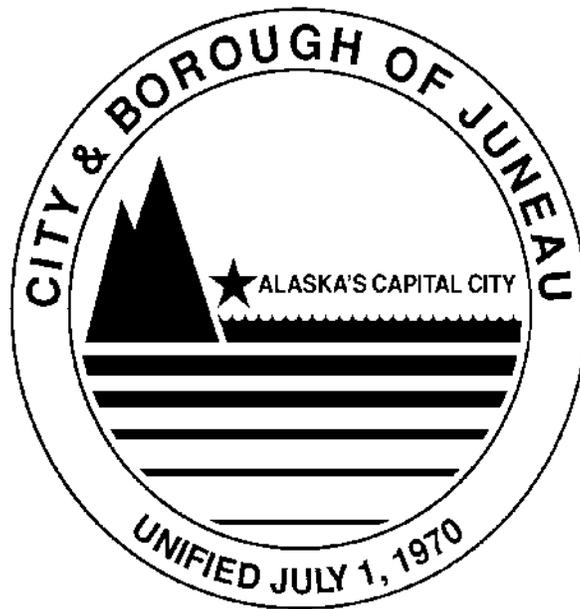


THE CITY AND BOROUGH OF JUNEAU
FFY 2013-FFY 2015 UPDATE
for
FEDERAL AVIATION ADMINISTRATION
PROJECTS
49 CFR, Part 26