documents are true, complete and correct; that there have been no material changes regarding the firm's disadvantaged status, ownership or control and that any such changes have previously been reported to the Civil Rights & Business Resource Center ; and that the firm continues to meet SBA and US Department of Transportation small business size criteria.		
Printed/typed name:	Signature:	Date:

Notary Public

County of	State of	SEAL
Subscribed and sworn before me this day of ,		
Signed (Notary Public)		
Address of Notary		

COLORADO DEPARTMENT OF TRANSPORTATION

PERSONAL FINANCIAL STATEMENT

(Both pages must be completed by each disadvantaged owner - this form may be copied)

As of (date)

Complete this form for: (1) each socially disadvantaged proprietor, (2) each socially disadvantaged limited and general partner whose combined interest totals 51% or more, or (3) each socially disadvantaged stockholder making up 51% or more of voting stock.

Name		Business Phone ( )
Residence Address		Residence Phone ( )
City	State	Zip Code
Business Name of Applicant		

ASSETS	(Omit Cents)	LIABILITIES	(Omit Cents)
Cash on hand and in Banks	$	Accounts Payable	$
Savings Accounts	$	Notes Payable to Banks and Others (Describe in Section 1)	$
IRA or Other Retirement Account	$	Installment Account (Auto)	$
Accounts and Notes Receivable	$	Installment Account (Other)	$
Life Insurance - Cash Surrender Value Only (Complete Section 7)	$	Loan on Life Insurance	$
Stocks and Bonds (Describe in Section 2)	$	Mortgages on Real Estate (Describe in Section 3)	$
Real Estate (Describe in Section 3)	$	Unpaid Taxes (Describe in Section 5)	$
Automobile(s) - Present Value	$	Other Liabilities (Describe in Section 6)	$
Other Personal Property (Describe in Section 4)	$	**Total Liabilities**	$
Other Assets (Describe in Section 4)	$		
Total Assets	$	**Net Worth** (Total Assets minus Total Liabilities)	$
Source of Income		**Contingent Liabilities**	
Salary	$	As Endorser or Co-Maker	$
Net Investment Income	$	Legal Claims & Judgments	$
Real Estate Income	$	Provision for Federal Income Tax	$
Other Income	$	Other Special Debt	$

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

Name and Address of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Endorsed Type of Collateral

Section 2. Stocks and Bonds (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

Number of Shares	Name of Securities	Cost	Market Value Quotation/Exchange	Date of Quotation/ Exchange	Total Value

Section 3. Real Estate Owned (List each parcel separately. Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

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

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

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

Section 6. Other Liabilities (Describe in detail.)

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

I authorize the Civil Rights & Business Resource Center at the Colorado Department of Transportation to verify the accuracy of the statements made in order to determine whether I meet the standards of economic disadvantage for participation in the DBE Programs of the partners of Colorado's Uniform Certification Program. These statements are true and correct to the best of my belief.

Printed/typed name:	Signature:	Date:

Notary Public

County of	State of	
Subscribed and sworn before me this day of		
Signed (Notary Public)		SEAL
Address of Notary		

Exhibit O

UCP Program Plan and Approval

Unified Certification Program Plan

STATE OF COLORADO

Revised 2013

Table of Contents:

Introduction 2
Program Commitments 2
Ratification Process 2
Executive Committee 3
Communication 3
Impact on Recipient Programs 4
Program Overview and Requirements 4
Certification Member Roles, Responsibilities, and Procedures 6
UCP Member Compliance 6
Training 8
North American Industry Classification System (NAICS) 8
Appeals Process 8
Third-Party Challenges 9
Reciprocity 9
Interstate Certification 9
Process for Expediting Applications 10
Process for Adding Work Codes 10
Attachments 12

1. Original 2002 Colorado Unified Certification Program Plan
2. Executive Committee approval of 2013 UCP Plan revision
3. USDOT April 5, 2004 approval of Colorado UCP Plan
4. UCP Members who have ratified Colorado UCP Plan
5. Uniform Certification Application
6. Statement of Findings and Facts
7. Change Affidavit
8. Letter of Certification
9. UCP Work Code Map
10. Work Code Change Request
11. Approved UCP Executive Committee Meeting Minutes

STATE OF COLORADO
DISADVANTAGED BUSINESS ENTERPRISE
UNIFIED CERTIFICATION PROGRAM PLAN

Introduction

This document revises the original Colorado Unified Certification Program Plan of 2002 (see Attachment 1). For the sake of brevity, the sections in the original plan regarding the history and formation of Colorado's UCP have been omitted from this revision. Specifically, the sections on pages 2 through 8, as well as the first paragraph of page 9, of the original plan are omitted. They are adopted by reference to the original plan.

This revision does not alter the fundamental nature or concept of the original UCP plan, it only updates things such as current members, member names, typographical errors, etc. It also adds a process for admitting new members through the ratification process, and adds procedures for administration of the Certification process.

The need for revision to Colorado's UCP plan was raised at a January 31, 2007 meeting of members in Denver. This revision has been reviewed and approved by the Unified Certification Program Executive Committee on behalf of the UCP members (see Attachment 2 for their approval). It is understood that any revision to the original UCP plan that alters its fundamental framework must be submitted to the US Department of Transportation (USDOT) for approval. The original UCP plan was approved by USDOT on April 5, 2004 (see Attachment 3).

Program Commitments

In accordance with 49 CFR Part 26.81, USDOT recipients within the State of Colorado establish the following Unified Certification Program (UCP). The UCP will follow all certification procedures and standards of 49 CFR Parts 23 and 26. The UCP will cooperate fully with oversight, review, and monitoring activities of USDOT and its operating administrations. The UCP will implement USDOT directives and guidance concerning certification matters.

Ratification Process

All Colorado recipients of federal funds administered by USDOT, either directly or indirectly, must ratify and comply with this UCP Plan. Failure to ratify the plan may be grounds for USDOT, or one of its operating administrations, finding the recipient in "noncompliance" with its DBE Regulation. A finding of noncompliance may put the recipient's federal funds in jeopardy.

See Attachment 4 for a list of UCP members who have ratified this plan.

Executive Committee

It is impractical to put all decisions regarding the UCP before the entire UCP membership. Therefore, the UCP establishes a Unified Certification Program Executive Committee (UCPEx) for the purpose of rendering decisions on issues relevant to the program both during implementation and throughout its future evolution. This committee will meet regularly during UCP implementation and a minimum of semi-annually thereafter. The UCPEx will include, but is not limited to, representatives from the following agencies: the Colorado Department of Transportation, the Regional Transportation District, the City and County of Denver's DSBO, Colorado Springs Airport or designated City of Colorado Springs representative, and a fifth member, representing the smaller members, invited for the meeting.

For purposes of determining a quorum and voting, each member agency of the UCPEx is entitled to one vote. A quorum is a defined as the presence of a majority of the UCPEx members then named at the time of the meeting. A vote of the majority of UCPEx members in attendance at a meeting at which a quorum is established shall be the act of the UCPEx on all normal matters. Upon approval by the UCPEx, the minutes will become part of this UCP plan by incorporation into Attachment 11.

The following rules will be in effect for matters described as extra-normal. A quorum is defined as the presence of all members then named at the time of the meeting. A unanimous vote of all UCPEx members then named at the time of the meeting is required to act on all such matters. Extra-normal matters may include alteration of this UCP Plan in any fundamental manner, admittance of new UCPEx members, recognition of new Certifying Members.

Communication

Sharing information on any matter related to the operation of the UCP is a core element of the process. All Colorado UCP members must be free to communicate openly with each other. Communication can take the form of, but is not limited to, telephone conversations, conference call, meetings, correspondence, and/or electronic transmittals.

If any Colorado UCP member is in receipt of information that is necessary or critical to making a determination of DBE eligibility, they shall notify and submit the appropriate information to the member conducting the review, if known, or to all of the recognized certification members if the member is unknown. Each Colorado UCP member shall be made aware through use of the UCP Directory of all status changes affecting certifications.

This UCP plan is a document that is certain to undergo revisions, changes and improvements over the course of time. The UCPEx will strive to keep all recipients informed of potential changes and solicit continuous input aimed at refining and improving the UCP. CDOT's Civil Rights & Business Resource Center is the point of contact for all such input, which will subsequently be relayed to the UCPEx for any necessary action.

Impact on Recipient Programs

The UCP will not establish, recommend, or alter any UCP member's overall DBE Program, other than to supplement an approved program submittal, DBE goal or goal methodology. DBE goal development, program administration, monitoring, and reporting remains the sole responsibility of the member with a USDOT-approved DBE Program in accordance with 49 CFR Part 26.

Program Overview and Requirements

Colorado's UCP concept is referred to as Interagency Recognition. It is one that allows for one or more certifying members within the state of Colorado, each operating independently but bound together by this UCP plan and its requirements.

EACH CERTIFYING MEMBER MUST:

- Be a current Colorado UCP member;
- Submit a written request to the UCPEx that it be recognized as a certifying member. The request must clearly demonstrate that the requesting member possesses the necessary in-house staff (not contractor) with expertise in the certification process and eligibility standards, that is has the ability to control certification work, and indicate how it will comply with all aspects of this UCP plan;
- Be formally recognized in writing, by unanimous agreement of the UCPEx, as a certifying member. The UCPEx is responsible for compliance and oversight of Colorado's UCP. Currently, CDOT's Civil Rights & Business Resource Center (CRBRC) and the City and County of Denver's Division of Small Business Opportunity (DSBO) are the only recognized certifying members;
- Adopt or employ the platform/system deployed by the certifying members at the time the ;
- Recognize as a certified DBE, any business that has obtained a valid certification from any certifying member recognized by the UCPEx;
- Apply criteria established by USDOT in 49 CFR, Part 23 or Part 26 as applicable, to all businesses applying for DBE certification to perform work on USDOT-assisted highway, aviation, and transit projects;
- Apply criteria established by the USDOT in 49 CFR Part 23 to all businesses applying for DBE certification to perform work in the area of airport concessions;
- Utilize the Uniform Certification Application provided in appendix F to 49 CFR Part 26, included herein as Attachment 5, for all businesses applying for DBE certification under 49 CFR Parts 23 and 26;
- Utilize the Uniform Statement of Findings and Facts, included herein as Attachment 6, to summarize the certification determinations for all firms making application for DBE certification;

- Utilize standard Change Affidavit included herein as Attachment 7. Accept a Change Affidavit from any firm who submits it to them. If they are not the administrators of the firm's DBE certification, they will forward it to the member that is for processing;
- Utilize standard Letter of Certification included herein as Attachments 8;
- Establish an appeal process consistent with the requirements of 49 CFR Parts 26.86-89;
- 49 CFR Part 26.81(g) requires "*Each UCP shall maintain a unified DBE directory containing, for all firms certified by the UCP (including those from other states certified under the provisions of this section), the information required by section 26.31. The UCP shall make the directory available to the public electronically, on the internet, as well as in print*." Pursuant to those requirements, each certifying member will participate in a Unified Certification Directory (UCP Directory) and provide updates regarding new certifications, renewals, denials and other appropriate information at a minimum frequency of once per week;
- **NOT** process for certification any DBE application submitted by a firm previously denied, or whose certification was revoked, by another certifying member recognized under this UCP; **UNLESS** 12 months has elapsed since the firm was notified of its denial or revocation of certification;
- Reapplications must be made to the certifying member that issued the denial or revocation within 3 years from the date of denial or revocation. If a firm denied by CDOT becomes certified by DSBO for its local programs, elects to reapply for DBE certification after 12 months but less that 3 years following the DBE denial, it must reapply for DBE certification with CDOT. Exceptions to this requirement may be made when an applicant submits a written request to have its new application processed by a different member;
- Firms that have withdrawn prior applications must reapply with the certifying member to which the original application was made if the prior withdrawal occurred within 1 year;
- There will be no joint processing of DBE applications; and
- Regarding Information Sharing: send, to all certifying members operating within the State of Colorado, a copy of any denial and revocation notification letters issued; keep a comprehensive file of its own and other members' denials and revocations to ensure they do not process applications from firms who have been denied or revoked by another certifying member.

ALL MEMBERS MUST:

- Be recipients of USDOT financial assistance;
- Abide by the provisions of this UCP plan and the requirements of 49 CFR Parts 23 and 26;
- Recognize as certified DBEs, **only** those firms contained in the UCP Directory;
- Recognize as certified DBEs, **all** firms in the UCP Directory regardless of the certifying member proffering the certification, provided the certifying member is recognized by the UCPEx to perform certification functions; and
- Refer businesses seeking DBE certification to one of the certifying members recognized by the UCPEx to perform certification functions.

Certification Member Roles, Responsibilities, and Procedures

The DBE Program is a USDOT program. As such, firms seeking certification must provide a service that can be used by at least one Colorado UCP member to meet a DBE goal. To be processed, applications from firms that do not provide a service listed on the current Colorado Unified Certification Program (UCP) Work Code Map (see Attachment 9) must include a written referral letter from a UCP member. The referral letter must identify the specific services and state that those services can be counted toward the member's DBE goal.

UCP members entrusted with Certification services under this UCP plan acknowledge that it is their responsibility to provide those services on behalf of all Colorado UCP members. Inherent in that responsibility is the willingness to provide those services without regard to a determination that a given firm provides services that may not be used in its own DBE program.

Applications are to be processed by the certifying member to whom an application is submitted; applications will not be transferred between certifying members. The sole exception to this policy will be in the case of firms seeking ACDBE certification for DIA. If a firm seeking ACDBE for DIA certification applies with the CRBRC, the application will be transferred to DSBO.

Firms whose applications have been denied, revoked, or withdrawn may not reapply until one year has passed from the date of the denial, revocation, or withdrawal. Within 3 years from the date of the denial, revocation, or withdrawal firms seeking to reapply must do so with the agency issuing the denial, revocation, or withdrawal. Following 3 years, the firm may reapply with any certifying member.

Once a firm has been certified, administration of the file will remain with the certifying member who conducted the review and granted certification. Files will not be transferred from one certifying member to another.

The certifying member is responsible for making any changes. Those changes include address, phone number, contact person, email, and work codes. If another member receives a request to make changes, the request must be forwarded to the member administering the firm's DBE certification.

When CDOT or DSBO certifies a DBE trucking company, the number of trucks must be entered into the Business Description field in the UCP directory in the following format: *X* eligible to be counted.

UCP Member Compliance

A great deal of the discussion has taken place regarding the need to trust each UCP member, as well as acknowledging issues that may arise related to quality and compliance. We acknowledge there are many agency-specific issues related to certification processes. The primary areas of concern are:

- Political Influence or Interference in Certification Determinations;
- Incomplete or Inadequate Definition of Processes;

- Non-Compliance With 49 CFR Parts 23 and 26; and
- Quality of Determinations.

In order for the UCP to succeed and its members to maintain the level of trust needed to effectively comply with the UCP requirements, it is necessary to implement minimum requirements for compliance, as well as a process for dealing with any member that is found to be in non-compliance. The specific minimum requirements are:

- All decisions related to certification must be made in compliance with 49 CFR Parts 23 and 26. This requires the political independence to make determinations based upon the specific facts presented;
- Outside entities, such as industry or political organizations, cannot be involved in the certification process or determinations;
- All certifying members must make all decisions and recommendations on certification based purely upon the eligibility requirements, without consideration of political influence or factors; and
- All UCP members agree that there is no "conditional, provisional, or emergency" certification, nor is there a provision within 49 CFR Parts 23 or 26 for "conditional, provisional, or emergency" certification. Eligibility determinations are to be made in accordance with 49 CFR Parts 23 and 26 from the facts presented at the time of application.

If any Colorado UCP member feels that a particular member is not complying with the requirements of 49 CFR Parts 23 and 26, they may make a written complaint to the UCPEx through CDOT's CRBRC. The UCPEx will review the complaint and circumstances fully. If the UCPEx, not including the complaining member or the member in question, reaches a consensus that the member is not complying with the requirements, remedial action will be taken. Remedial action can take the form of one of the following:

- **Written Findings** – The UCPEx may issue a formal written determination of the issues regarding that member's certification procedures or practices. This determination will be sent to the senior management official or chief operating officer of the member in question, the program administrator, and USDOT. It is hoped that the member will review the procedures at issue and make improvements to the process in order to meet 49 CFR Parts 23 and 26;

- **Monitoring & Concurrence** – The UCPEx may issue a formal written determination as set out above, as well as provide a procedural review and concurrence process. It is the hope of the members that the member in question will take this opportunity to gain additional knowledge and education of the regulations and requirements;

  The member in question will be required to obtain UCPEx concurrence in certification determinations for a specific period of time. Depending upon the situation, the UCPEx may choose to "pair" the member with another certifying member or it may choose to require concurrence by a majority of the UCPEx. If a member is paired with another certifying member and a dispute continues to exist, the UCPEx will make the final determination; or

- **Non-Compliance** – Should the UCPEx make every effort to correct the deficiencies in a member's certification process but is unsuccessful, additional measures may be necessary. Should the UCPEx find that a member is not acting in good faith, the UCPEx will submit its findings to USDOT and the relevant operating administration along with a formal request for assistance in resolving the issue.

Training

The UCPEx is committed to implementing a process that meets the requirements of the regulation and is applied uniformly by all certifying members. Uniform training is the key. This committee will develop and initiate training sessions to ensure all current and future certifying members utilize the same methods and procedures and make sound DBE certification determinations. All certifying members will be required to complete these training sessions before beginning certification reviews. Confirmation of a member's completion of training will be made by the UCPEx through a formal letter of recognition.

North American Industry Classification System (NAICS) Codes

The Colorado UCP certifying members will certify all firms in compliance with 49 CFR Part 26, including designating specific work types. The NAICS codes will be used for determining small business size as required by 13 CFR Part 121. Consistent with 49 CFR Part 26.71(n), specific work types DBE firms are eligible to be counted for will be based on the NAICS sytem. Colorado has agreed to identify firms by a six-digit base number plus a text description. The following is an example of a complete work code: 541330 Electrical Engineering Services.

Any firm may request modification and/or additions to their approved work codes by making a written request to the certifying member. That request must include the equipment and experience indicating the firm's ability to perform the particular work type. In addition, the firm must submit documentation of past contracts on which the firm has performed the specific type of work. A sample request form is contained herein as Attachment 10.

Appeals Process

Each certifying member must have an appeals process in place that meets the requirements of 49 CFR Part 26. Colorado UCP's two certifying members have firmly established appeals processes. Applicants wishing to appeal denial determinations of initial applications must appeal directly to USDOT. Firms wishing to appeal a certification revocation determination will appeal through the certifying member's local appeal process. In the event a firm wishes to appeal that local determination, it must appeal directly to USDOT.

Third-Party Challenges

Colorado UCP's certifying members shall accept signed written complaints from any person, including Colorado UCP members, alleging that a currently certified firm is ineligible. The complaining party must state specific reasons for ineligibility and submit any documentation in support of the challenge. The firm whose certification is challenged will be notified by the administering member in writing of the challenge, the basic grounds, and the relevant eligibility standards. The administering member will be responsible for thoroughly investigating the complaint, within a reasonable time, not to exceed 60 days. The member shall notify the DBE in writing, by certified mail, of the preliminary findings. If reasonable cause to remove certification eligibility is found, they will notify the complaining party of the specific grounds and inform the firm of its right to appeal the preliminary findings in accordance with the certifying member's appeal process.

Reciprocity

In accordance with 49 CFR Part 26.81(e) and (f) Colorado UCP may elect to enter into written reciprocity agreements with UCPs in other states or regions. The decision to execute such an agreement will be made by a majority vote of the UCPEx. All Colorado UCP members agree that they will not independently execute any reciprocity agreements with any other agency or entity, including city, county, state or federal agencies, binding that member, and subsequently the UCP, to a reciprocity agreement.

Interstate Certification

In January 2012 USDOT's new rule (49 CFR Part 26.85) governing interstate certification took effect. When a firm located outside Colorado applies for DBE certification in Colorado, Colorado UCP may process the application in one of two ways (assuming the firm is certified in its home state): we may accept the home state's certification and certify the firm without further procedures, or we may not accept the home state's certification. The UCPEx has chosen the second option to process out-of-state applications.

The applicant must provide Colorado UCP with a complete copy of its (original) application form, all supporting documents, and any other information it has submitted to the home state or any other state related to the firm's certification. (See 49 CFR Part 26.85(c))

Within 7 days of receiving all information required under Part 26.85(c), Colorado UCP must contact the home state to request a copy of the on-site interview transcript and eligibility report.

Within 60 days of receiving all information required under Part 26.85(c), Colorado UCP must certify the firm or notify it of the specific reasons why we believe it is not eligible. Colorado UCP must provide an opportunity for an appeal with the decision maker. The firm may respond in writing or request an in-person meeting. In-person meetings must take place within 30 days of the request.

Colorado UCP must issue a written determination within 30 days of receipt of the written response or the meeting with the decision maker, whichever is later. This determination may be appealed to USDOT.

Process for Expediting Applications

As a matter of general principle, applications for DBE certification are to be processed on a first-come first-served basis. Colorado UCP members set forth the following process for expediting applications:

- The expediting process is to be used on a case-by-case basis;
- The general principle behind the expediting process is that the firm performs a service that could be used on an upcoming project of a Colorado UCP member, and that there is a lack of currently certified firms on the UCP Directory performing that service which could be drawn upon;
- A request to expedite an application must be made in writing by the prime contractor or consultant proposing to use the applicant to meet a DBE goal on a specific project or contract;
- A request to expedite must include the project (project number if known), the UCP member owning the project, the type of work the firm seeks to perform on the project, and the date of bid opening or proposal submission;
- Agreement to expedite an application is not a guarantee of a favorable outcome, i.e., certification;
- Agreement to expedite an application does not include "conditional" certification pending an eligibility determination; and
- Agreement to expedite an application is nothing more than putting the application to the front of the application queue. The applicant must meet all other processing requirements, i.e., complete documentation, on-site interview, eligibility standards.

Process for Adding Work Codes

Because the DBE Program is a program of USDOT, firms seeking certification must provide a service that can be counted by at least one UCP member toward that member's annual DBE goal. The Work Code Map is a reflection of the various types of work UCP members have indicated they can count in their programs. This section defines the process to create and add new work codes to the UCP Work Codes.

- First, the requested new work code must exist in NAICS. Colorado UCP will not create work codes that do not already exist in NAICS;
- Colorado UCP members will be surveyed to confirm that the services can count toward a DBE goal. If no UCP member responds affirmatively, there is no need to add the work code and the process will end;
- If at least one UCP member responds affirmatively, the requested work code will be created, but only if a minimum of two DBE firms performing the requested work code are available; and

- Until there are at least two DBE firms available, the firm making the request should be given an appropriate miscellaneous work code with a suitable description in the Certified Business Description field.

Attachments

1. Original 2002 Colorado Unified Certification Program Plan
2. Executive Committee approval of 2012 Colorado UCP Plan revision
3. USDOT April 5, 2004 approval of Colorado UCP Plan
4. UCP Members who have ratified Colorado UCP Plan
5. Uniform Certification Application
6. Statement of Findings and Facts
7. Change Affidavit
8. Letter of Certification
9. UCP Work Code Map
10. Work Code Change Request
11. Approved UCP Executive Committee Meeting Minutes

Attachment 1

Original 2002 Colorado Unified Certification

Program Plan

UNIFIED CERTIFICATION PROGRAM PLAN

STATE OF COLORADO

Table of Contents:

Unified Certification Program Development 2
Initial Meetings 3
The Possibilities 4
Colorado Recipients 4
The Possibilities in Detail 6
The UCP Program Plan 9
Program Commitments 9
Program Overview and Requirements 9
Impact on Recipient Programs 11
Communication 11
Executive Committee 11
Reciprocity 11
Ratification Process 11
Data Requirements 12
Initial Consolidation 12
Certification of non-Colorado and SBA Certified Firms 13
North American Industry Classification System (NAICS) 13
Third Party Challenges 14
Appeals Process 14
UCP Partner Compliance 14
Training 15
Exhibits
Attachments
Timeline

Unified Certification Program Development

The new Disadvantaged Business Enterprise (DBE) requirements contained in 49 CFR Part 26 included a provision for a "one-stop" certification process. The process must be defined and submitted to the Secretary of Transportation for approval not later than March 4, 2002. Failure to develop and execute a Unified Certification Program plan (UCP) will result in a loss of US DOT funding.

In March of 2001, a UCP forum was held in Atlanta, Georgia. Representatives from the following Colorado based agencies attended.

- Regional Transportation District (RTD): Colorado's primary transit funds recipient.
- Colorado Office of Certification (COC): An office of the State of Colorado's Department of Regulatory Agencies. COC certifies DBE applicants for highway and transit work under 49 CFR Part 26.
- The Mayor's Office of Contract Compliance (MOCC): Representing the City & County of Denver, Aviation funds recipient.

There were two objectives in attending the Atlanta forum: (1) to gather information on how other US DOT recipients were proceeding with their UCP plans; and (2) to utilize applicable information for the development of Colorado's UCP plan. Upon our return from this valuable forum, the Colorado Department of Transportation coordinated a meeting between themselves and the above named agencies to begin the process of developing Colorado's UCP plan. These agencies represent Colorado's major US DOT funding recipients and the only two certifying entities within the state. They will henceforth be referred to collectively as the "UCP Executive Committee" (UCPEx). These initial meetings were designed to identify Colorado's current certification process, brainstorm possible UCP solutions, identify all of Colorado's recipients, and draft and implement Colorado's UCP plan.

Initial Meetings: The UCP Executive Committee's initial meetings focused on the current certification processes. Following were the findings:

- There are currently two DBE certifying agencies within Colorado.
    - The Mayor's Office of Contract Compliance (MOCC).
    - The Colorado Office of Certification (COC).
- The agencies do not recognize each other's certifications.
- CDOT recognizes only COC certified DBE firms.
- RTD recognizes both COC and MOCC certifications.
- Denver only recognizes MOCC certifications.
- The MOCC provides certification for airport concessions. The COC does not.
- The MOCC's scope is broader than that of the COC.
- The COC is a cash funded entity requiring contracts with various organizations to continue operations. The MOCC is a Denver city agency supported by the city's general fund.
- There are three separate certification directories as well as three distinctively different work category/work code systems.

The above highlights of initial meetings clearly indicate that Colorado's certification process, as it currently stands, does not meet the regulation's requirements for "one-stop shopping to applicants for certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state." The committee agreed to continue meeting for the purpose of brainstorming possible solutions. We further agreed that once those solutions were identified, it would be necessary to have a statewide meeting of all recipients to gather input, feedback and make a decision on which potential solution would best serve both the recipients and small business entities of Colorado. The Colorado Department of Transportation volunteered to act as the lead agency facilitating the development of Colorado's UCP plan.

On January 1, 2003, Colorado Governor Bill Owens issued an Executive Order relocated the State Office of Certification from the Colorado Department of Regulatory Agencies to the Colorado Department of Transportation under the Center for Equal Opportunity. Since then the Office of Certification was physically moved to CDOT with the staff now permanent CDOT employees. The majority of the funding for the Office of Certification continues to come from CDOT with some funding from the Regional Transportation District.

The Possibilities: Over the course of several meetings, many potential options were discussed. The benefits and obstacles of each were presented and discussed at considerable length. In the final tally, the committee came up with four potentially viable options.

- One Governmental Certifying Agency
- Modal Specific: Certifying agency would be dependent upon type of certification being sought. One agency for highway/transit and another for aviation concessions.
- Independent Contractor: Privatization of the process eliminating the certification arm of both the State and City of Denver.
- Interagency Recognition: A form of reciprocity.

With the identification of the above as potential UCP options, the committee determined it was time to get all of Colorado's recipients involved in the process. Since the regulation is very specific regarding the requirement for all recipients to be bound by the UCP, logic dictates that each should have a voice in its preparation and design. A statewide meeting of recipients was held at the Colorado Division offices of the Federal Highway Administration on October 30, 2001. Following is a list of agencies notified of the meeting and, separately, a listing of those in attendance. The letter of invitation for this meeting is included herein as Exhibit A.

COLORADO RECIPIENTS

AGENCIES NOTIFIED BY LETTER

- Northwestern Colorado Association of Local Government
- Denver Regional Council of Governments
- Pikes Peak Area Council of Governments
- East Central Council of Local Governments
- Region 6 Southeast Colorado Enterprise Development Inc. & Southeast Council of Governments
- Pueblo Area Council of Governments
- San Luis Valley Development Resources Group
- Upper San Juan Regional Planning Commission
- Region 10 League for Economic Assistance & Planning, Inc.
- Associated Governments of Northwest Colorado
- Northwest Colorado Council of Governments
- Upper Arkansas Area Council of Governments
- Huerfano/Las Animas Area Council of Governments
- Archuleta County
- Bent County
- Town of Breckenridge
- Town of Crested Butte
- Development Opportunities, Inc.
- City of Durango
- ECCOG - Outback Express
- Jackson County Council on Aging
- CDOT, Division of Aeronautics
- Akron Washington County Airport
- Aspen-Pitkin County Airport
- Boulder Municipal Airport
- Jefferson County Airport
- Colorado Springs Municipal Airport
- Colorado Springs Airport
- Cortez Municipal Airport
- Denver International Airport
- Mayor's Office of Contract and Compliance
- Durango-LaPlata County
- Eagle County Regional Airport
- Erie Municipal Airport
- Centennial Airport
- Walker Field Airport
- Greeley / Weld County Airport
- Gunnison County Airport
- Yampa Valley Regional Airport
- LaJunta Municipal Airport
- Lamar Municipal Airport
- Lake County Airport
- Ft. Collins/Loveland Airport
- Meeker Airport
- Montrose Regional Airport
- Pueblo Memorial Airport
- Yuma Municipal Airport
- Garfield County Regional Airport
- Steamboat Springs Airport
- Sterling Airport
- Front Range Airport
- South Central COG
- Special Transit-Boulder
- Southern Ute CAP Program

- Summit State
- Greyhound Lines, Inc.
- Montezuma County Senior Nutritional/Outreach
- Mesa County
- City of La Junta
- Prowers Area Transit Service
- Roaring Fork Transit Agency
- Seniors' Resource Center
- Denver Minority Business Development Center
- Mountain Village Metro District
- Weld County Transportation Program
- Grand Valley Transit
- Roaring Fork Railroad Holding Authority
- T-Rex
- Town of Telluride Transit
- City of Telluride
- Tom Frazier - Ft. Collins Transit
- North Front Range Transportation Council
- Pueblo Transit
- CDOT - Transit & Tail
- Colorado Springs Transit Agency
- US Dept of Transportation
- Federal Highway Administration – Western Resource Center
- Colorado Springs TSU
- CDOT - Business Programs
- Denver Water
- Rocky Mountain MSDC
- FAA Denver Airport Office
- Regional Transportation District
- Colorado Office of Certification
- City of Greeley
- FHWA Colorado Division

INDIVIDUALS/AGENCIES IN ATTENDANCE

Rebecca Tanrath	Federal Transit Administration
Brenda Weltzer	Federal Highway Administration – Western Resource Center
Joe Duran	Federal Highway Administration
Charmaine Farrar	Federal Highway Administration
Nance Earley	Federal Aviation Administration – Denver Airport Office
Vickie Farr	Denver Regional Council of Governments
Bernetta Collins	Department of Regulatory Agencies - Colorado Office of Certification
Dante James	City & County of Denver Mayor's Office of Contract Compliance
Lupita Gusman	City & County of Denver Mayor's Office of Contract Compliance
Deborah Gallegos	Colorado Department of Transportation
Karen Nakandakare	Colorado Department of Transportation
Karen Gonzales	Colorado Department of Transportation
Judith Lamb	Colorado Department of Transportation
Gloria Hershberger	Colorado Department of Transportation
Jennifer Carter	Colorado Department of Transportation
Dennis Moss	Erie Municipal Airport
Steve Hatcher	Greyhound Lines, Inc.
Susan Atwood	Roaring Fork Transportation Authority
Edna Adeh	Aspen Airport
Laurie Billeter	Denver Water Board
Vicki Philips	Colorado Springs Airport
Sue Podczervinski	City of Colorado Springs
Ron Hollins	Rocky Mountain Minority Supplier Development Council
Kathie Lucas	Gunnison County Airport
Larry Worth	Northeast Colorado Association of Local Governments
Kit Williams	Denver Minority Business Development Center
Gary Taylor	City of Greeley Transit Services
Michael Felschow	Colorado Springs TSU
Paul Deines	Regional Transportation District
Patrick Barnes	Regional Transportation District

The Possibilities in Detail: We focused our discussion on the events leading up to this meeting, the background and requirement for a UCP outlined in 49 CFR Part 26 and the necessity for all Colorado recipients involvement. With the foundation laid, our discussion moved to the four different formats suggested by the initial committee as viable options. Following is a synopsis of each option considered:

- **ONE GOVERNMENTAL CERTIFYING AGENCY:** It was proposed that the State of Colorado have one and only one governmental agency performing DBE certifications for all recipients within the State.
  - **Benefits:**
    - Achieves "One Stop Shopping" requirement.
    - Assures continuity of application, investigation, data, and appeal processes.
    - Potential cost savings to recipients.

- **Issues:**
    - Which office would be eliminated?
    - Difficult to implement. Either the City or the State must agree to eliminate their certifying office and give certification control to the other agency.
    - Potential negative impact on employees of office to be eliminated.
    - What status is to be given to the companies currently certified by the eliminated agency?
    - Time to implement thought to be excessive. Coordination through each agency could be cumbersome. No guarantee the political decision makers will agree, which puts us back to square one, beyond the time limit specified in the regulation with no UCP in place.

- **MODAL SPECIFIC:** It was proposed that the COC certify applicants for highway and transit work while the MOCC certify applicants for FAA concessions:
    - **Benefits:**
        - No overlap of responsibility or need for reciprocal recognition.
        - Rapid implementation possible.
        - Minimal cost impact
    - **Issues:**
        - Potential customer confusion concerning which agency to apply with.
        - What status is to be given to the companies currently certified by only one agency? Must they be re-investigated by the other?
        - Transfer of records and data.
        - Companies desiring certification for both construction and aviation work would be required to apply to both agencies. "One Stop Shopping" would not be achieved.
        - MOCC would have to eliminate 75% of its certification work force.
        - FHWA indicated it would not approve this option.

- **INDEPENDENT CONTRACTOR:** Privatize the certification process.
    - **Benefits:**
        - Meets regulatory requirement for "One Stop Shopping".
        - Assures continuity of application, investigation, data, and appeal processes.
        - Potential cost savings to recipients.
        - Independent. Objective. Less susceptible to potential political influence in certification decision process.

- **Issues:**
    - Eliminates both certifying agencies.
    - Negative employee impact.
    - Approval process through City and State bureaucracies is cumbersome. No guarantee the political decision makers will agree which puts us back to square one, beyond the time limit specified in the regulation with no UCP in place.
    - Who will provide contractor oversight?
    - Transfer of records and data. Are there confidentiality and privacy issues?
    - Certification authority **cannot** be delegated. Some form of recipient coalition would be required to review each case and make certification decisions.

- **INTERAGENCY RECOGNITION:** Keeps in place current certifying entities. Requires reciprocal recognition and ability to acquire highway, transit and airport certifications at any recognized certifying entity.
    - **Benefits:**
        - Allows for numerous certifying entities.
        - Rapid implementation.
        - Cost Effective.
        - Immediate increase in number of certified companies.
        - Minimized impacted on current certifying entities and employees.
        - Capitalizes upon existing positive relationship between the two current certifying agencies.
        - Differing processes between the two agencies can be easily and quickly brought into mutual conformance with staff training sessions.
    - **Issues:**
        - Different agency processes. Uniform processes/forms must be established.
        - Grandfathering of currently certified companies. Specifically, those denied by one agency but certified by another must be resolved.
        - Each agency must be granted access to the files of the others.
        - No information sharing process that would preclude an applicant from circumventing the system. A firm may attempt to gain certification from an alternate agency after being denied by one or more agencies.

- **CONCERNS COMMON TO ALL PROPOSED SOLUTIONS:**
    - Funding. How will statewide recipients share certification cost?
    - Combined database is crucial and required by regulation. Requires close coordination for conversion of three systems into one. This activity may be the single most costly aspect of UCP implementation.
    - Training of Personnel
    - Continuity of processes and forms

Each of the above potential solutions was discussed at length during this forum. After careful consideration, this body chose to move forward with a UCP plan based upon the concept of Interagency Recognition. Toward that end, the following is the State of Colorado's proposed Unified Certification Program plan.

STATE OF COLORADO
DISADVANTAGED BUSINESS ENTERPRISE
UNIFIED CERTIFICATION PROGRAM PLAN

Program Commitments: In accordance with Federal regulation 49 CFR Part 26.81, DOT recipients within the state of Colorado establish the following Unified Certification Program (UCP). This UCP will follow all certification procedures and standards of 49 CFR, Part 26 and Part 23. The UCP will cooperate fully with oversight, review, and monitoring activities of DOT and its operating administrations. The UCP will implement DOT directives and guidance concerning certification matters.

Program Overview and Requirements: Colorado's UCP concept is referred to as Interagency Recognition. It is one that allows for one or more certifying entities within the state of Colorado, each operating independently but bound together by this UCP and its requirements.

EACH CERTIFYING ENTITY MUST:

- Be formally recognized in writing by the Colorado UCP Executive Committee (UCPEx) as a certifying entity. This committee is responsible for compliance and oversight of Colorado's UCP. (Exception: The CDOT Office of Certification and the Denver Mayor's Office of Contract Compliance will continue certification as currently performed. Formal recognition by UCPEx will be issued once training has been accomplished and each is in compliance with this UCP.)
- Recognize as a certified DBE, any business entity that has obtained a valid certification from any certifying entity formally recognized by the UCPEx as an authorized certifying entity.

- Apply criteria established by the U.S. Department of Transportation in 49 CFR, Part 26 or Part 23 as applicable, to all business entities applying for DBE certification to perform work on US DOT assisted highway, aviation, and transit projects.
- Apply criteria established by the U.S. Department of Transportation in 49 CFR, Part 23, to all business entities applying for DBE certification to perform work in the area of airport concessions.
- Utilize the Uniform Certification Application provided in appendix F to 49 CFR Part 26, included herein as Attachment 1, for all business entities applying for DBE certification under 49 CFR Part 26 and/or Part 23.
- Utilize the Uniform Statement of Findings and Facts, included herein as Attachment 2, to summarize the certification decisions for all firms making application for DBE certification.
- Utilize standard Renewal Application included herein as Attachment 3. Accept a renewal affidavit from any firm who submits it to them. If they are not the original certifying agency, they will forward it to the original certifying agency for processing.
- Utilize standard Letter of Certification included herein as Attachments 4 and 4A.
- Utilize standard Certificate of DBE Certification contained herein as Attachment 5.
- Establish an appeal process consistent with the requirements of 49 CFR Part 26.89.
- Participate in a Unified Certification Directory and provide daily updates regarding new certifications, renewals, denials and other appropriate information.
- **NOT** process for certification any DBE application submitted by a firm previously denied by another certifying entity recognized under this UCP; **UNLESS** 12 months has elapsed since the firm was notified of its denial for certification.
- Regarding Information Sharing: Send, to all certification entities operating within the State of Colorado, a copy of any denial notification letters issued. Keep a comprehensive file of its own and other agency denials to insure they do not process applications from firms who have been denied by another certifying agency.
- Prior to becoming a recognized certifying entity, attend training sessions sponsored by the UCPEx to insure all Colorado certifying entities have process continuity and apply certification standards uniformly. (COC & MOCC excepted as stated in bullet 1).

ALL RECIPIENTS MUST:

- Abide by the provisions of this UCP and requirements of 49 CFR Part 26 & Part 23.
- Recognize as certified DBE's, **only** those firms contained in the Unified Directory.
- Recognize as certified DBE's, **all** firms in the directory regardless of the entity proffering the certification. Providing the certifying entity is formally recognized by the UCPEx to perform certifications.
- Refer businesses seeking DBE certification to one of the certifying entities formally recognized by the UCPEx to perform certifications.

- Participate in the funding and/or allocation of resources necessary to implement and continue operation of the UCP.

Impact on Recipient Programs: The UCP will not establish, recommend, or alter any agencies' overall DBE Program, other than to supplement an approved program submittal, DBE goal or goal methodology. DBE goal development, program administration, monitoring, and reporting remains the sole responsibility of the agency with a US DOT approved DBE Program in accordance with 49 CFR Part 26.

Communication: Sharing information on any matter related to the operation of the UCP is a core element of the process. All Colorado UCP partners must be free to communicate openly with each other. Communication can take the form of, but is not limited to, telephone conversations, conference call, meetings, correspondence, and/or electronic transmittals.

If any Colorado UCP partner is in receipt of information that is necessary or critical to making a determination of DBE eligibility, they shall notify and submit the appropriate information to the agency conducting the review, if known; or to all of the recognized certification entities if the agency is unknown. Each Colorado UCP partner shall be made aware through use of the Unified Directory of all status changes affecting certifications.

This UCP plan is a document and program that is certain to undergo revisions, changes and improvements over the course of time. The UCPEx will strive to keep all recipients informed of potential changes and solicit continuous input aimed at refining and improving the UCP. The CDOT Center for Equal Opportunity is the point of contact for all such input, which will subsequently be relayed to the UCPEx for any necessary action.

Executive Committee: It is impractical to put all decisions regarding the UCP before the entire UCP partnership. Therefore, the UCP establishes a "Unified Certification Program Executive Committee (UCPEx)" for the purpose of rendering decisions on issues relevant to the program both during implementation and throughout it's future evolution. This committee will meet regularly during UCP implementation and a minimum of semi-annually thereafter. Issues before the committee will be decided by a majority vote of those in attendance. Minutes of these meetings will be sent to all UCP partners. The UCP Executive Committee will include, but is not limited to, appropriate representatives from the following agencies: The Colorado Department of Transportation, The Regional Transportation District, Denver Mayor's Office of Contract Compliance and the Colorado Springs Airport.

Reciprocity: Unless and until the DOT requires reciprocity between all state UCP's, Colorado UCP partners may elect to enter into a written reciprocity agreement with UCP's in other states or regions. The decision to execute such an agreement will be made by a majority vote of the UCP Executive Committee. All partners agree that they will not independently execute any reciprocity agreements with any other agency or entity, including city, county, state or federal agencies, binding that partner, and subsequently the UCP, to a reciprocity agreement.

Ratification Process: All recipients of federal funds administered by the US DOT, either directly or indirectly, must ratify and comply with the UCP agreement. Failure to ratify the agreement may be grounds for the US DOT to find the recipient in "noncompliance" with DBE regulations. A finding of noncompliance may put the recipients federal funds in jeopardy.

The UCP plan will be forwarded to all Colorado recipients. They are responsible to review the document and, if necessary, have it reviewed by legal staff, and forward with comments or concerns to CDOT. As the lead agency for UCP plan development, CDOT will gather all input from the recipients, make the necessary revisions and finalize the document. A copy of the final document will be forwarded to all recipients. The recipients will acknowledge receipt and acceptance of the final UCP by completing and returning to CDOT a letter of receipt and agreement included herein as Attachment 6. CDOT will, in turn, submit the final UCP plan to US DOT.

Data Requirements: 49 CFR Part 26.81(g) requires "Each UCP shall maintain a unified DBE directory containing, for all firms certified by the UCP (including those from other states certified under the provisions of this section), the information required by section 26.31. The UCP shall make the directory available to the public electronically, on the internet, as well as in print."

Toward that end, the Colorado UCP committee has had several meetings with the Information Technology experts assigned to each agency. There currently exists, at the Colorado Department of Regulatory Agencies, a web based directory that can be modified to meet the basic requirements of a Unified DBE Directory. This registry will be modified and used. CDOT will take the lead in this effort with input from the UCPEx. An IT subcommittee has been established and has held several meetings. It was determined that the unified date base implementation will have two phases: First, immediate development of a unified, on-line, searchable certification directory for use by the general public; and secondly, an expansion of the data base to include eligibility-specific information for each applicant company. This second-phase information will not be available to the general public, and will be limited to the certification offices only. As with the rest of this UCP document, this plan for data collection and publication will be amended and updated as necessary.

Initial Consolidation: There are currently two certifying entities within the state of Colorado, the CDOT Office of Certification and the City & County of Denver Mayor's Office of Contract Compliance. The Colorado UCP shall institute a limited "grandfather clause" that will govern continued certification of currently certified firms by these entities. This grandfather clause is a one time only occurrence and is subject to approval of the UCP Executive Committee, which will utilize the expertise of appropriate legal staff.

All certified DBE firms will be evaluated on their renewal dates by the original certifying entity under this UCP's guidelines to determine continued eligibility.

"Grandfathering" will be initiated in the following manner:

- Firms currently certified by both certification offices.
- Firms currently certified by one certification office and have not applied to and been denied by the other.
- The application records of firms currently certified by one of the entities above that have previously applied to and been denied DBE certification by the other entity shall be reviewed on a case by case basis by representatives selected by the UCP Executive Committee. The UCPEx will select appropriate knowledgeable representatives to perform a detailed review of the application and documentation that resulted in certification. In addition, they will review information relevant to the denial action that was taken. This committee may also choose to request additional information. After a thorough review, the panel will make a certification

recommendation. If a unanimous decision cannot be reached in favor of certification, denial proceedings will be initiated and the firm will be given an opportunity to utilize the appeals process.

- Any firm whose DBE certification is revoked as a result of the above action must be notified in writing as outlined by 49 CFR Part 26.87 and 26.89 and has all of the rights of appeal granted therein, to include appeal to US DOT.

After the effective date of this Agreement, and completion of all reviews by the UCP Executive Committee, only firms certified based on guidelines prescribed in 49 CFR 26 and provisions under this Agreement shall be recognized as certified and added to the Unified Directory. It should be noted that Airport Concessionaires will continue to be certified under 49 CFR 23, as required by the FAA, until notified otherwise.

Certification of non-Colorado and SBA Certified Firms:

Unless and/or until the US DOT requires reciprocal recognition of other state UCP's, or unless the Colorado UCP has a reciprocal agreement with the applicant's state of origin, out-of-state requests for certification will be processed in the following manner:

- The applicant must be certified in their home state and provide a copy of their DBE certification.
- The certification entity may accept a complete copy of the applicant's home state certification application and all supporting documentation in lieu of the Colorado application.
- The applicant may be required to provide additional documentation at the discretion of the certifying entity the firm is making application to.
- The Colorado UCP certifying entity will contact the applicant's state certifying entity and request a copy of the site visit report, or transcript and/or statement of findings -- whichever is appropriate.
- The Colorado UCP will comply with rule changes to 49 CFR governing firms certified by the US Small Business Administration when the final rule is issued.

Once all of the required documentation has been received, the application for certification will proceed in the same manner as all other applications for certification.

North American Industry Classification System (NAICS) Codes:

The Colorado UCP certifying entities will certify all firms in compliance with 49 CFR Part 26, including designating specific work types. The NAICS codes will be used for determining small business size as required by 13 CFR Part 121. A mutually agreed upon Colorado work coding system will be utilized to designate specific work classifications under which certified companies will be listed in the unified directory. All firms will be informed of the specific codes and a short narrative description of that designation.

Any firm may request modification and/or additions to their approved work designation codes by making a written request to the certifying partner. That request must include the equipment and experience indicating the firm's ability to perform the particular work type. In addition, the firm must

submit documentation of past contracts on which the firm has performed the specific type of work. A sample request application is contained herein as Attachment 7.

Third Party Challenges The Colorado UCP certifying entities shall accept signed written complaints from any person, including Colorado UCP partners, alleging that a currently certified firm is ineligible. The complainant must state specific reasons for ineligibility and submit any documentation in support of the complaint. The firm being challenged will be notified by the original certifying agency, in writing, of the challenge, the basic grounds, and the relevant regulations. The original certifying entity will be responsible to thoroughly investigate the complaint, within a reasonable time, not to exceed 60 days. The agency shall notify the DBE in writing, by certified mail, of the preliminary findings. If reasonable cause to remove certification eligibility is found, they will notify the complainant of the specific grounds and inform the firm of the right to appeal the preliminary finding in accordance with the certifying entities appeal process.

Appeals Process: Each certifying entity must have in place an appeals process that meets the requirements of 49 CFR Part 26. Colorado's only two certifying entities have firmly established appeals processes. New applicant firms wishing to appeal an initial denial decision will appeal directly to the US DOT. Firms wishing to appeal a certification revocation decision will appeal through the certifying agency's local denial process. In the event that a firm wishes to appeal that local decision, they may appeal directly to the US DOT.

UCP Partner Compliance A great deal of the discussion has taken place regarding the need to trust each UCP partner, as well as acknowledging issues that may arise related to quality and compliance. We acknowledge there are many agency specific issues related to certification processes. The primary areas of concern are:

- Political Influence Or Interference In Certification Decisions
- Incomplete Or Inadequate Definition Of Processes
- Non-Compliance With 49 CFR Part 26
- Quality Of Decisions

In order for the UCP to succeed and the partners to maintain the level of trust needed to effectively comply with the UCP requirements, it is necessary to implement minimum requirements for compliance, as well as a process for dealing with any agency that is found to be in non-compliance. The specific minimum requirements are:

- All decisions related to certification must be made in compliance with 49 CFR Part 26. This requires the political independence to make decisions based upon the specific eligibility requirements.
- Outside entities such as construction industry organizations or other politically mandated organizations cannot be involved in the certification process or decisions.
- All certifying entities must make all decisions and recommendations on certification based purely upon the eligibility requirements, without consideration of political influence or factors.

- All partners agree that there is no "emergency" certification, nor is there a provision within 49 CFR Part 26 for "conditional" certification. The eligibility requirements are to be determined with the factors present at the time of application and the decision is to be made in compliance with Part 26.

If any Colorado UCP partner feels that a particular agency is not complying with the requirements of 49 CFR Part 26, they may make a written complaint to the UCPEx through the Colorado Department of Transportation Center for Equal Opportunity. The UCPEx will review the complaint and circumstances fully. If the committee, not including the complaining agency or the agency in question, achieves consensus that the agency is not complying with the requirements, remedial action will be taken. The remedial action can take the form of one of the following:

- **Written Findings** – The UCP Executive Committee may issue a formal written determination of the issues regarding that agency's certification, procedures, or practices. This determination will be sent to the senior management official or chief operating officer of the agency in question, the program administrator, and US DOT. It is hoped that the agency will review the procedures at issue and make improvements to the process in order to meet 49 CFR Part 26.

- **Monitoring & Concurrence** – The UCP Executive Committee may issue a formal written determination as set out above, as well as provide a procedural review and concurrence process. It is the hope of the partners that the agency in question will take this opportunity to gain additional knowledge and education of the regulations and requirements.

  The agency in question will be required to obtain UCP Executive Committee concurrence in certification determinations for a specific period of time. Depending upon the situation, the UCP Committee may choose to "pair" the agency with another certifying entity or it may choose to require concurrence by a majority of the UCP Executive Committee. If an agency is paired with another certifying entity and a dispute continues to exist, the UCP Executive Committee will make the final determination.

  Non-Compliance – Should the UCP Executive Committee make every effort to correct the deficiencies in an agency's certification process but is unsuccessful, additional measures may be necessary. Should the UCPEx find that an agency is not acting in good faith, the committee will submit its findings to US DOT and the relevant operating agency along with a formal request for assistance in resolving the issue.

Training: The UCP Executive Committee is committed to implementing a process that meets the requirements of the regulation and is applied uniformly by all certifying entities. Uniform training is the key. This committee will develop and initiate training sessions to insure all current and future certifying entities utilize the same methods and procedures and make sound decisions regarding DBE certification. All certifying entities will be required to complete these training sessions before beginning certification investigations. Confirmation of an entities' completion of training will be made by the UCPEx through their formal letter of recognition.

Attachment 2

Executive Committee Approval of

2012 UCP Plan Revision

January 24, 2013

Colorado Department of Transportation
Civil Rights & Business Resource Center
Greg Diehl, Manager
4201 E. Arkansas Avenue, Room 150
Denver, CO 80222

Subject: Letter of Receipt and Approval
Colorado UCP Plan 2013 Revision

This letter certifies that the City and County of Denver's Division of Small Business Opportunity has reviewed a copy of the Colorado Unified Certification Program (UCP) Plan 2013 revision. As a member of the Executive Committee, we approve the revised UCP Plan on behalf of Colorado's UCP partners.

Division of Small Business Opportunity

By Christopher Martinez
Name

Director - Division of Small Business Opportunity
Title

Feb. 5, 2013
Date

January 24, 2013

Colorado Department of Transportation
Civil Rights & Business Resource Center
Greg Diehl, Manager
4201 E. Arkansas Avenue, Room 150
Denver, CO 80222

Subject: Letter of Receipt and Approval
Colorado UCP Plan 2013 Revision

This letter certifies that the Colorado Department of Transportation has reviewed a copy of the Colorado Unified Certification Program (UCP) Plan 2013 revision. As a member of the Executive Committee, we approve the revised UCP Plan on behalf of Colorado's UCP partners.

Colorado Department of Transportation

By _____
Name

Center Manager
Title

2/1/2013
Date

January 24, 2013

Colorado Department of Transportation
Civil Rights & Business Resource Center
Greg Diehl, Manager
4201 E. Arkansas Avenue, Room 150
Denver, CO 80222

Subject: Letter of Receipt and Approval
Colorado UCP Plan 2013 Revision

This letter certifies that the Regional Transportation District has reviewed a copy of the Colorado Unified Certification Program (UCP) Plan 2013 revision. As a member of the Executive Committee, we approve the revised UCP Plan on behalf of Colorado's UCP partners.

Regional Transportation District

By

Name

Senior Manager, Civil Rights Division

Title

February 27, 2013

Date

Attachment 3

USDOT April 5, 2004 Approval of Colorado UCP Plan

U.S Department of Tranportation
Office of the Secretary of Transportation

General Counsel

400 Seventh Street S.W.
Washington, D.C. 20590

April 5, 2004

Debra A. Gallegos
Manager, Center for Equal Opportunity
Colorado Department of Transportation
4201 East Arkansas Avenue
Denver, CO 80222

Dear Ms. Gallegos:

The Department of Transportation (DOT) has reviewed the Unified Certification Program (UCP) submitted to us on behalf of the Colorado recipients of Department of Transportation DOT financial assistance. Your most recent submission has satisfactorily incorporated our earlier comments.

Consequently, I have approved the Colorado UCP as provided by the Department's disadvantaged business enterprise regulations (49 CFR §26.81(a)(4)). Please remember that any inconsistency or ambiguity in the UCP agreement shall be resolved by giving precedence to the following in this order: 49 CFR 26/23, USDOT Directives, the DBE Program as approved by DOT and applicable Colorado regulations.

DOT looks forward to working with you as you implement the UCP.

Sincerely yours,

Jeffrey A. Rosen
General Counsel

Attachment 4

UCP Members who have ratified UCP Plan

UCP Members December 2012

Arapahoe County Public Airport Authority
Archuleta County Airport Authority
Archuleta County Transportation Department
Aspen-Pitkin County Airport
Avon, Town of
Berthoud Area Transportation Service
Blackhawk, City of
Boulder Municipal Airport
Breckenridge, Town of
Burlington, City of
Colorado Department of Transportation
Colorado Springs, City of
Cortez Municipal Airport
Crested Butte, Town of
Denver International Airport
Denver Regional Council of Governments
Durango, City of
Durango-LaPlata County Airport
Eagle County Regional Airport
Fort Collins, City of
Fort Morgan, City of
Freemont County Airport
Front Range Airport
Garfield County Regional Airport
Grand County
Greeley/Weld County Airport
Greeley, City of
Gunnison County
Holyoke, City of
La Junta Municipal Airport
Lake County
Lamar Municipal Airport
Loveland, City of
Montrose Regional Airport
Mountain Village Metropolitan District
Prowers Area Transit
Pueblo Memorial Airport
Pueblo Transit
Regional Transportation District
Roaring Fork Transportation Authority
Rocky Mountain Metropolitan Airport
Salida Airport – Harriet Alexander Field
San Luis Valley Regional Airport
Special Transit
Steamboat Springs, City of
Telluride, Town of
Vail, Town of
Vance Brand Municipal Airport, Longmont
Walker Field Airport Authority
Weld County Human Services
Wray, City of
Yuma, City of

Attachment 5

Uniform Certification Application

Colorado Department of Transportation
Civil Rights & Business Resource Center
4201 E. Arkansas Ave., Room 150
Denver, CO 80222
303-512-4140
FAX 303-512-4146

City & County of Denver
Division of Small Business Opportunity
201 W. Colfax Ave., Dept. 907
Denver, CO 80202
720-913-1699
FAX 720-913-1809

Dear Business Owner:

Disadvantaged Business Enterprise certification is a federally initiated and mandated process established to ensure that only those firms meeting the prescribed standards receive the distinction as a DBE. As the only certifying members of Colorado's Unified Certification Program (UCP), the Colorado Department of Transportation and the City and County of Denver, consider it a privilege to provide you with this certification application.

This application is a UCP application. It was created by the United States Department of Transportation and cannot be modified or changed and is used in all 50 states for certification program evaluation. Please read the "Roadmap" portion thoroughly before you begin. You may choose to download the form and complete it or you may choose to complete it on-line. However, please note that the form cannot be returned to us electronically as all supporting documents relevant to your firm must be received with the application form.

Please be sure to retain a complete copy of all information submitted to us for your files. And remember, because of the UCP, you need only submit your file to ONE of the certifying entities – the City of Denver's Division of Small Business Opportunity OR the Colorado Department of Transportation's Civil Rights & Business Resource Center. Processing time varies but is relatively the same for both agencies.

You may mail your completed application form and supporting documents to:

Colorado Department of Transportation
Civil Rights & Business Resource Center
4201 E. Arkansas Ave., Room 150
Denver, CO 80222

OR

City & County of Denver
Division of Small Business Opportunity
201 W. Colfax Ave., Dept. 907
Denver, CO 80202

Sincerely,

Colorado Department of Transportation
Civil Rights & Business Resource Center

City & County of Denver
Division of Small Business Opportunity

DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
49 C.F.R. PART 26

UNIFORM CERTIFICATION APPLICATION

ROADMAP FOR APPLICANTS

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

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

2. **Be sure to attach all of the required documents listed in the Documents Check List (see Page 15) at the end of this form with your completed application.**

3. **Where can I find more information?**
   - U.S. DOT – http://osdbuweb.dot.gov/business/dbe/index.html (this site provides useful links to the rules and regulations governing the DBE program, questions and answers, and other pertinent information)
   - SBA – http://www.ntis.gov/naics (provides a listing of NAICS codes) and http://www.sba.gov/size/indextableofsize.html (provides a listing of SIC codes)
   - 49 CFR Part 26 (the rules and regulations governing the DBE program)

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

Section 1: CERTIFICATION INFORMATION

A. Prior/Other Certifications

Is your firm currently certified as a DBE? ❑ Yes ❑ No *(If Yes, complete the appropriate boxes)*	Name of certifying agency:
	Has your firm's home-state UCP conducted an on-site visit? ❑ Yes, on ____/____/____ State: _____ ❑ No

B. Prior/Other Applications and Privileges

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

❑ Yes, on ____/____/____ ❑ No

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

Section 2: GENERAL INFORMATION

A. Contact Information

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

B. Business Profile

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

(7) Type of firm *(check all that apply)*:
- ❑ Sole Proprietorship
- ❑ Partnership
- ❑ Corporation
- ❑ Limited Liability Partnership
- ❑ Limited Liability Corporation
- ❑ Joint Venture
- ❑ Other, Describe: _____

(8) Has your firm ever existed under different ownership, a different type of ownership, or a different name?
❑ Yes ❑ No
If Yes, explain:

(9) Number of employees: Full-time _____ Part-time _____ Total _____

(10) Specify the gross receipts of the firm for the last 3 years: Year _____ Total receipts $ _____
Year _____ Total receipts $ _____
Year _____ Total receipts $ _____

C. Relationships with Other Businesses

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office space, yard, warehouse, facilities, equipment, or office staff, with any other business, organization, or entity?
❑ Yes ❑ No
If Yes, identify other firm's name: _____
Explain nature of shared facilities:

(2) At present, or at any time in the past, has your firm:		
	(a) been a subsidiary of any other firm?	❑ Yes ❑ No
	(b) consisted of a partnership in which one or more of the partners are other firms?	❑ Yes ❑ No
	(c) owned any percentage of any other firm?	❑ Yes ❑ No
	(d) had any subsidiaries?	❑ Yes ❑ No

(3) Has any other firm had an ownership interest in your firm at present or at any time in the past? ❑ Yes ❑ No

(4) If you answered "Yes" to any of the questions in (2)(a)-(d) and/or (3), identify the following for each *(attach extra sheets, if needed)*:

	Name	Address	Type of Business
1.			
2.			
3.			

D. Immediate Family Member Businesses

Do any of your immediate family members own or manage another company? ❑ Yes ❑ No
If Yes, then list *(attach extra sheets, if needed)*:

	Name	Relationship	Company	Type of Business	Own or Manage?
1.					
2.					

Section 3: OWNERSHIP

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

A. Background Information

(1) Name:	(2) Title:	(3) Home Phone #:
(4) Home Address *(street and number)*:	City:	State: Zip:

(5) Gender: ❑ Male ❑ Female	(6) Ethnic group membership *(Check all that apply)*: ❑ Black ❑ Hispanic ❑ Native American ❑ Asian Pacific ❑ Subcontinent Asian ❑ Other *(specify)* _____
(7) U.S. Citizen: ❑ Yes ❑ No	
(8) Lawfully Admitted Permanent Resident: ❑ Yes ❑ No	

B. Ownership Interest

		Type	Dollar Value
(1) Number of years as owner:	(2) Initial investment to acquire ownership interest in firm:	Cash	$
(3) Percentage owned:		Real Estate	$
(4) Familial relationship to other owners:		Equipment	$
		Other	$

(5) Shares of Stock: Number Percentage Class Date acquired Method Acquired

(6) Does this owner perform a management or supervisory function for any other business? ❑ Yes ❑ No
If Yes, identify: Name of Business: _____ Function/Title: _____

(7) Does this owner own or work for any other firm(s) that has a relationship with this firm *(e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)*? ❑ Yes ❑ No

If Yes, identify: Name of Business: _____ Function/Title: _____
Nature of Business Relationship:

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

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

(2) Has any trust been created for the benefit of this disadvantaged owner(s)? ❑ Yes ❑ No
If Yes, explain *(attach additional sheets if needed)*:

Section 4: CONTROL

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

	Name	Title	Date Appointed	Ethnicity	Gender
(1) Officers of the Company	(a)				
	(b)				
	(c)				
	(d)				
	(e)				
(2) Board of Directors	(a)				
	(b)				
	(c)				
	(d)				
	(e)				

(3) Do any of the persons listed in (1) and/or (2) above perform a management or supervisory function for any other business? ❑ Yes ❑ No

If Yes, identify for each:

Person: _____ Title: _____

Business: _____ Function: _____

(4) Do any of the persons listed (1) and/or (2) above own or work for any other firm(s) that has a relationship with this firm (*e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.*)?

❑ Yes ❑ No

If Yes, identify for each:

Firm Name: _____ Person: _____

Nature of Business Relationship:

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

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

(10) Authorized to make Financial Transactions	a.			
	b.			

(11) Do any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business?

❑ Yes ❑ No

If Yes, identify for each:

Person: _____ Title: _____

Business: _____ Function: _____

(12) Do any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with this firm *(e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)*?

❑ Yes ❑ No

If Yes, identify for each:

Firm Name: _____ Person: _____

Nature of Business Relationship:

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

(1) Equipment

Type of Equipment	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			

(2) Vehicles

Type of Vehicle	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			

(3) Office Space

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)		
(b)		

(4) Storage Space

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)		
(b)		

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

If Yes, explain:

E. Financial Information

(1) Banking Information:

(a) Name of bank: _____ (b) Phone No: (_____)_____

(c) Address of bank: _____ City: _____ State: _____ Zip: _____

(2) Bonding Information:

If you have bonding capacity, identify: (a) Binder No: _____

(b) Name of agent/broker _____ (c) Phone No: (_____)_____

(d) Address of agent/broker: _____ City: _____ State: _____ Zip: _____

(e) Bonding limit: Aggregate limit $ _____ Project limit $ _____

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

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

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

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

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

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

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

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

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

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

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

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

Section 1: CERTIFICATION INFORMATION

A. Prior/Other Certifications

If your firm is applying for DBE certification outside its home state (i.e., the state where its principal business office is located), indicate whether it is or is not certified as a DBE by the home state UCP. If yes, list the name of the certifying agency, whether or not an on-site visit was conducted, and the date of the most recent on-site visit.

B. Prior/Other Applications and Privileges

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

Section 2: GENERAL INFORMATION

A. Contact Information

(1) State the name and title of the person who will serve as your firm's primary contact under this application.

(2) State the legal name of your firm, as indicated in your firm's Articles of Incorporation.

(3) Indicate the primary phone number of your firm.

(4) Indicate a secondary phone number, if any.

(5) Indicate your firm's fax number, if any.

(6) Indicate your firm's or your contact person's email address.

(7) Indicate your firm's website address, if any.

(8) State the street address of your firm (i.e. the physical location of its offices -- not a post office box address).

(9) State the mailing address of your firm, if it is different from your firm's street address.

B. Business Profile

(1) In the box provided, briefly describe the primary business and professional activities in which your firm engages.

(2) Give the Federal Tax ID number of your firm as provided on your firm's filed tax returns, if you have one. This could also be the Social Security number of the owner of your firm.

(3) Give the date on which your firm was officially established, as stated in your firm's Articles of Incorporation.

(4) Give the date on which you and/or each other owner took ownership of the firm.

(5) Check the appropriate box that describes the manner in which you and each other owner acquired ownership of your firm. If you checked "Other," explain in the space provided.

(6) Check the appropriate box that indicates whether your firm is "for profit."

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

(7) Check the appropriate box that describes the legal form of ownership of your firm, as indicated in your firm's Articles of Incorporation. If you checked "Other," briefly explain in the space provided.

(8) Check the appropriate box that indicates whether your firm has ever existed under different ownership, a different type of ownership, or a different name. If you checked "Yes," specify which and briefly explain the circumstances in the space provided.

(9) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time and part-time basis.

(10) Specify the total gross receipts of your firm for each of the past three years, as declared in your firm's filed tax returns.

C. Relationships with Other Businesses

(1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, or any office staff with any other business, organization, or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and briefly explain the nature of the shared facilities or other items in the space provided.

(2) Check the appropriate box that indicates whether at present, or at any time in the past:

(a) your firm has been a subsidiary of any other firm;

(b) your firm consisted of a partnership in which one or more of the partners are other firms;

(c) your firm has owned any percentage of any other firm; and

(d) your firm has had any subsidiaries of its own.

(3) Check the appropriate box that indicates whether any other firm has ever had an ownership interest in your firm.

(4) If you answered "Yes" to any of the questions in (2)(a)-(d) or (3), identify the name, address and type of business for each.

D. Immediate Family Member Businesses

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

Section 3: OWNERSHIP

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

A. Background Information

(1) Give the name of the owner.

(2) State his/her title or position within your firm.

(3) Give his/her home phone number.

(4) State his/her home (street) address.

(5) Check the appropriate box that indicates this owner's gender.

(6) Check the appropriate box that indicates this owner's ethnicity (check all that apply). If you checked "Other," specify this owner's ethnic group/identity not otherwise listed.

(7) Check the appropriate box to indicate whether this owner is a U.S. citizen.

(8) If this owner is not a U.S. citizen, check the appropriate box that indicates whether this owner is a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner. This, however, does not necessarily disqualify your firm altogether from the DBE program if another owner is a U.S. citizen or lawfully admitted permanent resident and meets the program's other qualifying requirements.

B. Ownership Interest

(1) State the number of years during which this owner has been an owner of your firm.

(2) Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment.

(3) State the percentage of total ownership control of your firm that this owner possesses.

(4) State the familial relationship of this owner to each other owner of your firm.

(5) Indicate the number, percentage of the total, class, date acquired, and method by which this owner acquired his/her shares of stock in your firm.

(6) Check the appropriate box that indicates whether this owner performs a management or supervisory function for any other business. If you checked

"Yes," state the nam e of the other business and this owner' s title or function held in that business.

(7) Check the appropriate box that indicate s whether this owner owns or works fo r any other firm(s) that has any relationship with your fi rm. If y ou checked "Yes," identify the name of the other business and this owner' s title or function held in that business. Bri efly describe the nature of the busine ss relationship in the space provided.

C. Disadvantaged Status

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

(1) Indicate in t he space provided the total Personal Net Worth (PNW) of each owner who is apply ing for DBE qualification. Use the PNW calculat or form at the end of this application to compute each owner's PNW.

(2) Check the appropriate box that indicate s whether any trust has ever been created for the benefit of this disadvantaged owner. If you answered "Yes," briefly explain the nature, history, purpose, and current value of the trust(s).

Section 4: CONTROL

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

(1) In the space provided, state the na me, title, date of appointment, ethnicity, and gender of each officer of your firm.

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

(3) Check the appropriate box that indicate s whether any of your firm's officers and/or directors listed above perform a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the nam e of t he other business in which s/he is invol ved, and his/her function performed in that other business.

(4) Check the appropriate box that indicate s whether any of your firm's officers and/or directors listed above own o r work for any other fir m(s) that has a relationship with your fi rm. If y ou answered "Yes," identify the name of the firm, the officer or director, and the nature of his/her business relationship with that other firm.

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

(1) Making of fi nancial decisions on your firm's behalf, including t he acquisition of lines of credit, surety bonds, supplies, etc.;

(2) Estimating and bidding, including calculation of cost esti mates, bid preparation and submission;

(3) Negotiating and contract execution, including participation in any of you r firm's negotiations and executing contracts on your firm's behalf;

(4) Hiring and/or firing of management personnel, including i nterviewing and conducting performance evaluations;

(5) Field/Production operations supervision, including site supervision, schedulin g, project management services, etc.;

(6) Office management;

(7) Marketing and sales;

(8) Purchasing of major equipment;

(9) Signing company checks (for any purpose); and

(10) Conducting any other financial transactions on your firm's behalf n ot otherwise listed.

(11) Check the appropriate box that indicates whether any of the persons listed in (1) throug h (10) above perform a management or superv isory function for any other business. If you answered "Yes," identify each person by name, his/her title, the nam e of t he other business in which s/he is invol ved, and his/her function performed in that other business.

(12) Check the appropriate box that indicates whether any of the persons listed in (1) through (10) above own or work for any other fir m(s) that has a relationship with your fi rm. If y ou

answered "Yes," identify the name of the firm, the name of the person, and the nature of his/her business relationship with that other firm.

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

(1) Equipment
State the type, make and model, and current dollar value of each piece of equipment held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm.

(2) Vehicles
State the type, make and model, and current dollar value of each motor vehicle held and/or used by your firm. Indicate whether each vehicle is either owned or leased by your firm.

(3) Office Space
State the street address of each office space held and/or used by your firm. Indicate whether your firm owns or leases the office space and the current dollar value of that property or its lease.

(4) Storage Space
State the street address of each storage space held and/or used by your firm. Indicate whether your firm owns or leases the storage space and the current dollar value of that property or its lease.

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

E. **Financial Information**

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

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

F. **Identify all sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms securing the loan, if other than the listed owner:**
State the name and address of each source, the original dollar amount and the current balance of each loan, and the purpose for which each loan was made to your firm.

G. **List all contributions or transfers of assets to/from your firm and to/from any of its owners over the past two years:**
Indicate in the spaces provided, the type of contribution or asset that was transferred, its current dollar value, the person or firm from whom it was transferred, the person or firm to whom it was transferred, the relationship between the two persons and/or firms, and the date of the transfer.

H. **List current licenses/permits held by any owner or employee of your firm.**
List the name of each person in your firm who holds a professional license or permit, the type of permit or license, the expiration date of the permit or license, and the license/permit number and issuing State of the license or permit.

I. **List the three largest contracts completed by your firm in the past three years, if any.**
List the name of each owner or contractor for each contract, the name and location of the projects under each contract, the type of work performed on each contract, and the dollar value of each contract.

J. **List the three largest active jobs on which your firm is currently working.**
For each active job listed, state the name of the prime contractor and the project number, the location, the type of work performed, the project start date, the anticipated completion date, and the dollar value of the contract.

AFFIDAVIT & SIGNATURE

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

DBE UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST

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

All Applicants

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

Partnership or Joint Venture

- ☐ Original and any amended Partnership or Joint Venture Agreements

Corporation or LLC

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

Trucking Company

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

Regular Dealer

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

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

AFFIDAVIT OF CERTIFICATION

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

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

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

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

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

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

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

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

I hereby certify that I am a (circle all that apply):

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

I have held myself out as a member of that group and have acted as a member of that group. I certify that I am an owner of the company seeking DBE certification and that I have been subjected to racial or ethnic prejudice or cultural bias within American society because of my identity as a member of the above circled group.

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

I declare, under penalty of perjury, that the information provided in this application and supporting documents relating to my disadvantaged status and me is true and correct.

Signature:_____ Date:_____

NOTARY CERTIFICATE:

CONFIDENTIAL

PERSONAL FINANCIAL STATEMENT

As of _____, _____

(BOTH PAGES MUST BE COMPLETED BY EACH DISADVANTAGED OWNER-THIS FORM MAY BE COPIED)

Complete this form for: (1) each socially disadvantaged proprietor, (2) each socially disadvantaged limited and general partner whose combined interest totals 51% or more, or (3) each socially disadvantaged stockholder making up 51% or more of voting stock.

Name	Business Phone ( )
Residence Address	Residence Phone ( )
City, State & Zip Code	
Business Name of Applicant	

ASSETS (Omit Cents)		**LIABILITIES** (Omit Cents)	
Cash on hand and in Banks	$	Accounts Payable	$
Savings Accounts	$	Notes Payable to Banks and Others (Describe in Section 1)	$
IRA or Other Retirement Account	$	Installment Account (Auto)	$
Accounts and Notes Receivable	$	Installment Account (Other)	$
Life Insurance - Cash Surrender Value Only (Complete Section 7)	$	Loan on Life Insurance	$
Stocks and Bonds (Describe in Section 2)	$	Mortgages on Real Estate (Describe in Section 3)	$
Real Estate (Describe in Section 3)	$	Unpaid Taxes (Describe in Section 5)	$
Automobile(s) - Present Value	$	Other Liabilities (Describe in Section 6)	$
Other Personal Property (Describe in Section 4)	$		
Other Assets (Describe in Section 4)	$	**Total Liabilities**	$
Total Assets	$	**Net Worth** (Total Assets minus Total Liabilities)	$

Source of Income		**Contingent Liabilities**	
Salary	$	As Endorser or Co-Maker	$
Net Investment Income	$	Legal Claims & Judgments	$
Real Estate Income	$	Provision for Federal Income Tax	$
Other Income	$	Other Special Debt	$

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

Name and Address of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Endorsed Type of Collateral

Section 2. Stocks and Bonds (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

Number of Shares	Name of Securities	Cost	Market Value Quotation/Exchange	Date of Quotation/Exchange	Total Value

Section 3. Real Estate Owned (List each parcel separately. Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

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

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

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

Section 6. Other Liabilities (Describe in detail.)

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

I authorize the Civil Rights & Business Resource Center at the Colorado Department of Transportation to verify the accuracy of the statements made in order to determine whether I meet the standards of economic disadvantage for participation in the DBE Programs of the partners of Colorado's Uniform Certification Program. These statements are true and correct to the best of my belief.

Printed/typed name:	Signature and date:

County of _____ State of _____

Subscribed and sworn before me this _____ day of _____ , _____

Signed _____
(Notary Public)

_____

_____
(Address of Notary)

COLORADO DEPARTMENT OF TRANSPORTATION

FINANCIAL INSTITUTION AUTHORIZATION

Civil Rights & Business Resource Center
4201 East Arkansas Avenue, Room 150
Denver, Colorado 80222
303 512-4140, FAX 303 512-4146

THIS FORM MUST BE COMPLETED AND MUST ACCOMPANY YOUR COMPLETED APPLICATION

DBE Applicants: Complete and sign this section only, then have your financial institution complete the remainder. This form is part of your application and must be returned with it, fully completed.

Dear _____ :
(name of financial institution)

I have authorized the Office of Certification to seek information about my firm's relationship with your company.

Please complete this form. My application for DBE Certification will not be considered complete unless I return this form with my DBE application.

Thank you.

Name of Firm		
Printed Name of Owner/President	Owner/President's Signature	Date

TO BE COMPLETED BY THE FINANCIAL INSTITUTION

1. Indicate the services your institution provides to this company:

   a) Checking accounts:
   - ❑ Payroll Number of authorized signatures:_____
   - ❑ Regular Number of authorized signatures:_____
   - ❑ Other Number of authorized signatures:_____

   Identify "Other" accounts: _____

   b) List the names of authorized signers according to account type:

   _____

   _____

2. List any outstanding commercial/business loans:

Origination Date	Original Amount	Current Balance	Collateral (if secured)

   a) Are there personal guarantors for any of the loans? ❑ Yes ❑ No

   If yes, list their names:_____

3. Does the company have a line of credit? ❑ Yes ❑ No

a) Is it secured? ❑ Yes ❑ No List the collateral: _____

_____

_____

b) Are there personal guarantors? ❑ Yes ❑ No

If yes, list their names: _____

4. List the names of all company individuals who signed promissory notes:

_____

Name of Financial Institution			
Address	City	State	Zip
Printed name of bank official	Title		
Signature	Date		

Attachment 6

Statement of Findings and Facts

STATEMENT OF FINDINGS & FACTS

Investigator: Date Prepared:

Date of On-Site Interview: File Number:

NAME OF COMPANY :

DBA :

ADDRESS Physical :

Mailing :

Phone :
fax :
e-mail :

TYPE OF BUSINESS :

DATE ESTABLISHED :

LEGAL STRUCTURE :

OWNERS/PRINCIPALS :

DIRECTORS/MANAGERS :

OFFICERS CEO :
President :
Vice President :
Secretary :
Treasurer :

OTHER CERTIFICATIONS HELD : ☐ none
☐ SBA
☐ Other

BUSINESS REVENUE :

Year	Applicant	Affiliate(s)	Yearly Total
2004			$0
2005			$0
2006			$0
Total	$0	$0	$0
	Number of Years		**0**
	Applicant Average		$0.00
	Affiliate Average		$0.00
	Combined Average		**$0.00**

BACKGROUND

FINDINGS

26.61(c) Presumptive group:

26.63(a) Rebuttal:

26.65 Small business size:

26.67(a)(1) Social disadvantage:

26.67(a)(2) Economic disadvantage:

26.69(a) Record viewed as a whole: All information pertaining to this application was viewed separately for content. However, my evaluation of the application is based on the information as a whole.

26.69(b) Percentage of ownership:

26.69(c) Real, substantial, and continuing ownership:

26.69(d) Securities held in trust:

26.69(e) Real and substantial contributions:

26.69(f) Contributions of expertise:

26.69(g) Settlement/court order/inheritance:

26.69(h) Gifts or transfers without adequate consideration:

26.69(i) Marital assets:

26.71(b) Independence:

26.71(c) Restrictions on control:

26.71(d) Power to direct:

26.71(e) Disproportionate responsibility:

26.71(f) Delegation:

26.71(g) Managerial and technical competence:

26.71(h) Required license:

26.71(i) Differences in remuneration:

26.71(j) Outside employment:

26.71(k) Family-run business:

26.71(m) Necessary equipment:

26.71(n) Types of work vis-à-vis the ability to control:

SUMMARY

RECOMMENDATION

CERTIFY ☐ DENY ☐

Work code	Description	NAICS Code	Size Standard

Denial Citations:

_____ _____
Date

AGREE ☐ DISAGREE ☐

_____ _____
Reviewer Date

Reviewer's Comments:_____

AGREE ☐ DISAGREE ☐

EO Supervisor Date

Supervisor's Comments:

Attachment 7

Change Affidavit

COLORADO DEPARTMENT OF TRANSPORTATION

CHANGE AFFIDAVIT

for Disadvantaged Business Enterprise (DBE) Program

I. Instructions

NOTE: IF THE FIRM'S **LEGAL STRUCTURE** or **OWNERSHIP** HAS CHANGED SINCE IT WAS LAST CERTIFIED YOU MUST SUBMIT A NEW APPLICATION.

This form is to be completed by currently certified DBE firms to update the information necessary for continued eligibility. Failure to provide information requested in this form **MAY RESULT IN THE FIRM'S DECERTIFICATION** Reviews of certified firms may, with cause, be periodically performed and additional information and documentation required at that time.

Return the completed Change Affidavit and all supporting documents to:

Civil Rights & Business Resource Center
4201 East Arkansas Avenue, Room 150
Denver, Colorado 80222

Please call the Civil Rights & Business Resource Center at (303) 512-4140 for clarification or if you have questions.

II. Current Certification

Description of work specialty for which certified:

III. General information

1. Legal name of business			Today's date
List dba, if any			
2. Street address	City	State	Zip + 4
3. Mailing address (if different)	City	State	Zip + 4
4. Business telephone number ( )	Fax number ( )		
5. E-mail address	Web address		
6. Name of contact person	7. Name of person preparing this application (if different from contact)		

IV. Eligibility update

1. During the past year have changes occurred in the:
   - a. Legal structure of business (Proprietorship, Partnership, Corporation, etc.)? ❑ Yes ❑ No
   - b. Firm's ownership? ❑ Yes ❑ No
     (includes changes in interests of existing owners and the addition or removal of owners)
   - c. Corporation's Directors/Officers? ❑ Yes ❑ No
     or its bylaws? ❑ Yes ❑ No
   - d. Partnership Agreement? ❑ Yes ❑ No
   - e. Joint Venture Agreement? ❑ Yes ❑ No
   - f. Limited Liability Company Operating Agreement? ❑ Yes ❑ No
   - g. Duties of the owner(s) or other key personnel? ❑ Yes ❑ No
2. Did any stockholder, director, officer, partner and/or manager establish a new business relationship with, or purchase ownership interest in, any other firm? (A business relationship may include, but is not limited to, ownership, shared space or employees, utilities, equipment or financing, etc.) ❑ Yes ❑ No
3. Has the firm entered into written employment contracts with any of its employees? ❑ Yes ❑ No
4. Has the firm entered into new agreements for outside management or consulting services? ❑ Yes ❑ No

V. Additional information to be submitted:

1. ____ Copies of personal Federal income tax returns, **with all attached schedules and w-2s**, for all owners for the current year.
2. ____ A copy of the firm's most current Federal income tax return with all schedules and attachments (or individual's income tax return, if a sole proprietorship).
3. ____ Copies of current Federal income tax returns, with all attached schedules, of each affiliate. Also, Federal income tax returns, with all attached schedules, for each new affiliate.
4. ____ Each disadvantaged owner must complete and sign the enclosed Personal Financial Statement (make additional copies if necessary).

DBE ELIGIBILITY AFFIDAVIT

(to be completed by each owner-copy this page if necessary)

_____

(Name of Certified Firm)

The owner of the above named firm agrees:

1. To abide by the requirements of the DISADVANTAGED BUSINESS ENTERPRISE PROGRAM and all of the applicable rules/regulations/policies and guidelines of the Civil Rights & Business Resource Center and the US Department of Transportation governing the certification process and project activity.

2. To notify the Civil Rights & Business Resource Center within thirty (30) working days of any change in the ownership, control, management or status of the firm, and of any denial or decertification of the firm as an eligible DBE by any other certifying agency.

3. That in order to monitor the continued eligibility of the firm, the Civil Rights & Business Resource Center has the right, from time to time, to review the firm's books, contracts, facilities, and records, and to request and review any additional information deemed necessary to complete such process.

4. That failure to answer any question or to supply the Civil Rights & Business Resource Center with documentation requested at any time in the application process may cause denial of this certification request.

5. That the Civil Rights & Business Resource Center may, for cause, withdraw certification after applying its own approved procedures.

6. That the Civil Rights & Business Resource Center may deny certification or revoke certification and initiate action under Federal, state, or city laws concerning false statements if, during or after the certification process, it finds that the undersigned have submitted false, inaccurate, or misleading information.

7. That the Civil Rights & Business Resource Center has the right to deny certification to any firm, based on its implementation of the DBE eligibility standards, despite the fact that the firm may be certified by another public agency.

8. That the Civil Rights & Business Resource Center may, with the applicant's written consent, release any information contained in this application, or obtained during on-site reviews, when requested by transportation agencies of other states to which the firm has applied for DBE Certification.

The undersigned swears under penalty of perjury: that he or she has read and understands this eligibility affidavit and has the authority to sign it; that the responses and accompanying documents are true, complete and correct; that there have been no material changes regarding the firm's disadvantaged status, ownership or control and that any such changes have previously been reported to the Civil Rights & Business Resource Center ; and that the firm continues to meet SBA and US Department of Transportation small business size criteria.

Printed/typed name:	Signature:	Date:

Notary Public

County of	State of	
Subscribed and sworn before me this day of ,		
Signed (Notary Public)		SEAL
Address of Notary		

COLORADO DEPARTMENT OF TRANSPORTATION

PERSONAL FINANCIAL STATEMENT

(Both pages must be completed by each disadvantaged owner - this form may be copied)

As of (date)

Complete this form for: (1) each socially disadvantaged proprietor, (2) each socially disadvantaged limited and general partner whose combined interest totals 51% or more, or (3) each socially disadvantaged stockholder making up 51% or more of voting stock.

Name		Business Phone ( )
Residence Address		Residence Phone ( )
City	State	Zip Code
Business Name of Applicant		

ASSETS	(Omit Cents)	LIABILITIES	(Omit Cents)
Cash on hand and in Banks	$	Accounts Payable	$
Savings Accounts	$	Notes Payable to Banks and Others (Describe in Section 1)	$
IRA or Other Retirement Account	$	Installment Account (Auto)	$
Accounts and Notes Receivable	$	Installment Account (Other)	$
Life Insurance - Cash Surrender Value Only (Complete Section 7)	$	Loan on Life Insurance	$
Stocks and Bonds (Describe in Section 2)	$	Mortgages on Real Estate (Describe in Section 3)	$
Real Estate (Describe in Section 3)	$	Unpaid Taxes (Describe in Section 5)	$
Automobile(s) - Present Value	$	Other Liabilities (Describe in Section 6)	$
Other Personal Property (Describe in Section 4)	$	**Total Liabilities**	$
Other Assets (Describe in Section 4)	$		
Total Assets	$	**Net Worth** (Total Assets minus Total Liabilities)	$
Source of Income		**Contingent Liabilities**	
Salary	$	As Endorser or Co-Maker	$
Net Investment Income	$	Legal Claims & Judgments	$
Real Estate Income	$	Provision for Federal Income Tax	$
Other Income	$	Other Special Debt	$

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

Name and Address of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Endorsed Type of Collateral

Section 2. Stocks and Bonds (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

Number of Shares	Name of Securities	Cost	Market Value Quotation/Exchange	Date of Quotation/ Exchange	Total Value

Section 3. Real Estate Owned (List each parcel separately. Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

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

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

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

Section 6. Other Liabilities (Describe in detail.)

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

I authorize the Civil Rights & Business Resource Center at the Colorado Department of Transportation to verify the accuracy of the statements made in order to determine whether I meet the standards of economic disadvantage for participation in the DBE Programs of the partners of Colorado's Uniform Certification Program. These statements are true and correct to the best of my belief.

Printed/typed name:	Signature:	Date:

Notary Public

County of	State of	
Subscribed and sworn before me this day of ,		
Signed (Notary Public)		SEAL
Address of Notary		

Attachment 8

Letter of Certification

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION
Center for Equal Opportunity
4201 East Arkansas Avenue, Room 150
Denver, Colorado 80222
303-757-9303
fax 303-512-4146

August 9, 2013

Mr. Michael Hernandez
Transit Auto Parts, LLC
3712 N. Broadway, Ste 352
Chicago, IL 60613

Dear Mr. Hernandez,

The Colorado Department of Transportation's (CDOT) Civil Rights & Business Resource Center is pleased to inform you that Transit Auto Parts, LLC is certified as a Disadvantaged Business Enterprise (DBE) pursuant to the U.S. Department of Transportation's Regulation 49 CFR Part 26. Your firm will be listed on the Colorado Unified Certification Program's (UCP) on-line directory of eligible firms at http://www.coloradodbe.org/.

Transit Auto Parts, LLC is eligible to participate as a Disadvantaged Business Enterprise (DBE) on US Department of Transportation financially-assisted projects in Colorado in the work codes shown below. Only the work codes appearing as part of your firm's listing on the directory are eligible to be counted toward Disadvantaged Business Enterprise (DBE) participation. It is your responsibility to manage your firm's work codes to ensure they are correct.

CO UCP NAICS-425120: WHOLESALE TRADE AGENTS AND BROKERS

The anniversary date of your firm's certification is May 31, 2014. You will be notified 45 days prior to the anniversary date that eligibility must be re-evaluated. The notification provides documents, with instructions, to submit to the Civil Rights & Business Resource Center. However, if you do not receive notification from this office, it is your responsibility to contact us. Pursuant to 49 CFR 26.83(j), submittal of this information is required to ensure that there is no interruption in your firm's status as a certified firm. If any change occurs in the firm's legal structure, ownership, management, control, or work performed, you must notify the Civil Rights & Business Resource Center immediately.

If you have questions or require assistance, please contact the Civil Rights & Business Resource Center at: 303-512-4140.

Sincerely,

Randy Liljenberg, Senior Certification Analyst
Colorado Department of Transportation
Civil Rights & Business Resource Center

Attachment 9

UCP Work Code Map

Code	Description	Revenues Limit	Employees Limit	Assets Limit
	Manufacturers of Landscaping Products, Sand, and Gravel			
111	Crop Production			
111421	Nursery stock growing	$750,000		
111421	Sod farming	$750,000		
111940	Hay farming (e.g., alfalfa hay, clover hay, grass hay)	$750,000		
111998	Grass seed farming	$750,000		
111998	Hay seed farming	$750,000		
212	Mining (except Oil and Gas)			
212321	Sand and gravel quarrying (i.e., construction grade) and/or beneficiating		500	
	Construction			
236	Construction of Buildings			
236220	Airport building construction	$22,410,000		
236220	Airport terminal construction	$22,410,000		
236220	Parking garage construction	$22,410,000		
236220	Railway station construction	$22,410,000		
236220	Bus shelter construction	$22,410,000		
236220	Bus terminal construction	$22,410,000		
236220	Commercial building construction	$22,410,000		
236220	Construction management, commercial and institutional building	$22,410,000		
236220	Hangar construction	$22,410,000		
236220	Project Management	$22,410,000		
237	Heavy and Civil Engineering Construction			
237110	Capping of water wells	$22,410,000		
237110	Construction management, water and sewer line	$22,410,000		
237110	Distribution line, sewer and water, construction	$22,410,000		
237110	Drilling water wells (except water intake wells in oil and gas fields)	$22,410,000		
237110	Fire hydrant installation	$22,410,000		
237110	Irrigation system construction	$22,410,000		
237110	Pumping station, water and sewage system, construction	$22,410,000		
237110	Sewer main, pipe and connection, construction	$22,410,000		
237110	Storm sewer construction	$22,410,000		
237110	Utility line (i.e., sewer, water), construction	$22,410,000		

Code	Description	Revenues Limit	Employees Limit	Assets Limit
237110	Water main and line construction	$22,410,000		
237110	Water pumping or lift station construction	$22,410,000		
237110	Water system storage tank and tower construction	$22,410,000		
237110	Water treatment plant construction	$22,410,000		
237130	Construction management, power and communication transmission line	$22,410,000		
237130	Fiber optic cable transmission line construction	$22,410,000		
237130	Underground cable (e.g., cable television, electricity, telephone) laying	$22,410,000		
237130	Utility line (i.e., communication, electric power), construction	$22,410,000		
237310	Airport runway construction	$22,410,000		
237310	Airport runway line painting (e.g., striping)	$22,410,000		
237310	Asphalt paving (i.e., highway, road, street, public sidewalk)	$22,410,000		
237310	Bridge construction	$22,410,000		
237310	Bridge decking construction	$22,410,000		
237310	Concrete paving (i.e., highway, road, street, public sidewalk)	$22,410,000		
237310	Construction management, highway, road, street and bridge	$22,410,000		
237310	Culverts, highway, road and street, construction	$22,410,000		
237310	Curbs and street gutters, highway, road and street, construction	$22,410,000		
237310	Grading, highway, road, street and airport runway	$22,410,000		
237310	Guardrail construction	$22,410,000		
237310	Painting lines on highways, streets and bridges	$22,410,000		
237310	Parking lot marking and line painting	$22,410,000		
237310	Pothole filling, highway, road, street or bridge	$22,410,000		
237310	Repair, highway, road, street, bridge or airport runway	$22,410,000		
237310	Resurfacing, highway, road, street, bridge or airport runway	$22,410,000		
237310	Runway, airport, line painting (e.g., striping)	$22,410,000		
237310	Sign erection, highway, roads street or bridge	$22,410,000		
237310	Tarring roads	$22,410,000		
237990	Anchored earth retention contractors	$22,410,000		
237990	Athletic field (except stadium) construction	$22,410,000		
237990	Avalanche protection, construction	$22,410,000		
237990	Bulkhead wall construction	$22,410,000		
237990	Caisson (i.e., marine or pneumatic structures) construction	$22,410,000		

Code	Description	Revenues Limit	Employees Limit	Assets Limit
237990	Construction management, mass transit	$22,410,000		
237990	Construction management, tunnel	$22,410,000		
237990	Dam construction	$22,410,000		
237990	Earth retention system construction	$22,410,000		
237990	Embankment construction	$22,410,000		
237990	Horizontal drilling (e.g., underground cable, pipeline, sewer installation)	$22,410,000		
237990	Land drainage contractors	$22,410,000		
237990	Light rail system construction	$22,410,000		
237990	Other Heavy and Civil Engineering Construction	$22,410,000		
237990	Pipe-jacking contractors	$22,410,000		
237990	Railway construction (e.g., interlocker, roadbed, signal, track)	$22,410,000		
237990	Retaining walls, anchored (e.g., with piles, soil nails, tieback anchors), construction	$22,410,000		
237990	Revetment construction	$22,410,000		
237990	Riprap installation	$22,410,000		
237990	Sediment control system construction	$22,410,000		
237990	Streetcar line construction	$22,410,000		
237990	Tunnel construction	$22,410,000		
238	Specialty Trade Contractors			
238110	Concrete finishing	$14,000,000		
238110	Concrete floor surfacing	$14,000,000		
238110	Concrete pumping (i.e., placement)	$14,000,000		
238110	Concrete repair	$14,000,000		
238110	Footing and foundation concrete contractors	$14,000,000		
238110	Grouting (i.e., reinforcing with concrete)	$14,000,000		
238110	Mud-jacking contractors	$14,000,000		
238110	Retaining wall (except anchored earth), poured concrete, construction	$14,000,000		
238110	Shotcrete contractors	$14,000,000		
238120	Concrete product (e.g., structural precast, structural prestressed) installation	$14,000,000		
238120	Precast concrete panel, slab, or form installation	$14,000,000		
238120	Prestressed concrete beam, slab or other component installation	$14,000,000		
238120	Stairway, precast concrete, installation	$14,000,000		
238120	Steel reinforcing contractors	$14,000,000		

Code	Description	Revenues Limit	Employees Limit	Assets Limit
238120	Structural steel contractors	$14,000,000		
238130	Framing contractors	$14,000,000		
238140	Masonry contractors	$14,000,000		
238140	Retaining wall, masonry (i.e., block, brick, stone), construction	$14,000,000		
238140	Stucco contractors	$14,000,000		
238150	Glass and Glazing Contractors	$14,000,000		
238160	Roofing contractors	$14,000,000		
238160	Skylight installation	$14,000,000		
238190	Fireproofing buildings	$14,000,000		
238190	Ornamental metal work installation	$14,000,000		
238190	Stairway, metal, installation	$14,000,000		
238190	Welding, on site, contractors	$14,000,000		
238210	Airport runway lighting contractors	$14,000,000		
238210	Alarm system (e.g., fire, burglar), electric, installation only	$14,000,000		
238210	Computer and network cable installation	$14,000,000		
238210	Electrical contractors	$14,000,000		
238210	Fiber optic cable (except transmission lines) installation	$14,000,000		
238210	Highway, street and bridge lighting and electrical signal installation	$14,000,000		
238210	Lighting system installation	$14,000,000		
238210	Low voltage electrical work	$14,000,000		
238210	Surveillance system, installation only	$14,000,000		
238210	Telecommunications equipment and wiring (except transmission line) installation contractors	$14,000,000		
238210	Traffic signal installation	$14,000,000		
238210	Tunnel lighting contractors	$14,000,000		
238220	Sprinkler system, building, installation	$14,000,000		
238220	Sheet metal duct work installation	$14,000,000		
238220	HVAC (heating, ventilation and air-conditioning) contractors	$14,000,000		
238220	Mechanical contractors	$14,000,000		
238220	Plumbing contractors	$14,000,000		
238220	Solar heating equipment installation	$14,000,000		
238290	Automated and revolving door installation	$14,000,000		
238290	Conveyor system installation	$14,000,000		

238290	Door, commercial- or industrial-type, installation	$14,000,000		
Code	Description	Revenues Limit	Employees Limit	Assets Limit
238290	Garage door, commercial- or industrial-type, installation	$14,000,000		
238290	Machinery and equipment, large-scale, installation	$14,000,000		
238290	Other Building Equipment Contractors	$14,000,000		
238290	Overhead door, commercial- or industrial-type, installation	$14,000,000		
238310	Drywall contractors	$14,000,000		
238310	Insulation contractors	$14,000,000		
238310	Soundproofing contractors	$14,000,000		
238310	Acoustical ceiling tile and panel installation	$14,000,000		
238310	Drop ceiling installation	$14,000,000		
238320	Bridge painting	$14,000,000		
238320	Painting (except roof) contractors	$14,000,000		
238320	Wall covering or removal contractors	$14,000,000		
238330	Carpet, installation only	$14,000,000		
238330	Floor laying, scraping, finishing and refinishing	$14,000,000		
238340	Marble, granite and slate, interior, contractors	$14,000,000		
238340	Stone flooring installation	$14,000,000		
238350	Carpentry work (except framing)	$14,000,000		
238350	Finish carpentry	$14,000,000		
238390	Concrete coating, glazing or sealing	$14,000,000		
238390	Waterproofing contractors	$14,000,000		
238390	Window shade and blind installation	$14,000,000		
238910	Blasting, construction site	$14,000,000		
238910	Caisson (i.e., drilled building foundations) construction	$14,000,000		
238910	Concrete breaking and cutting for demolition	$14,000,000		
238910	Demolition contractor	$14,000,000		
238910	Drilled pier (i.e., for building foundations) contractors	$14,000,000		
238910	Excavation contractors	$14,000,000		
238910	Land clearing	$14,000,000		
238910	Pile driving, building foundation	$14,000,000		
238910	Site Preparation Contractors (Wrecking, Demolition, and Excavation)	$14,000,000		
238910	Soil test drilling	$14,000,000		

238990	SPECIAL TRADE CONTRACTORS	$14,000,000		
238990	Sandblasting, building exterior	$14,000,000		
238990	Shoring, construction	$14,000,000		
238990	Sidewalk construction, residential and commercial	$14,000,000		
Code	Description	Revenues Limit	Employees Limit	Assets Limit
238990	Sign (except on highways, streets, bridges and tunnels) erection	$14,000,000		
238990	Cleaning building interiors during and immediately after construction	$14,000,000		
238990	Concrete sawing and drilling (except demolition)	$14,000,000		
238990	Construction site cleanup contractors	$14,000,000		
238990	Crane rental with operator	$14,000,000		
238990	Fencing contractors (except electronic containment fencing for pets)	$14,000,000		
238990	Parking lot paving and sealing	$14,000,000		
	Manufacturers			
312	Beverage and Tobacco Product Manufacturing			
312111	Soft drink manufacturing		500	
312112	Bottled Water Manufacturing		500	
313	Textile Mills			
313210	Fabrics (except rug, tire fabrics), broadwoven, weaving		1000	
315	Apparel Manufacturing			
315211	Uniforms, nontailored, men's and boys', cut and sew apparel contractors		500	
321	Wood Product Manufacturing			
321113	Lumber (i.e., rough, dressed) made from logs or bolts		500	
321911	Doors, wood and covered wood, manufacturing		500	
321911	Wood window frames and sash manufacturing		500	
323	Printing and Related Support Activities			
323110	Magazines and periodicals lithographic (offset) printing without publishing		500	
323110	Printing, lithographic (except books, grey goods, manifold business forms, quick printing)		500	
324	Petroleum and Coal Products Manufacturing			
324110	Diesel fuels manufacturing	$15,000,000	1500	
324110	Gasoline made in petroleum refineries	$15,000,000	1500	
324110	Propane gases made in petroleum refineries	$15,000,000	1500	
324121	Asphalt Paving Mixture and Blocking Manufacturing		500	
324191	Greases, petroleum lubricating, made from refined petroleum		500	

324191	Transmission fluids, petroleum, made from refined petroleum		500	
324191	Hydraulic fluids, petroleum, made from refined petroleum		500	
324191	Oils, petroleum lubricating, re-refining used		500	
324199	Oil-based additives made from refined petroleum		500	
Code	Description	Revenues Limit	Employees Limit	Assets Limit
325	Chemical Manufacturing			
325191	Methyl alcohol (methanol), natural, manufacturing		500	
325199	Heterocyclic chemicals, not specified elsewhere by process, manufacturing		1000	
325510	Paints (except artist's) manufacturing		500	
325612	Sweeping compounds, absorbent, manufacturing		500	
325612	Toilet bowl cleaners manufacturing		500	
325612	Waxes, polishing (e.g., floor, furniture), manufacturing		500	
325612	Window cleaning preparations manufacturing		500	
325612	Floor polishes and waxes manufacturing		500	
325612	Glass and tile cleaning preparations manufacturing		500	
325612	Rug cleaning preparations manufacturing		500	
325998	Distilled water manufacturing		500	
326	Plastics and Rubber Products Manufacturing			
326192	Floor coverings, linoleum, manufacturing		750	
326192	Floor coverings, resilient, manufacturing		750	
326192	Floor coverings, rubber, manufacturing		750	
326192	Floor coverings, vinyl, manufacturing		750	
326199	Siding, plastics, manufacturing		500	
326211	Motor vehicle tires manufacturing		1000	
326299	Roofing (i.e., single ply rubber membrane) manufacturing		500	
327	Nonmetallic Mineral Product Manufacturing			
327211	Glass, plate, made in glass making plants		1000	
327215	Glass, automotive, made from purchased glass		500	
327310	Cement (e.g., hydraulic, masonry, portland, pozzolana) manufacturing		750	
327320	Ready-mix concrete manufacturing and distributing		500	
327332	Culvert pipe, concrete, manufacturing		500	
327332	Precast concrete pipe manufacturing		500	
327390	Architectural wall panels, precast concrete, manufacturing		500	

327390	Girders and beams, prestressed concrete, manufacturing		500	
331	Primary Metal Manufacturing			
331111	Rail joints and fastenings made in iron and steel mills		1000	
331111	Pipe, iron or steel, made in iron and steel mills		1000	
Code	Description	Revenues Limit	Employees Limit	Assets Limit
332	Fabricated Metal Product Manufacturing			
332212	Handtools, motor vehicle mechanics', manufacturing		500	
332212	Measuring tools, machinist's (except optical), manufacturing		500	
332212	Tools, handheld, nonpowered (except kitchen-type), manufacturing		500	
332311	Prefabricated buildings, metal, manufacturing		500	
332313	Trash racks, fabricated metal plate work, manufacturing		500	
332321	Doors, metal, manufacturing		500	
332321	Garage doors, metal, manufacturing		500	
332321	Windows, metal, manufacturing		500	
332321	Sash, door and window, metal, manufacturing		500	
332322	Culverts, sheet metal (except stampings), manufacturing		500	
332322	Guardrails, highway, sheet metal (except stampings), manufacturing		500	
332322	Roof deck, sheet metal (except stampings), manufacturing		500	
332322	Sheet metal work (except stampings) manufacturing		500	
332323	Fences and gates (except wire), metal, manufacturing		500	
332323	Gratings (i.e., open steel flooring) manufacturing		500	
332323	Scaffolds, metal, manufacturing		500	
332510	Hardware Manufacturing		500	
332722	Bolts, metal, manufacturing		500	
332722	Nuts, metal, manufacturing		500	
332722	Screws, metal, manufacturing		500	
332722	Washers, metal, manufacturing		500	
332913	Plumbing fittings and couplings (e.g., compression fittings, metal elbows, metal unions) manufacturing		500	
333	Machinery Manufacturing			
333112	Lawn and garden equipment manufacturing		500	
333120	Construction machinery manufacturing		750	
333220	Plastics working machinery manufacturing		500	

333220	Rubber working machinery manufacturing		500	
333293	Printing presses (except textile) manufacturing		500	
333298	All Other Industrial Machinery Manufacturing		500	
333298	Sewing machines (including household-type) manufacturing		500	
Code	Description	Revenues Limit	Employees Limit	Assets Limit
333311	Vending machines manufacturing		500	
333314	Laboratory analytical optical instruments (e.g., microscopes) manufacturing		500	
333319	Carpet and floor cleaning equipment, electric commercial-type, manufacturing		500	
333319	Other Commercial and Service Industry Machinery Manufacturing		500	
333319	Sewage treatment equipment manufacturing		500	
333319	Water treatment equipment manufacturing		500	
333415	Air-conditioning equipment (except motor vehicle) manufacturing		750	
333415	Humidifying equipment (except portable) manufacturing		750	
333415	Refrigeration equipment, industrial and commercial-type, manufacturing		750	
333512	Milling machines, metalworking, manufacturing		500	
333613	Bearings, plain (except internal combustion engine), manufacturing		500	
333613	Couplings, mechanical power transmission, manufacturing		500	
333618	Diesel and semidiesel engines manufacturing		1000	
333618	Gasoline engines (except aircraft, automotive, truck) manufacturing		1000	
333911	Pumps, industrial and commercial-type, general purpose, manufacturing		500	
333913	Gasoline measuring and dispensing pumps manufacturing		500	
333913	Pumps, measuring and dispensing (e.g., gasoline), manufacturing		500	
333922	Belt conveyor systems manufacturing		500	
333992	Welding equipment manufacturing		500	
333992	Welding wire or rods (i.e., coated, cored) manufacturing		500	
333993	Packaging machinery manufacturing		500	
333993	Wrapping (i.e., packaging) machinery manufacturing		500	
333994	Incinerators (except precast concrete) manufacturing		500	
334	Computer and Electronic Product Manufacturing			
334111	Computers manufacturing		1000	
334210	Telephones (except cellular telephone) manufacturing		1000	
334220	Communications equipment, mobile and microwave, manufacturing		750	
334220	Pagers manufacturing		750	

334290	Alarm systems and equipment manufacturing		750	
334290	Fire detection and alarm systems manufacturing		750	
334290	Other Communications Equipment Manufacturing		750	
334290	Traffic signals manufacturing		750	
Code	Description	Revenues Limit	Employees Limit	Assets Limit
334310	Audio and Video Equipment Manufacturing		750	
334310	Public address systems and equipment manufacturing		750	
334413	Microprocessor chip manufacturing		500	
334514	Fare collection equipment manufacturing		500	
334519	Geophysical instruments manufacturing		500	
335	Electrical Equipment, Appliance, and Component Manufacturing			
335122	Lighting fixtures, commercial electric, manufacturing		500	
335122	Lighting fixtures, industrial electric, manufacturing		500	
335921	Fiber optic cable manufacturing		1000	
335931	Lugs and connectors, electrical, manufacturing		500	
335931	Outlets (i.e., receptacles), electrical, manufacturing		500	
335931	Switches for electrical wiring (e.g., pressure, pushbutton, snap, tumbler) manufacturing		500	
336	Transportation Equipment Manufacturing			
336111	Automobiles assembling on chassis of own manufacture		1000	
336120	Buses (except trackless trolley) assembling on chassis of own manufacture		1000	
336120	Tractors, truck for highway use, assembled on chassis of own manufacture		1000	
336211	Bus bodies manufacturing		1000	
336312	Engines and parts (except diesel), automotive and truck, manufacturing		750	
336312	Fuel injection systems and parts, automotive and truck gasoline engine, manufacturing		750	
336321	Automotive lighting fixtures manufacturing		500	
336350	Motor Vehicle Transmission and Power Train Parts Manufacturing		750	
336399	Racks (e.g., bicycle, luggage, ski, tire), automotive, truck, and buses manufacturing		750	
337	Furniture and Related Product Manufacturing			
337127	Furniture, institutional, manufacturing		500	
337127	Restaurant furniture (e.g., carts, chairs, foodwagons, tables) manufacturing		500	
337211	Office furniture, padded, upholstered, or plain wood, manufacturing		500	
337212	Custom design interiors (i.e., coordinated furniture, architectural woodwork, fixtures), manufacturing		500	

337215	Display cases and fixtures (except refrigerated) manufacturing		500	
337920	Blinds (e.g., mini, venetian, vertical), all materials, manufacturing		500	
337920	Curtain or drapery fixtures (e.g., poles, rods, rollers) manufacturing		500	
337920	Curtain rods and fittings manufacturing		500	
Code	Description	Revenues Limit	Employees Limit	Assets Limit
337920	Window shades (except awnings) manufacturing		500	
339	Miscellaneous Manufacturing			
339113	Hard hats manufacturing		500	
339113	Noise protectors, personal, manufacturing		500	
339113	Nose and ear plugs manufacturing		500	
339113	Personal safety devices, not specified elsewhere, manufacturing		500	
339115	Goggles (e.g., industrial, safety, sun, underwater) manufacturing		500	
339942	Artist's supplies (except paper) manufacturing		500	
339943	Marking devices manufacturing		500	
339950	Electrical signs manufacturing		500	
339950	Signs and signboards (except paper, paperboard) manufacturing		500	
339999	All Other Miscellaneous Manufacturing		500	
	Regular Dealers			
423	Merchant Wholesalers, Durable Goods			
423110	Truck tractors, road, merchant wholesalers		100	
423110	Truck trailer merchant wholesalers		100	
423110	Automobile merchant wholesalers		100	
423110	Bus merchant wholesalers		100	
423120	Automobile glass merchant wholesalers		100	
423120	Engines and parts, automotive, new, merchant wholesalers		100	
423120	Motor vehicle parts and accessories, new, merchant wholesalers		100	
423130	Motor vehicle tire and tube merchant wholesalers		100	
423210	Hotel furniture merchant wholesalers		100	
423210	Office furniture merchant wholesalers		100	
423210	Restaurant furniture merchant wholesalers		100	
423220	Floor coverings merchant wholesalers		100	
423220	Window shades and blinds merchant wholesalers		100	
423310	Doors and door frames merchant wholesalers		100	

423310	Lumber, Plywood, Millwork, and Wood Panel Merchant Wholesalers		100	
423310	Windows and window frames merchant wholesalers		100	
423320	Asphalt and concrete mixtures merchant wholesalers		100	
423320	Concrete building products merchant wholesalers		100	
Code	Description	Revenues Limit	Employees Limit	Assets Limit
423320	Crushed stone merchant wholesalers		100	
423320	Gravel, construction, merchant wholesalers		100	
423320	Sand (except industrial) merchant wholesalers		100	
423320	Stone, building or crushed, merchant wholesalers		100	
423320	Cement merchant wholesalers		100	
423330	Roofing materials (except wood) merchant wholesalers		100	
423330	Siding (except wood) merchant wholesalers		100	
423390	Fencing (except wood) merchant wholesalers		100	
423390	Glass, plate, merchant wholesalers		100	
423390	Prefabricated buildings (except wood) merchant wholesalers		100	
423390	Wire fencing and fencing accessories merchant wholesalers		100	
423410	Photographic equipment and supplies merchant wholesalers		100	
423420	Office equipment merchant wholesalers		100	
423420	Time recording machines merchant wholesalers		100	
423430	Computer peripheral equipment merchant wholesalers		100	
423430	Computers merchant wholesalers		100	
423430	Software, computer, packaged, merchant wholesalers		100	
423440	Electrical signs merchant wholesalers		100	
423440	Vending machines merchant wholesalers		100	
423450	Industrial safety devices (e.g., eye shields, face shields, first-aid kits) merchant wholesalers		100	
423450	Medical equipment merchant wholesalers		100	
423450	Medical supplies merchant wholesalers		100	
423460	Optical goods (except cameras) merchant wholesalers		100	
423490	Architect's equipment and supplies merchant wholesalers		100	
423490	Engineers' equipment and supplies merchant wholesalers		100	
423490	Laboratory equipment (except dental, medical, ophthalmic) merchant wholesalers		100	
423490	Other Professional Equipment and Supplies Merchant Wholesalers		100	
423490	Surveying equipment and supplies merchant wholesalers		100	

423490	Teaching machines (except computers), electronic, merchant wholesalers		100	
423510	Concrete reinforcing bars merchant wholesalers		100	
423510	Metal products (e.g., bars, ingots, plates, rods, shapes, sheets) merchant wholesalers		100	
423510	Pipe, metal, merchant wholesalers		100	
Code	Description	Revenues Limit	Employees Limit	Assets Limit
423510	Steel merchant wholesalers		100	
423510	Bars, metal (except precious), merchant wholesalers		100	
423610	Alarm apparatus, electric, merchant wholesalers		100	
423610	Construction materials, electrical, merchant wholesalers		100	
423610	Insulated wire or cable merchant wholesalers		100	
423610	Lighting fixtures, electric, merchant wholesalers		100	
423610	Security systems merchant wholesalers		100	
423610	Wiring supplies merchant wholesalers		100	
423620	Audio equipment, household-type, merchant wholesalers		100	
423690	Radios (except household-type) merchant wholesalers		100	
423690	Telephones merchant wholesalers		100	
423690	Communications equipment merchant wholesalers		100	
423690	Electronic parts (e.g., condensers, connectors, switches) merchant wholesalers		100	
423710	Fasteners (e.g., bolts, nuts, rivets, screws) merchant wholesalers		100	
423710	Handtools (except motor vehicle mechanics', machinists' precision) merchant wholesalers		100	
423710	Hardware (except motor vehicle) merchant wholesalers		100	
423710	Locks, security, merchant wholesalers		100	
423710	Power handtools (e.g., drills, sanders, saws) merchant wholesalers		100	
423720	Plumbing equipment merchant wholesalers		100	
423720	Plumbing fixtures merchant wholesalers		100	
423720	Plumbing supplies merchant wholesalers		100	
423730	Air-conditioning equipment (except room units) merchant wholesalers		100	
423730	Heating equipment, warm air (i.e. forced air), merchant wholesalers		100	
423730	Ventilating equipment and supplies (except household-type fans) merchant wholesalers		100	
423740	Refrigeration equipment and supplies, commercial-type, merchant wholesalers		100	
423810	Construction machinery and equipment merchant wholesalers		100	
423820	Irrigation equipment merchant wholesalers		100	
423820	Lawn maintenance machinery and equipment merchant wholesalers		100	

423830	Compressors (except air-conditioning, refrigeration) merchant wholesalers		100	
423830	Conveying equipment (except farm) merchant wholesalers		100	
423830	Water treatment equipment, industrial, merchant wholesalers		100	
423830	Welding machinery and equipment merchant wholesalers		100	
Code	Description	Revenues Limit	Employees Limit	Assets Limit
423830	Materials handling machinery and equipment merchant wholesalers		100	
423830	Measuring and testing equipment (except automotive) merchant wholesalers		100	
423830	Metalworking machinery and equipment merchant wholesalers		100	
423830	Packing machinery and equipment merchant wholesalers		100	
423830	Plastics industries machinery, equipment, and supplies merchant wholesalers		100	
423830	Printing trade machinery, equipment, and supplies merchant wholesalers		100	
423830	Pumps and pumping equipment, industrial-type, merchant wholesalers		100	
423830	Sewing machines, industrial, merchant wholesalers		100	
423830	Furnaces, industrial process, merchant wholesalers		100	
423830	Industrial machinery and equipment (except electrical) merchant wholesalers		100	
423830	Instruments (except electrical) (e.g., controlling, indicating, recording) merchant wholesalers		100	
423840	Bearings merchant wholesalers		100	
423840	Packing materials merchant wholesalers		100	
423840	Welding supplies (except welding gases) merchant wholesalers		100	
423850	Janitorial equipment and supplies merchant wholesalers		100	
423850	Service establishment equipment and supplies merchant wholesalers		100	
423860	Railroad equipment and supplies merchant wholesalers		100	
423860	Transportation equipment and supplies (except marine pleasure craft, motor vehicles) merchant		100	
423910	Recreational equipment and supplies (except vehicles) merchant wholesalers		100	
423930	Recyclable materials (e.g., glass, metal, paper) merchant wholesalers		100	
423990	Other Miscellaneous Durable Goods Merchant Wholesalers		100	
423990	Signs (except electrical) merchant wholesalers		100	
424	Merchant Wholesalers, Nondurable Goods			
424120	Marking devices merchant wholesalers		100	
424120	Office supplies (except furniture, machines) merchant wholesalers		100	
424210	Toiletries merchant wholesalers		100	
424310	Textiles (except burlap, felt) merchant wholesalers		100	

424490	Bottled water (except water treating) merchant wholesalers		100	
424490	Coffee merchant wholesalers		100	
424490	Tea merchant wholesalers		100	
424490	Dried foods (e.g., fruits, milk, vegetables) merchant wholesalers		100	
424490	Sandwiches merchant wholesalers		100	
Code	Description	Revenues Limit	Employees Limit	Assets Limit
424490	Soft drinks merchant wholesalers		100	
424610	Plastics materials merchant wholesalers		100	
424690	Chemical additives (e.g., concrete, food, fuel, oil) merchant wholesalers		100	
424690	Chemicals (except agriculture) (e.g., automotive, household, industrial, photographic) merchant		100	
424710	Propane bulk stations and terminals		100	
424720	Fuel oil merchant wholesalers (except bulk stations, terminals)		100	
424720	Gasoline merchant wholesalers (except bulk stations, terminals)		100	
424720	Lubricating oils and greases merchant wholesalers (except bulk stations, terminals)		100	
424910	Seeds (e.g., field, flower, garden) merchant wholesalers		100	
424920	Books merchant wholesalers		100	
424920	Magazines merchant wholesalers		100	
424920	Newspapers merchant wholesalers		100	
424930	Nursery stock (except plant bulbs, seeds) merchant wholesalers		100	
424950	Painter's supplies (except artists', turpentine) merchant wholesalers		100	
424950	Paints (except artists') merchant wholesalers		100	
424950	Wall coverings (e.g., fabric, plastics) merchant wholesalers		100	
424990	Artists' supplies merchant wholesalers		100	
424990	Other Miscellaneous Nondurable Goods Merchant Wholesalers		100	
	Brokers			
425	Wholesale Electronic Markets and Agents and Brokers			
425120	Wholesale Trade Agents and Brokers		100	
	Regular Dealers			
444	Building Material and Garden Equipment and Supplies Dealers			
444190	Other Building Material Dealers	$19,000,000		
448190	Uniform stores (except athletic)	$19,000,000		
451130	Upholstery materials stores	$22,410,000		

Code	Description	Revenues Limit	Employees Limit	Assets Limit
	Trucking/Hauling			
484	Truck Transportation			
484220	Automobile carrier trucking, local	$22,410,000		
484220	Dump trucking (e.g., gravel, sand, top soil)	$22,410,000		
484220	Gravel hauling, local	$22,410,000		
484220	Sand hauling, local	$22,410,000		
484220	Tanker trucking (e.g., chemical, juice, milk, petroleum), local	$22,410,000		
484220	Top-soil hauling, local	$22,410,000		
	Services			
485	Transit and Ground Passenger Transportation			
485320	Limousine services (except shuttle services)	$7,000,000		
488	Support Activities for Transportation			
488410	Motor vehicle towing services	$7,000,000		
488490	Snow removal, highway	$7,000,000		
488490	Street cleaning service	$7,000,000		
511	Publishing Industries (except Internet)			
511210	Software publishers	$22,410,000		
512	Motion Picture and Sound Recording Industries			
512110	Films, motion picture production	$22,410,000		
512110	Television commercial production	$22,410,000		
512110	Video production	$22,410,000		
517	Telecommunications			
517110	Long-distance telephone carriers (except wireless)		1500	
518	Data Processing, Hosting, and Related Services			
518210	Data processing services (except payroll services, financial transaction processing services)	$22,410,000		
522110	Commercial banks			$175,000,000
524	Insurance Carriers and Related Activities			
524298	All Other Insurance Related Activities	$7,000,000		
531	Real Estate			
531320	Real estate appraisal services	$2,000,000		
531390	Other Activities Related to Real Estate	$2,000,000		
531390	Real estate consultants' (except agents, appraisers) offices	$2,000,000		

532	Rental and Leasing Services			
532412	Construction machinery and equipment rental or leasing without operator	$7,000,000		
532412	Crane rental or leasing without operator	$7,000,000		
541	Professional, Scientific, and Technical Services			
541110	Attorneys' offices	$10,000,000		
541199	All Other Legal Services	$10,000,000		
Code	Description	Revenues Limit	Employees Limit	Assets Limit
541199	Notary public services	$10,000,000		
541211	Accounting (i.e., CPAs) services, certified public	$19,000,000		
541211	Auditing services (i.e., CPA services), accounts	$19,000,000		
541310	Architectural (except landscape) services	$7,000,000		
541320	Landscape architectural services	$7,000,000		
541320	Urban planning services	$7,000,000		
541330	Acoustical engineering consulting services	$14,000,000		
541330	Civil engineering services	$14,000,000		
541330	Construction engineering services	$14,000,000		
541330	Electrical engineering services	$14,000,000		
541330	Environmental engineering services	$14,000,000		
541330	Erosion control engineering services	$14,000,000		
541330	Geological engineering services	$14,000,000		
541330	Geophysical engineering services	$14,000,000		
541330	Mechanical engineering services	$14,000,000		
541330	Traffic engineering consulting services	$14,000,000		
541340	Drafting services	$7,000,000		
541350	Building inspection services	$7,000,000		
541370	Geographic information system (GIS) base mapping services	$14,000,000		
541370	Land surveying services	$14,000,000		
541370	Mapping (except geophysical) services	$14,000,000		
541370	Photogrammetric mapping services	$14,000,000		
541370	Surveying and mapping services (except geophysical)	$14,000,000		
541380	Environmental testing laboratories or services	$14,000,000		
541380	Geotechnical testing laboratories or services	$14,000,000		
541380	Laboratory testing (except medical, veterinary) services	$14,000,000		

541380	Mechanical testing laboratories or services	$14,000,000		
541380	Soil testing laboratories or services	$14,000,000		
541410	Interior design services	$7,000,000		
541430	Graphic Design Services	$7,000,000		
541511	Computer programming services, custom	$22,410,000		
541512	Computer systems integration analysis and design services	$22,410,000		
Code	Description	Revenues Limit	Employees Limit	Assets Limit
541611	Administrative management consulting services	$14,000,000		
541611	Administrative and General management Consulting Services	$14,000,000		
541611	Financial management consulting (except investment advice) services	$14,000,000		
541611	General management consulting services	$14,000,000		
541611	Records management consulting services	$14,000,000		
541612	Human resource consulting services	$14,000,000		
541613	Marketing consulting services	$14,000,000		
541614	Transportation management consulting services	$14,000,000		
541618	Other Management Consulting Services	$14,000,000		
541618	Telecommunications management consulting services	$14,000,000		
541620	Environmental consulting services	$14,000,000		
541620	Site remediation consulting services	$14,000,000		
541690	Economic consulting services	$14,000,000		
541690	Other Scientific and Technical Consulting Services	$14,000,000		
541810	Advertising agencies	$14,000,000		
541820	Lobbying services	$14,000,000		
541820	Public relations services	$14,000,000		
541910	Marketing Research and Public Opinion Polling	$14,000,000		
541922	Commercial photography services	$7,000,000		
541930	Translation and Interpretation Services	$7,000,000		
541990	Scientific and Technical Services	$14,000,000		
561	Administrative and Support Services			
561210	Facilities (except computer operation) support services	$22,410,000		
561311	Employment agencies	$7,000,000		
561320	Temporary employment services	$13,500,000		
561421	Telephone answering services	$7,000,000		

561431	Parcel mailing services, private	$7,000,000		
561439	Business service centers (except private mail centers)	$7,000,000		
561439	Copy centers (except combined with printing services)	$7,000,000		
561492	Court reporting and stenotype services	$7,000,000		
561499	All Other Business Support Services	$7,000,000		
561510	Travel agencies	$3,500,000		
Code	Description	Revenues Limit	Employees Limit	Assets Limit
561612	Security guard services	$18,500,000		
561622	Locksmith services	$7,000,000		
561720	Janitorial services	$16,500,000		
561720	Window cleaning services	$16,500,000		
561730	Hydroseeding services (e.g., decorative, erosion control purposes)	$7,000,000		
561730	Landscape care and maintenance services	$7,000,000		
561730	Landscape contractors (except construction)	$7,000,000		
561730	Erosion control services	$7,000,000		
561730	Ornamental tree and shrub services	$7,000,000		
561730	Seeding lawns	$7,000,000		
561730	Sod laying services	$7,000,000		
561730	Tree services (e.g., bracing, planting, pruning, removal, spraying, surgery, trimming)	$7,000,000		
561730	Weed control and fertilizing services (except crop)	$7,000,000		
561740	Carpet cleaning services	$4,500,000		
561740	Upholstery cleaning services	$4,500,000		
561790	Power washing building exteriors	$7,000,000		
561790	Steam cleaning building exteriors	$7,000,000		
561990	Flagging (i.e., traffic control) services	$7,000,000		
561990	Printing brokers	$7,000,000		
562	Waste Management and Remediation Services			
562111	Trash collection services	$12,500,000		
562910	Asbestos abatement services	$14,000,000		
562910	Environmental remediation services	$14,000,000		
611	Educational Services			
611430	Management development training	$7,000,000		
621	Ambulatory Health Care Services			

621111	Medical doctors' (MDs, except mental health) offices (e.g., centers, clinics)	$10,000,000		
621112	Mental health physicians' offices (e.g., centers, clinics)	$10,000,000		
722	Food Services and Drinking Places			
722320	Caterers	$7,000,000		
811	Repair and Maintenance			
811111	Automotive Repair (General)	$7,000,000		
Code	Description	Revenues Limit	Employees Limit	Assets Limit
811112	Automotive exhaust system repair and replacement shops	$7,000,000		
811113	Transmission repair shops, automotive	$7,000,000		
811118	Automotive radiator repair shops	$7,000,000		
811118	Other Automotive Mechanical and Electrical Repair and Maintenance	$7,000,000		
811121	Automotive body shops	$7,000,000		
811121	Automotive Body, Paint and Interior Repair and Maintenance	$7,000,000		
811122	Automotive glass shops	$10,000,000		
811191	Oil change and lubrication shops, automotive	$7,000,000		
811192	Car washes	$7,000,000		
811192	Truck and bus washes	$7,000,000		
811198	All Other Automotive Repair and Maintenance	$7,000,000		
811310	Commercial and industrial machinery repair and maintenance services	$7,000,000		
811310	Industrial equipment and machinery repair and maintenance services	$7,000,000		
812	Personal and Laundry Services			
812332	Industrial launderers	$22,410,000		
812930	Automobile parking garages or lots	$22,410,000		
	ACDBE			
991	Food Services			
991001	Full service restaurants	$52,470,000		
991002	Limited-Service Restaurants	$52,470,000		
991003	Cafeterias	$52,470,000		
991004	Snack bars (e.g., cookies, popcorn, pretzels), fixed location	$52,470,000		
991005	Mobile food stands	$52,470,000		
991006	Drinking places (i.e., bars, lounges, taverns), alcoholic	$52,470,000		
991010	Vending	$52,470,000		
991011	Pay telephone equipment concession operators	$47,780,000		

992	Novelties, Newsstands & Gifts			
992010	Book stores	$52,470,000		
992020	Newsstands (i.e., permanent)	$52,470,000		
992030	Gift, Novelty, and Souvenir Stores	$52,470,000		
993	Advertising			
993000	Advertising	$52,470,000		
Code	Description	Revenues Limit	Employees Limit	Assets Limit
994	Business & Professional Service			
994000	Business & Professional Service	$52,470,000		
994010	Currency Exchange	$52,470,000		
994020	Business Service Centers	$52,470,000		
994040	Commercial banks	$47,780,000		$1,000,000,000
994050	Hotels (except casino hotels)	$52,470,000		
994060	Travel agencies	$52,470,000		
994071	Goods to Airport Concessions	$52,470,000		
994072	Business and professional services	$52,470,000		
994073	Janitorial	$52,470,000		
994074	Maintenance	$52,470,000		
995	Ground Transportation, Parking, Shuttle & Rental Cars			
995000	Ground Transportation	$52,470,000		
995010	Rental Cars	$63,710,000		
995020	Parking Operations & Management	$52,470,000		
995030	Shuttle	$52,470,000		
995040	Taxicab services	$52,470,000		
995050	Limousine services (except shuttle services)	$52,470,000		
995060	Special needs passenger transportation services	$52,470,000		
995900	All Other Transit and Ground Passenger Transportation	$52,470,000		
996	Shoe Shine Stands			
996000	Shoe Shine Stands	$52,470,000		
997	Retail & Duty Free			
997011	Duty free liquor shops	$52,470,000		
997101	Convenience food stores	$52,470,000		
997102	Baked goods stores, retailing only (except immediate consumption)	$52,470,000		

997103	Candy stores, packaged, retailing only	$52,470,000		
997104	Confectionery stores, packaged, retailing only	$52,470,000		
997105	Nut (i.e., packaged) stores	$52,470,000		
997199	All Other Specialty Food Stores	$52,470,000		
997201	Drug stores	$52,470,000		
997202	Jewelry stores, precious	$52,470,000		
Code	Description	Revenues Limit	Employees Limit	Assets Limit
997203	Leather goods stores	$52,470,000		
997204	Luggage stores	$52,470,000		
997205	Game stores (including electronic)	$52,470,000		
997206	Hobby shops	$52,470,000		
997207	Toy stores	$52,470,000		
997208	Florists	$52,470,000		
997209	Tobacco stores	$52,470,000		
997299	All Other Miscellaneous Store Retailers (except Tobacco Stores)	$52,470,000		
998	Miscellaneous Concessionaire			
998000	Miscellaneous	$52,470,000		
998010	Baggage Cart	$52,470,000		
998020	Game Room	$52,470,000		
998021	Amusement device (except gambling) concession operators (i.e., supplying and servicing in others' facilities)	$52,470,000		
998040	Barber/Beauty Shops	$52,470,000		
998041	Nail Salons	$52,470,000		
998042	Spas without accommodations, fitness	$52,470,000		
998050	Lockers	$52,470,000		
998060	Pet boarding services	$52,470,000		
998090	Other Personal Care Services	$52,470,000		
998900	All Other Personal Services	$52,470,000		
999000	Miscellaneous Concessionaire	$52,470,000		

Attachment 10

Work Code Change Request

COLORADO DEPARTMENT OF TRANSPORTATION

WORK CODES CHANGE REQUEST

Civil Rights & Business Resource Center
4201 East Arkansas Avenue, Rm. 150
Denver, Colorado 80222
303 512-4140, FAX 303 952-7091

Company name	Owner of record
Address	Phone
	Fax
DBE Certification #	Date first certified

My firm requests a work code **CHANGE**

From:
To:
Explain why the company is submitting this work code change request:

I request the following work codes be **ADDED**

The primary job category my company is certified to perform is:(Specify the type of work for which the firm is certified)
I request the following work codes be **ADDED** to my firm's current certification:
Provide a list of equipment your firm possesses that enables it to perform this additional type of work.
Identify those in your company with the necessary educational expertise to perform this type of work:

My company ❑ has ❑ has not been bidding this type of work.

Owner's signature:	Date:

Distribution: Civil Rights & Business Resource Center

Attachment 11

Approved UCP Executive Committee

Meeting Minutes

January 31, 2007 UCP Meeting

Expectations:

Greg D. –	Good Feedback on Directory
Cecelia G. -	How other agencies use the UCP
Fred L.-	Successes of Program and it's benefits
Ken H. -	How people are using UCP and be able to go back w/ways it can be better.
Dave L. -	Minimal DBE Program @ DRCOG, in learning stages
Tamela L. -	Hearing everyone's understanding of the UCP.
Mike. -	New, learning the whole program
Micki P.T. -	People's experiences w/UCP – How can we improve it based on experiences
Sue P. -	Share the workings of the program
Randy L. -	How is it working for everyone?
Rebecca -	Who are the members?
Joe D. -	How the UCP is working for everyone.
Debra G. -	How can we help?
Jim O. -	Learn more about the UCP and give feedback.
Darlene -	New to the Program
Jerry -	Learn more about UCP.
Michael W. -	Improve it, Market it, bring about awareness of Program.
Gregg E. -	New to the Program

State of UCP:

Tamela Lee - Providing computer software assistance (Denver has B2Gnow already).

Tamela Lee – Asked if we could meet more as a group.

State of Directory:

Greg D. – Main customer base is Prime Contractors

Randy L. or Greg D.? – "00" at the end of work code = certified for all sub codes in that directory.

Debra – Broad based committee – "Universal work codes" vs. NAICS vs. CDOT Codes.

Randy L. – Work codes, possibly using NAICS with an extension. (Seems NAICS by itself is not specific enough for our use).

Jim at City of Fort Collins – Uses NIGP Commodity Coding System – 5 Digit and 11 Digit codes.

Kenn Hardin – Uses NIGP and is looking into B2Gnow.

Greg D. – Talked about the City and County of Denver and how the interface is working. Greg also talked about how the "Right hand doesn't know what the Left hand is doing".

Tamela L. – Talked a bit about B2Gnow and then discussed how some companies/entities did not like the fact that their Ethnicity and/or Gender were identified in the UCP.

Kenn H. – Talked about the feedback from primes he received stating that it was difficult to go through the UCP because there was not enough information on the company (Qualifications/Specifics).

Debra- Commented on Kenn's remark stating that we don't want to make it a marketing issue and that maybe we should educate the primes.

Greg D. – Talked about information from CCA regarding "Regional Issues"/"Regional Certification" There was discussion about maybe having the DBE's stating where they are willing to work with rebuttal from others stating that that may be limiting the DBE from getting work across state/regions.

Michael Washington – Talked about having the capability of viewing the capacity of DBE's stating they may be at full capacity on one site and not be able to work on various other projects/contracts.

Greg D. – Commented on Mr. Washington's comment stating it takes a stand on Revenue.

State of the Directory:

- Placehold – Ratification Process
- Discussion about recipients that have not ratified the agreement.
- "Capture Ratification Process"
- Admitting new members
- Executive Committee and meeting dates
- DBE Training
- Getting the word out on how important the program is and keeping the entities certified.

LUNCH

Convene:

Debra- Talked about DOT certifying and not just CDOT and the City and County of Denver.

Ken- Responded to Debra's comment stating to keep it open for others to maybe be able to certify in the future.

Colorado UCP Certification Meeting
Thursday, May 20, 2010

Present: Tamela Lee, City & County of Denver; Jocelyn Robinson, City & County of Denver; Debra Gallegos, CDOT; Greg Diehl, CDOT; Randy Liljenberg, CDOT; Sue Podczervinski, City of Colorado Springs (on phone)
Staff: Claire Spahr, City & County of Denver

AGENDA ITEM	I. Work Code Additions	
DICUSSION	• **Procedure, suggestions**	
o UCP policy for adding codes: ▪ 1. Survey UCP members- confirm that there is a demand for those services to that could count towards UCP members' DBE goal ▪ 2. If at least 1 UCP member responds that with yes on #1- create work code once 2 or more firms qualify for work code o Minutes will be attached to the UCP: once executive council approves it will become a part of the UCP		
ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**
o **Draft Policy Letter for adding work codes into UCP (see above)**	**Randy and Jocelyn**	
o **Adopt Policy for adding work codes into UCP**	**Randy**	
o **Review UCP for maintenance language**	**Randy**	ongoing

AGENDA ITEM	II. Certification Workload	
DISCUSSION	o	
o Jocelyn reported- CCD/DSBO is current o CDOT is making progress on certification o To be Determined: UCP Policy- when do we expedite? o Item tabled until RTD is present		
ACTION ITEMS:	**PERSON RESPONSIBLE**	**DEADLINE**
o Schedule Meeting with RTD, agenda to include: ▪ 1. Certification Communication ▪ 2. Expediting Applications ▪ 3. Scopes of Work that RTD sees in the future o Agenda Item for next meeting: Expediting Applications: ▪ construction vs. nonconstruction; ▪ local vs. nonlocal; ▪ prioritize based on underutilization of DBEs	Debra and Tamela	

AGENDA ITEM	III. 49 CFR 26.83 (k)	
DICUSSION	• **Decisions to be made within 90 days**	
o Discussion: create UCP form letter to prevent noncompliance with Federal Regulations o Regulation is that if processing goes beyond 90 days, the certifying agency must notify the applicant that it will take up to an additional 60 days		
ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**
o **Prepare draft letter**	**Jocelyn**	For the next meeting
o **Reach out to colleagues for best practices for 90 day form letter**	**Debra**	For the next meeting

AGENDA ITEM	VI. NPRM

DICUSSION	• **certification changes, discussion, response**

- Proposed Rule Changes that Affect Certification
  - 1. Personal Net Worth- raising the cap, adding another exclusion
    - Raise PNW to 1.3m from 750k because of inflation
    - Exclude retirement accounts
    - Applicable to section 23, not applicable to section 26
  - 2. Interstate Certifications- how firms apply in other states; options outlined:
    - 1. Leave it alone
    - 2. Federalize certification, central directory
      - ruled out for lack of resources
    - 3. Reciprocity
      - "State B" must certify within 30 days unless there was good cause to object to reciprocal; local appeal must be provided
      - Fast-tracked reciprocals
      - Still have to get certified in home-state first
      - Gives preference to out-of-state
      - In-state firm is held to higher burden than out-of-state firm
      - Randy's comments: not all states have a standardized process: 1. standard on-site questionnaire
      - Debra: suggests forcing regional reciprocity on certifying agencies rather than national reciprocity; if it goes through, comment on getting rid of the 30 day requirement;
      - Tamela's idea: make the certification a UCP cert.
      - When there are states with UCPs with multiple certifying agencies, that reciprocal certification needs to be discussed with the UCP

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
o **Write UCP comments on proposed state-to-state reciprocity (discussion comments above)**	**Randy**	Due July 9th

AGENDA ITEM	**V. Denver/CDOT Memorandum of Agreement for Local Agency projects**
DICUSSION	o

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
o **Draft an MOA between Denver and CDOT**	**Tamela Lee**	

AGENDA ITEM	**VI. Next Meeting- June 15th 11:30-1:30**
DICUSSION	• **CDOT will host; lunch will be provided, room 200**

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
o **Send Outlook Invitation**	**Randy**	

The meeting adjourned at 3:00 pm.

Colorado UCP Certification Meeting
Thursday, June 15, 2010

Present: Tamela Lee, City & County of Denver; Jocelyn Robinson, City & County of Denver; Greg Diehl, CDOT; Randy Liljenberg, CDOT; Michael Washington, RTD; Sue Podczervinski, City of Colorado Springs (on phone)
Staff:

AGENDA ITEM	I. Keeping UCP approved program plan updated	
DICUSSION	• Revised 2009 UCP plan to incorporate language on how ties will be broken on the UCPEx and also create a mechanism for incorporating approved meeting minutes without having to formally approved the UCP plan each time	
o		
ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**
o "Clean up" the language discussed in the June meeting and disseminate the 2010 updated UCP plan for signatures/reapproval	**Randy**	Complete

AGENDA ITEM	II. License held by non-minority workers (Tamela)
DISCUSSION	o Disadvantaged owner doesn't hold an electrical license (but the business does but it is held by non-disadvantaged individuals) o In Colorado, electrical contracting *firms* must be licensed by the State (DORA) as *electrical contractors;* To obtain an electrical contracting license, the firm must employ a licensed Master Electrician (also licensed by DORA).
o	

AGENDA ITEM	III. NPRM	
DICUSSION	•	
o		
ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**
o PNW comments to Randy	**Tamela**	Complete
o Add PNW comments from Tamela	**Randy**	Complete
o Reformat so that it is from the UCP and not just CDOT	**Randy**	Complete
o Forward to UCPEx members for approval	**Randy**	Complete

AGENDA ITEM	IV. Next Meeting - August 12, 2010 9:00 – 11:00	
DICUSSION	• **DSBO will host**	
o		
ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**
o **Send Outlook Invitation**	**Randy**	Complete

The meeting adjourned at 1:30 pm.

Colorado UCP Certification Meeting
Thursday, August 12, 2010

Present: Tamela Lee, City & County of Denver; Jocelyn Robinson, City & County of Denver; Debra Gallegos, CDOT; Greg Diehl, CDOT; Randy Liljenberg, CDOT; Kenn Hardin, RTD (by phone); Sue Podczervinski, City of Colorado Springs, absent
Staff:

AGENDA ITEM	I. Review Minutes of June 15, 2010 Meeting		
DICUSSION	• Approved.		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE
o None			n/a
AGENDA ITEM	II. NPRM		
DICUSSION	• Comments submitted; now in a holding pattern. • Consensus among UCPEx is that the national certification requirement will not pass at this time, all hopeful that it does not; being driven by AMAC. • PNW – consensus is that this will pass; being driven by FAA side of the Program; most disagree with the concept of excluding retirement accounts from consideration; Impact as far as increased number of applications? Very few are denied or revoked on PNW basis, so probably little increase in new applications, though may see an increase in those from the East Coast. • No grandfathering of those previously denied or revoked, they must reapply.		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE
o None			n/a
AGENDA ITEM	III. Updated UCP program plan		
DICUSSION	• Updates concerning UCPEx and the process for creating new work codes agreed to as written.		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE
o **Tamela and Debra completed and signed ratification letters**			n/a
o **Email ratification letters to Sue and Kenn for signatures**		**Randy**	complete
AGENDA ITEM	IV. On-line application		
DICUSSION	• Tamela discussed DSBO's upcoming plan to allow applicants to submit an on-line electronic application; intended to cut down on the number of incomplete applications that sit idle while waiting for the applicant to complete them; the application only, not supporting documents; initially will allow submittal of either paper or electronic, but eventually electronic only. • Kenn – supports the concept, this will be commonplace in the near future; suggests having staff scan supporting documents. • Debra – supports the concept as long as it's eased into, but CDOT does not have the resources at the current time to jump in with both feet; do not have sufficient staff resources to devote to scanning an entire file. • Greg – echoed Debra's comments regarding scanning files and resources needed; If DSBO wants a file at CDOT, we will give them the hard-copy file; raised the issue of using a program that allows scanned documents to be tagged in order that they be searchable.		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE
o None			n/a

AGENDA ITEM	V. Process for Expediting Applications		
DICUSSION	• Tamela – letter from the owner/agency stating that the firm performs a service for which there are no DBEs on the directory available to do the work; CDOT concurs. • Kenn – may be tied to some other unique circumstance or opportunity, such as a mentor-protégé opportunity; would document the exact reason for the request in his letter.		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE
o None			n/a

AGENDA ITEM	VI. General Contractor Work Codes		
DICUSSION	• Greg – USDOT has long held the position that in the DBE Program he use of General Contractor work codes has no meaning, is too broad; it is a counting/compliance issue, where we need to know exactly what work a DBE can and does perform with its own resources so that it can be properly counted. • Kenn is in agreement, he does not know how to count them; On one past RTD project, he refused to use any DBE with a General Contractor work code, insisted that the project be reopened. • Tamela – proposed to review and make changes as they come up for renewal, cycle them out. • Randy asked that no new General Contractors be added, otherwise more work will be created; after one year, if all have been cycled out, the 10000 and 20000 General Contractor work codes will cease to exist, making it impossible for them to be used on the directory in the future; Tamela agreed.		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE
o **Send Jocelyn and Tamela a list of all General Contractors currently on the UCP Directory.**		**Randy**	Complete
o **Assign specific work codes to all DBEs listed with General Contractor work codes (10000, 20000).**		**DSBO**	August 2011

AGENDA ITEM	VII. CDOT/Denver Memorandum of Agreement		
DICUSSION	• Tamela provided CDOT with a draft plan. • CDOT to review and comment.		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE
o **Review and comment.**		**Greg**	2 weeks

AGENDA ITEM	VIII. SL King Technologies		
DICUSSION	• In late 2009, S.L. King Technologies, Inc. submitted DBE applications to both DSBO and CDOT; neither agency was aware that the other also had an application. • This is a sister company of S.L. King & Associates, Inc., a firm owned by the woman owner's husband, and currently certified by CDOT. • During several discussions concerning the status of the application at CDOT, RTD was consistently informed that the firm would not be certified for any requested engineering work codes because it had exceeded small business size standards for engineering and because no-one held a PE license in Colorado. • Late in the review process (March), CDOT became aware that the firm had been certified as a DBE by DSBO (with Engineering work codes) in early March; CDOT immediately closed its application. • At the same time, CDOT contracted DSBO to share its knowledge and to inform DSBO of the conversations it had with RTD concerning the firm's eligibility issues. • DSBO indicated that it has taken steps to rectify the situation; the firm decided to voluntarily relinquish all engineering work codes. • Kenn indicated that it will continue to count the firm's participation on its Denver Union Station project, but that the firm was under consideration on the Eagle P3 project.		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE
o **Forward documentation to RTD/Kenn showing the status of S.L. King Technologies, Inc.'s DBE certification,**		**Mark White, DSBO**	2 weeks

AGENDA ITEM	IX. RTD Contracting Opportunities		
DICUSSION	• Tamela shared a handout being distributed by Denver Transit Partners showing types of work being solicited for possible DBE participation; some of those work types are suspect. • Kenn – neither this document nor DTP speaks for him or RTD; the process for creating new work codes should be followed; Kenn reiterated his position that DTP should hire a DBE Compliance Officer.		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE
o None			n/a
AGENDA ITEM	X. Workload		
DICUSSION	• DSBO and CDOT both report that there is no backlog of new DBE applications, that they are caught up. • Kenn reported that applicants have recently told him of delays. • Suggested to Kenn that he is probably not being told the entire story, that there are probably other reasons, most often that it is being denied, or that the applicant itself has been slow to respond to a request.		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE
o None			n/a
AGENDA ITEM	XI. Joint Venture Certification		
DICUSSION	• Kenn asked about certification of Joint Ventures. • DSBO and CDOT both indicated that they do not certify the Joint Venture, only the DBE partner(s). • Joint ventures are by their nature short-term partnerships entered into for a specific project; the owner/agency is responsible for reviewing the joint venture and the roles of the partners and from that determining how much DBE participation to count based on the contribution of the DBE partner(s). • Kenn followed up by asking if the joint venture would be certified if all partners were themselves DBEs. • No, but in effect 100% DBE participation would occur because all the partners are DBEs, and the work must therefore be divided among only DBEs.		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE
o None			n/a
AGENDA ITEM	XII. Next Meeting		
DICUSSION	• RTD will host • Early November • Thursday, 9:00 am		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE
o **Send Outlook Invitation**		**Randy**	2 weeks

The meeting adjourned at 11:00 am.

Colorado UCP Certification Meeting
Thursday, November 19, 2010

Present: Tamela Lee, City & County of Denver; Debra Gallegos, CDOT; Christina Tubb

Absent: Sue Podczervinski, City of Colorado Springs

Staff: Jocelyn Robinson, City & County of Denver; Greg Diehl, CDOT; Randy Liljenberg, CDOT; Michael Washington, RTD; Del Walker, RTD; Adrina Gibson, RTD

AGENDA ITEM	**I. Review Minutes of August 12, 2010 Meeting**		
DICUSSION	• Approved.		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o None			n/a
AGENDA ITEM	**II. Ratification of 2010 UCP revision by RTD**		
DICUSSION	• Ratification of 2010 UCP Revision by RTD remains outstanding.		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o RTD to sign and forward to CDOT.		**Michael Washington**	Completed 11/23/2010
AGENDA ITEM	**III. Local applications denied, firm then applies for DBE Cert w/ CDOT**		
DICUSSION	• What should the process be for firms that have been denied MWBE certification with DSBO, then apply for DBE certification with CDOT? • CDOT will not process, must apply with DSBO; forward application to DSBO		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o Better exchange of information. o Discuss details at February meeting.			n/a
AGENDA ITEM	**IV. Transferring files between CDOT and DSBBO**		
DICUSSION	• Disposition of files with current DBE certification that have been transferred by CDOT to DSBO for MWBE certification, but that are subsequently denied or closed by DSBO?		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o Files returned to CDOT to maintain DBE certification. o Better exchange of information. o Discuss details at February meeting.			n/a

AGENDA ITEM	V. PRS Certification Status
DICUSSION	• Background – pursuant to a 3rd-party complaint, CDOT recently conducted a project site review of Post Tensioning Reinforcement Services (PRS), a New Mexico firm certified by DSBO. Firm had a subcontract to supply and install reinforcing steel on C-470/Santa Fe flyover. • CDOT found that JD Steel employees and supervisors were doing the work, wearing safety equipment bearing JD Steel's name, JD Steel vehicles were on the site, and JD Steel shop drawings were being used. • Subsequent to the visit, CDOT learned that PRS had entered into a joint venture agreement with JD Steel, and the joint venture was the party responsible for the installation. • CDOT has filed a 3rd-party challenge to PRS' certification with DSBO. • RTD indicated that the same scenario had occurred on one of its projects.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
o CDOT will provide DSBO with all information regarding its project to DSBO to aid in their investigation. o RTD will join CDOT's 3rd-party challenge to PRS' certification, and will provide DSBO with relevant information in its possession.	**Randy**	Completed 2/14/2011

AGENDA ITEM	VI. Workload
DICUSSION	• DSBO reported it has no backlog of new applications. • CDOT reported it has no backlog of new applications.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
o None		

AGENDA ITEM	VII. S.L. King Technologies Follow-up
DICUSSION	• Item VII from August 12, 2010 meeting • Discussed the history of this firm for benefit of Del Walker • Firm initially applied with CDOT • Just before a determination was made, CDOT learned that DSBO had already certified the firm (March 2010) • Firm has a sister firm, SL King & Associates owned by applicant's husband • Firms are affiliates, meaning revenues must be aggregated • On that basis, revenues too large for engineering work codes, in addition, no Colorado PE license • Engineering should not have been given • DSBO has taken steps to remove engineering work codes • RTD has not yet received information from DSBO

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
o Resend information showing SL King Technology's certification status	**DSBO (Jocelyn, Mark?)**	2 weeks
o Check SL King Technologies UCP Status o (UCP indicates 10503., 21103, 40104, 50201, 50202; no engineering work codes)	**Randy**	Completed

AGENDA ITEM	VIII. Next Meeting
DICUSSION	• Not discussed

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
o **Send Outlook Invitation**	**Randy**	Completed

The meeting adjourned at 3:00 pm.

Colorado UCP Certification Meeting
Monday, February 28, 2011 10:00 am

Present: Tamela Lee, City & County of Denver; Debra Gallegos, CDOT; Christina Tubb, RTD; Sue Podczervinski, City of Colorado Springs

Staff Present: Jocelyn Robinson, City & County of Denver; Greg Diehl, CDOT; Randy Liljenberg, CDOT; Michael Washington, RTD

AGENDA ITEM	I. Review Minutes of November 19, 2010 Meeting	
DICUSSION	• Approved.	
ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**
o None		n/a

AGENDA ITEM	II. Certification Application Statistics	
DICUSSION	• CDOT new application data for 2009 and 2010 previously sent to RTD. • RTD asked what "Closed" meant. • Most of those "Closed" for not responding to requests for information.	
ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**
o Send to DSBO and Debra.	**Randy**	Completed 3/1/2011
o DSBO send data to RTD and CDOT	**Jocelyn**	2 weeks

AGENDA ITEM	III. Exchanging Application Data between CDOT & DSBO	
DICUSSION	• In order to accurately track DBE participation, CDOT needs the following from DSBO: new certifications, revocations. Also, need new applicants, and denials. • Greg - CDOT moving to a new database in the next year will require changes in the interface between CDOT and DSBO.	
ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**
o DSBO will send on a monthly basis all new applications, denials, certifications, and revocations.	**Jocelyn**	On-going
o CDOT will send the same to DSBO, monthly	**Randy**	On-going

AGENDA ITEM	IV. Sue stepping down, replacement	
DICUSSION	• Sue has been semi-retired since 2009, now working as a temp, duties being divided between Airport and Transit. • How to go about finding a replacement, suggestions? • Someone with an interest, from outside the Denver Metro area. • Put out feelers.	
ACTION ITEMS	**PERSON RESPONSIBLE**	**DEADLINE**
o Sue will make an inquiry of Pueblo Transit to gauge interest.	**Sue**	n/a
o Debra will ask CDOT's Aeronautics Division Director for leads.	**Debra**	n/a

AGENDA ITEM	V. Request to create new work code for Sustainability Services
DICUSSION	• Background – currently certified firm (by DSBO) has requested the creation of a new work code, Sustainability Services; has submitted a petition with signatures of 20 firms that provide the services and would like to see this work code created; question remains, would a UCP member count this toward a DBE goal. • In August, the UCP must complete a conversion to NAICS as the primary way of identifying what DBE firms provide on the directory; in NAICS, there is no specific Sustainability number, a firm providing those services would be listed under 541990, miscellaneous services, with a description of the services, essentially the same as now. • In light of the coming revamping of the work codes, Randy proposed a moratorium on the creation of new work codes, which the committee agreed to.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
o Provide the firm with a new work code, 52100 Miscellaneous Services, and a description, along with a letter explaining the moratorium, coming changes to NAICS and how that change will impact this firm specifically.	**Jocelyn**	2 weeks

AGENDA ITEM	VI. Next meeting
DICUSSION	• April at DSBO • Joint Venture work group to develop policy and procedures relating to JVs in the DBE Program.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
o Jocelyn to schedule April meeting and send out invitations.	**Jocelyn**	
o Michael Washington to send invitations for JV discussion.	**Michael**	

AGENDA ITEM	VII. Final Rule
DICUSSION	• Most provisions take effect today, 2/28/2011. • Four major provisions affecting Certification and the UCP. • 2/28/2011 PNW has risen from $750,000 to $1.32 million; all references to SBA MOU removed (no longer accept SBA applications.) • 8/28/2011 directory must be revamped to use NAICS as primary way of identifying work DBEs do. • 1/1/2012 interstate certification. • Randy received an ok from Bob Ashby to modify the application removing references to the SBA MOU and shortcut, and updating PNW to $1.32 million; already posted on CDOT's website.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
o Forward new application to DSBO/Jocelyn	**Randy**	Completed 3/1/2011
o Forward WASHTO final rule matrix to everyone.	**Randy**	Completed 3/1/2011
o Inquiry to WASHTO states regarding how they plan to address NAICS requirement.	**Debra**	April meeting
o Research what other UCPs are currently doing regarding NAICS (standard descriptions?).	**Randy**	April meeting
o Schedule meeting for March to begin to develop a plan for converting to NAICS.	**Randy, Jocelyn, and other interested person**	March
o Develop policy regarding interstate certification.	**Committee**	April meeting

The meeting adjourned at 1:20 pm.

Colorado UCP Certification Meeting
Monday, April 25, 2011 10:00 am
City and County of Denver – Webb Municipal Building

Present: Tamela Lee, City & County of Denver; Debra Gallegos, CDOT; Jocelyn Robinson, City & County of Denver; Greg Diehl, CDOT; Randy Liljenberg, CDOT; Michael Washington, RTD

Absent: Christina Tubb, RTD

AGENDA ITEM	**I. B2G Proposal**		
DICUSSION	Currently file transfers to add to UCP directory takes 1 week. DBE/ESB will be part of new system. Justin is working on how we might continue processing with little interruption. Justin will move the website to read only, to eliminate possible erroneous information being transferred. Denver has a contract with B2G until 2016, per Tamela		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o Follow-up with Justin to check on costs		Diana Lopez	
AGENDA ITEM	**II. NAICS Codes/UCP Project**		
DICUSSION	Updated work codes need to be in the system by the end of August. Randy has started working on transition from 14,000 different industries into approximately 500. Randy would like assistance on what codes should stay. Denver, RTD and ACDBE personnel will review. Need to verify that numbers will coincide with additional duties under code descriptions. Discussed how to notify contractors about the different work code assignment, map, letter and certificate.		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o Randy will set meeting with planners; Diana, Vickie Padilla and Jocelyn		**Randy**	
o Tamela will check with Public Works about codes		**Tamela**	
AGENDA ITEM	**III. Post-Tensioning Reinforcing Services**		
DICUSSION	Valorie Yarbrough joined in the discussion about PRS and their continued certification. Based on her investigation the company hires its personnel through a union arrangement. PRS and JDSteel are the only signatory on the union contract. The union is located at the office of JDSteel. There are no local offices for PRS. The foreman for PRS was sent to the worksite after the preliminary complaint was received about workers are JDSteel employees. The question came up if PRS is a supplier of steel. It was determined that they are only the installer of reinforced steel per their work code.		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o Valorie will visit the work site o Prepare letter that PRS is not a supplier of steel		**Valorie and Jocelyn** **Jocelyn**	
OTHER ITEMS	**Denver Disparity Study**		
DICUSSION	Tamela read the comments submitted about the disparity study. The disparity study team will be select by June 20th. The length will be from 12 – 18 months.		

Meeting adjourned 1:25PM.

Colorado UCP Meeting
Thursday, August 11, 2011 3:00 pm
Colorado Department of Transportation, Room 200

Present: Tamela Lee, DSBO; Debra Gallegos, CDOT; Christina Tubb, RTD; Jocelyn Robinson, DSBO; Greg Diehl, CDOT; Randy Liljenberg, CDOT; Michael Washington, RTD; Katherine Williams, CDOT; Anthony Lincoln, DIA

AGENDA ITEM	**I. Review and approve minutes of April 25, 2011 meeting**		
DICUSSION	Accepted without comment or revision.		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o None			
AGENDA ITEM	**II. B2G Proposal**		
DICUSSION	Greg – continue discussion on topic of potentially using B2G to host the DBE directory, rather than CDOT, and potential costs involved. CDOT and RTD indicated they would be able to contribute		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o **Schedule conference call with B2G (Justin), Christina, Tamela, Jocelyn, Anthony, and Greg.**		o **Jocelyn**	o
AGENDA ITEM	**III. Replacement for Colorado Springs Representative**		
DICUSSION	Randy noted that UCP agreement calls for 4 members on the Executive Committee (UCPEX), and that there is still an opening following Sue P.'s retirement from Colorado Springs. Still looking for a 4th member, preferably from one of the smaller, rural members, and ideally a 5th in order to break ties. If no-one comes forward, the possibility exists to modify the agreement, put it before the entire membership, and reduce UCPEX to 3 members. Must go before entire membership because of the fundamental nature of the change.		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o **Through FAA contacts, reach out to rural members.**		**Tamela**	
o **Send letter to entire membership asking for volunteers for UCPEX.**		**Randy**	
AGENDA ITEM	**IV. Local Programs**		
DICUSSION	Greg – MOUs with local agencies. Discussed with RTD prior to meeting.		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o **None.**			
AGENDA ITEM	**V. Review application procedures**		
DICUSSION	1. Tamela: policy on non-transportation-related certification. Specifically, an in-state firm, providing loan processing services, applied out of state (Massachusetts Housing Authority. That agency insisted that the firm become DBE certified here, and so applied with DSBO. UCP agreement requires applicants provide a service that can be used by a UCP member toward a DBE goal. Jocelyn to inquire of this agency what the nexus is to USDOT's DBE Program. If nothing, suggest other alternatives. Processing this application without a connection to this Program establishes a precedent we don't want, that we become a clearinghouse for anyone seeking certification without a connection to USDOT's program. 2. Tamela: UCP policy on applications less than 6 months old. Specifically, received an application from a new business for all certifications. Ordinance requires firms be at least 6 months old for local-program certification, which is not the case for DBE certification. DSBO, understandably does		

	not want to process twice, but the UCP Agreement calls for DSBO to go forward with the DBE application. DSBO can then "flip the switch" and certify the firm once the 6 months has been met.		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o **None.**			
AGENDA ITEM	**VI. NAICS Codes/UCP Update**		
DICUSSION	Randy updated on the process of the work code conversion. Nearing completion, but have meeting scheduled to gain industry input on construction codes. Also, business case has been submitted to CDOT management to enlist IT assistance to convert the back-end of the system.		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o **Forward progress to Michael and Jocelyn for review and comment.**		**Randy**	**Completed**
AGENDA ITEM	**VII. Interstate Certification**		
DICUSSION	Provisions of 49 CFR 26.85 take effect January 1, 2012. COUCP must choose one of two approaches, to continue as we do now by reviewing each out-of-state application (though with modifications), or to accept the home-state certification as "good-enough." The UCPEX members were polled and unanimously agreed to continue as we do now, to review each application under the new constraints of the revised Regulation. Also noted and discussed was that the Regulation continues to allow us to enter into approved reciprocity agreements with other state UCPs. It was agreed to explore those types of agreements.		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o **Discuss reciprocity with other state UCPs at WASHTO meeting.**		**Debra**	
AGENDA ITEM	**VIII. Next Meeting**		
DICUSSION	Schedule for first week of December, at DSBO.		
ACTION ITEMS		**PERSON RESPONSIBLE**	**DEADLINE**
o Send meeting invites		Randy	2 weeks

Meeting adjourned at 5:00 pm.

COLORADO UCP MEETING
Tuesday, November 15, 2011, 10:30AM
Webb Municipal Building, Room 2.J.5

Present: Tamela Lee DSBO, Chris Martinez DSBO, Jocelyn Robinson DSBO, Debra Gallegos CDOT, Greg Diehl CDOT, Randy Liljenberg CDOT, Christine Tubb RTD, Michael Washington RTD

I. Review and approve minutes of August 11, 2011

Minutes accepted without comment or revision. Moved by Debra, 2nd by Christine.

II. Colorado Springs Opening/Replacement

In 2003 USDOT changed requirements to have a one-stop-shop for certification. The result was one UCP, two certifying agencies; City of Denver and CDOT. There is still an opening on the committee for a replacement from the retirement of Susan P. from Colorado Springs Airport. Ideally looking for rural representation. Randy will look for volunteer or two for UCP membership. Christine will look for transit organizations.

III. Tamela leaving the City and replacement is Chris Martinez

Chris Martinez was introduced to the group as the new Director of DSBO.

IV. Review application procedures/backlogs/case-by-case circumstances

City is working at completing files within 70 days, CDOT is about the same.

V. Coordinating renewal dates

The City is aligning dates with CDOT-DBE certifications if the company has SBE and M/WBE certifications. Also coordinating application and moves.

VI. NAICS work code conversion progress and update

NAICS conversion will be effective mid-December. The conversion replaces our work codes. Randy has sorted through 20,000 lines weeding out 98% of the lines that do not affect our programs. Greg has asked for meeting information from respective partners to introduce the conversion to our customers. He will also identify webinar training.

VII. B2G Migration of Directory

When the new UCP was introduced, certificates with numbers at 7,000 and above where easily as City of Denver. CDOT had 6999 and below. The certificate numbers are for identification only. Denver doesn't use them at all. The UCP partners will process certificates with all new applications and renewals. However certificates will be eliminated at the time of conversion. Barring any complications from compliance or other data bases, B2G will have a new field that identifies who holds the certification.

VII. Interstate Certification
The UCP partners will review all interstate applications. Applicants are complaining how long it takes to process applications. However, the decision has been made that we will not automatically certify out of state applications just because they have been certified in another state.

VIII. Pikes Peak Steel
Pikes Peak Steel wants to be classified as a manufacturer of steel products. It has been determined that there are no other companies in our data base that has that code, even though it is part of the NAICS code. We will be conducting a site visit and determination in the near future.

IX. Next Meeting
RTD had agreed to host our next meeting January 2012.

Meeting adjourned at 12:30PM

COLORADO UCP MEETING
Thursday, February 02, 2012
RTD, 1600 Blake St.

Present: Jocelyn Robinson, DSBO
Debra Gallegos, CDOT
Randy Liljenberg, CDOT
Christina Tubb, RTD
Michael Washington, RTD

Absent: Chris Martinez DSBO
Greg Diehl, CDOT

I. Review and approve minutes of November 15, 2011

Minutes accepted without comment or revision. Moved by Christina, 2nd by Jocelyn.

II. Colorado Springs Opening/Replacement

Christina Tubb noted that she had not heard back from the individual(s) she contacted. The Executive Committee agreed to table the discussion until after the CASTA conference (statewide transit conference). RTD representatives will talk to other transit representatives

III. New Director and New Work Codes

The new directory is up and running. There was a discussion about adding and creating new work codes. Specifically there was a discussion about a work code of "Administration".
The UCP members agreed to ad 541611 "Administrative and General Management Consulting Services" to the work codes.

IV. Interstate certification, review the process; Interstate/Regional UCP

The UCP members reviewed the process, requirements, and timelines for processing out-of-state applications.

Randy will update UCP plan to reflect those changes, as well as changes for work codes, and removal of reference to the SBA MOU.

IX. Next Meeting

RTD agreed to host our next meeting May 2, 2012.

Meeting adjourned at 12:30PM

Colorado UCPEx Certification Meeting
October 22, 2012
City and County of Denver, 201 W. Colfax

Attendees: Chris Martinez, City and County of Denver
Greg Diehl, Colorado Department of Transportation

Staff: Jocelyn Robinson, City and County of Denver
Randy Liljenberg, Colorado Department of Transportation
Katherine Williams, Colorado Department of Transportation
Anthony Lincoln, Denver International Airport

Absent: Kenn Hardin, Regional Transportation District

Discussion Topics:

- Review and approve minutes of February 2, 2012 meeting – Randy
  - Currently have two vacant positions, therefore quorum by attendance of 2 of 3 remaining members (City and CDOT);
  - City (Jocelyn) moves to accept the minutes; Randy second;
  - **Action item: Ask FTA subrecipients (potentially RFTA) to become member of UCPEx.**

- Review of UCP agreement
  - Randy updated group of all changes to the UCP agreement;
  - UCP agreement calls for semi-annual meetings; will keep as a floor going forward;
  - Committee will strive to hold quarterly meetings
    - CEI Meetings: 4th Tuesday of every month from 9-11;
    - **Once every three months it will be on the same day as the CEI meeting;** RTD has board meetings on Tuesday so we can adjust as necessary;
    - **Next meeting: 4th Tuesday of January; January 22, 2013 1:00pm (Jocelyn to calendar and send invite; will be hosted by CCD).**
  - In UCP agreement (p5) it states that we will update the UCP Directory at a minimum frequency of once a week, but this is occurring daily; leave language as is;
  - We should have a means of communicating firms that are under investigation;
    - **Action item: Make firms under investigation an agenda item for UCP meetings;**
  - CDOT to move to electronic application by the end of 2012;
  - Reapplication by firms that have been denied must reapply to the denying agency if reapplying with three years (p6) – there is a possible exception if firms submit a written request, revise language in exception from "will be made" to "may be made;"
  - Added requirement that firms that have withdrawn previous applications and reapply within one year must reapply to the original agency. Jocelyn and Randy have already discussed and implemented this process, needed to be formally added to the Plan; does not apply to transfers;
    - **Action item: Agency will record in B2G and need to make sure this can be tracked and seen by both parties;**
  - Now that DSBO and CDOT are on the same directory platform (B2G), it is no longer necessary for DSBO to send CDOT information regarding trucking.

    - **Action item: Both must add number of trucks manually in the "Business Description" field; format to be used is "X eligible to be counted;"**
  - Clarification on counting issue: in order to count you must have the work code for the work that you are actually performing (primary issue is construction management; being used as a replacement for General Contractors, now that they have been done away with; also used as a means of continuing work after graduating);
  - Interstate Certification (p11 - entire section is new): Can ask for additional information to supplement an outdated application. May also request information from all applications to other states. Denials and decertification should be recorded in the national database. We are proposing that DBEs must maintain certification in the home state.
    - **Action item: Could add to our affidavits the question of whether they have been decertified in their home state;**
  - All agree to changes in the UCP Agreement;
    - **Action item: Randy to add to Plan: To become certifying member must (1) maintain the same software system for certification as the rest of the certifying members; (2) be a UCP member; and (3) be able to independently manage and control the certification process with at least one full time employee dedicated to management of the certification process.**
    - **Action item: Randy to complete comments made today and provide to all for review.**

- MOUs – Katherine/Greg
  - Working on revised template; needed to solidify with RTD;
    - **Action item: Need to highlight the need for the MOU in responses to the NPRM.**

- Revisit certification numbers – Randy
  - Unnecessary to reinstate certification numbers;
  - City maintains hard copy for each applicant by alphabet;
  - B2G will not find unless listed exactly; imperative that we enter exact legal name.

- NAICS codes, DSBO work codes progress/update – Jocelyn
  - Hope to have conversion completed by the beginning of the year;
  - As firms are renewed, the work codes are changed.

- Disparity Study – Chris
  - Ordinance for local program expires in June 2013;
  - Market is statewide and report due end of year;
  - Second Thursday of every month from 9-11.

- Executive Committee Discussion
  - How will we handle tie situations? Do we want to have unanimous consent for change in UCP structure (ex: certifying members, executive members);
    - **Action item: Randy to revise language in plan regarding quorum and voting.**

- 2009 FTA Review – Greg
  - DSBO – no due process provided prior to revocation; must give a hearing.

- RMMSDC – Randy

- Leftover business from February meeting; Debra (prior to her retirement) had been approached by RMMSDC about reviving an MOU they had with CDOT;
- Randy provided historical perspective on the expired MOU;
- Consensus that what they really seek is (1) reciprocity; and (2) ultimately to become a certifying member of the UCP;
- Consensus that reviving the MOU is not a priority at this time;
- May consider after implementation of plan modifications.

- Read-only access to reports on B2G for RTD
  - Has been provided by Randy to Kenn

- NPRM Comments
  - Clarification between suspension and debarment;
  - CCD asks for PNW information from all individuals if no one individual owns 51%; argument is that there is not one in control and therefore all must be considered;
  - Greg proposing that we raise PNW and do not make reductions;
  - Comment on new bidding procedures;
  - Replacement requirements may be unduly burdensome;
  - Special trucking provisions – oppose;
  - Brokers – suggest that brokers be removed;
  - We will send together and individually;
    - **Action item: Provide comments for UCP submission to Randy no later than Friday October 26 to allow time to compile and submit by the November 5, 2012 deadline for comments.**

- Next Meeting
  - 4th Tuesday of January; January 22, 2013 1:00pm;
    - **Action item: Jocelyn to calendar and send invite; will be hosted by CCD).**

Colorado UCP Certification Meeting
January 22, 2013
City and County of Denver, 201 W. Colfax

Meeting Minutes

Attendees:

- Chris Martinez, City and County of Denver
  Randy Liljenberg, Colorado Department of Transportation
  Jocelyn Robinson, City and County of Denver

Discussion Topics:

- Review and approve minutes of October 22, 2012

- NPRM comments submitted
  -Comments sent to Feds months ago. PNW is 5 pages long. There has been no decision

- Denver still has not updated all work codes to NAICS codes. Per Jocelyn, we will work on this

- Proposed directory changes adding ethnicity and gender.
  -Chris will make the decision and report back soon.

- Firms under investigation at Denver and CDOT
  -Performance Electric (Denver) questionable affiliation relationship
  -Family Environmental (Denver) revocation due to exceeding PNW
  -Sandoval Reinforcing (Denver) affiliation question with husbands business
  -Lobos Structures (CDOT) dad loans son $600,000, provided PNW but questionable

- Construction management/general contractors
  -General contractors will be counted for what they do on a project. Construction management does not equal general contractors. Construction management is a consultant function. General construction can not be counted at 100%.

- Review certification letters
  -Will be reviewing B2G letters in system

- UCP Agreement
  -Randy sent MOU to RMMSDC
  -Randy will send around new UCP agreement

- Certification Training
  -Randy and Jocelyn will develop training and find a location to conduct in mid-March

- Other Business
  -Still looking for committee members

- Next meeting April 23, 2013 at Denver

Colorado UCP Certification Meeting
April 23, 2013
City and County of Denver, 201 W. Colfax

Meeting Minutes

Attendees:

Chris Martinez, City and County of Denver
Jocelyn Robinson, City and County of Denver
Valorie Yarbrough, City and County of Denver
Randy Liljenberg, Colorado Department of Transportation

Absent:

Greg Diehl, Colorado Department of Transportation
Kenn Hardin, Regional Transportation District

Discussion Topics:

- Review and approve minutes of January 22, 2013 meeting

- Denver still has not updated all work codes to NAICS codes
  - Per Jocelyn, we will continue to work on this
  - No other work code additions at this time
  - Randy brought up the two conditions to be met to add work codes – able to meet the DBE goal of a UCP member and 2 or more firms engaged; asked for opinions on doing away with the 2nd condition. Agreed to leave it as is

- Follow-up with Chris on proposal from January meeting to add ethnicity and gender to the directory.
  - Chris gave his approval
  - Randy will instruct B2G to make the change

- Review General Counsel letter regarding State registration – Jocelyn
  - Agreed that letter is unclear that it refers to Foreign Entity registration with Secretary of State, refers to business licensing
  - Will continue to require Foreign Entity registration from out-of-state firms

- Firms under investigation
  - Sandoval Reinforcing (Denver), pending revocation, under review by City Attorney

- Revocations
  - Guild Associates, dissolved, has been revoked
  - Acura Engineering, has been revoked

- Construction Management/General Contractors – Jocelyn
  - Discussion with DSBO-certified DBEs continues, some see Construction Management as a replacement for General Contractors
  - Must understand the definition and role of Construction Managers

- The principle that must be adhered to is that certification for specific work codes should be granted only for work the disadvantaged owner controls, which includes that for which the firm possesses the necessary equipment
- Valorie asked the distinction between construction management and project management

- DSA Ventures file transfer
  - Firm requested file be transferred to CDOT; CDOT refused to agree, this file and past history is too messy for us to agree
  - File Transfers – CDOT proposed to amend the UCP Agreement eliminating the transferring of files; agreed to
  - Randy will amend the UCP Agreement

- Certification Training Day
  - Randy had to cancel training scheduled for March, lack of time to prepare
  - Randy and Jocelyn will get together to plan

- Old Business
  - Executive committee opening

- Other business?
  - Chris asked the question of how to handle ACDBE revocations, specifically, is a local appeal required
  - Randy to investigate
  - See 23.31(a); it says to follow 26 sections 61-91; Revocation is covered under 26.76, so applies to ACDBEs, meaning a local appeal is required

- Next meeting?
  - Tuesday, July 23, 2013, 1:00 pm – 4:00 pm at RTD

Colorado UCP Certification Meeting
July 23, 2013
Regional Transportation District, 1600 Blake Street

Meeting Minutes

Attendees:

Chris Martinez, City and County of Denver
Valorie Yarbrough, City and County of Denver
Jocelyn Robinson, City and County of Denver
Randy Liljenberg, Colorado Department of Transportation
Zamy Silva, Regional Transportation District
Dan Pearsall, Regional Transportation District
Kenn Hardin, Regional Transportation District

Absent:

Greg Diehl, Colorado Department of Transportation

Discussion Topics:

- Review and approve minutes of April 23, 2013 meeting

- **NAICS codes, DSBO work code progress.**
  All NAICS codes have been updated at the Denver database. Zamy asked for description of how we went to NAICS codes from our work codes. Discussed the process for work code additions and that there has to be a need based on the activity used to satisfy the goal and that there is more than one company that could use the goal.

- **Proposed directory changes.**
  Ethnicity and gender are now available on the database/directory.

- **Transferring files.**
  There continues to be discussions about transferring certifications from CDOT and Denver. CDOT feels its too complicated and hard to track where the file is located. Denver feels its better for the customer not to have two different dates for renewal. Randy is seeking clarification from USDOT regarding best practices.

- **Firms under investigation.**
  Sandoval (Denver), company has asked for a hearing but they are not represented by counsel.
  Rocky Mountain Reinforcement (RTD), questionable practices. Zamy will be reviewing the Denver file.
  Martinez Associates (Denver), this is at hearing level. Awaiting decision from DOT, Washington DC on their decision.

- **Revocations.**
  Local ACDBE revocations should be appealed on the local level, according to 26 Sections 61-91, revocations in 26.76.

- **Certification Training.**
  Randy and Jocelyn will work on re-visiting the training

- **Old Business.**
  There still is an Executive Committee opening

- **Other Business.**
  Zamy is looking for the total numbers of DBE's for an upcoming RTD report.

- **Next Meeting.**
  October 22nd, location CDOT

DRAFT

Exhibit P

CDOT/City and County of Denver
Local Agency MOU

SAP OLA# 351000097

RECEIVED
JUL 15 2011
BY:

MEMORANDUM OF UNDERSTANDING BETWEEN CITY AND COUNTY OF DENVER AND COLORADO DEPARTMENT OF TRANSPORTATION FOR ENSURING COMPLIANCE WITH FEDERAL DBE REQUIRMENTS ON "LOCAL AGENCY" PROJECTS

This MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into as of July 14, 2011, by and between the City and County of Denver, a municipal corporation of the State of Colorado, hereinafter referred to as the City, and the State of Colorado on behalf of the Colorado Department of Transportation, hereinafter referred to as CDOT.

WHEREAS, CDOT has developed a Local Agency Manual (available at http://www.coloradodot.info/business/designsupport/bulletins_manuals) to ensure all project work shall be done in accordance with State and Federal laws, rules and regulations; and

WHEREAS, the term "Local Agency" refers to a public agency, local public agency, established publicly owned organization, or private interest that can legally enter into an agreement with CDOT for a transportation project; and

WHEREAS, the City and County of Denver has a USDOT approved DBE Program Plan and monitoring system and CDOT is secure with the plan since it has received USDOT approval and therefore allowing the City to set and monitor its own DBE goals on Denver "Local Agency" projects where CDOT is a contributor of funds received from USDOT; and

WHEREAS, the City and County of Denver has over the past several years administered its own DBE program in accordance with 49 CFR Part 26 for FAA and FHWA; and

WHEREAS, the City and County of Denver has submitted a joint FAA and FHWA DBE Program Plan that has been approved by USDOT and which should serve as the basis for allowing the City to administer its own DBE program; and

WHEREAS, CDOT and Denver agree to enter into this MOU to allow Denver to administer its own DBE compliance program setting forth how goals will be set and monitored and how achievement results will be reported from Denver to CDOT; and

WHEREAS, the City and CDOT through their federally approved Unified Certification Program (UCP) have established an ongoing and collaborative partnership with regularly scheduled meetings designed to address current issues involving DBE firms.

1. **City and County of Denver's Responsibility:** The City will be responsible for administering its DBE program for the benefit of CDOT as follows:

a. The City will establish DBE goals on City projects with federal funding received through CDOT in accordance with its federally approved DBE Program Plan.
b. The City will monitor project DBE goals with federal funding received through CDOT in accordance with its federally approved DBE Program Plan.
c. The City will provide CDOT with regular and ad-hoc (upon request) DBE participation reports on City projects with federal funding received through CDOT.
d. The City will use its data tracking system to provide reports to CDOT. See attached **Exhibit 1**.
e. The City will provide CDOT access to all necessary DBE participation data through the "Compliance" section (then "Active Projects" link) of the City's website. See attached **Exhibit 2** for basic procedures.

2. **Effect of MOU.** This MOU sets forth the intent of the signatories hereto. But it is not a legally binding document, and is not intended to confer remedies on any party in the event of its breach. All contracts or other written instruments requiring the assent of the City and County of Denver must be subscribed by the Mayor and attested by the City Clerk.

3. **Counterparts.** The MOU may be executed in counterparts, each of which is an original and constitute the same instrument.

CITY AND COUNTY OF DENVER
DIVISION OF SMALL BUSINESS OPPORTUNITIES

By: _____
Tamela Lee, Division of Small Business Opportunity Director

STATE OF COLORADO
DEPARTMENT OF TRANSPORTATION

By: _____
Tim Harris, CDOT Chief Engineer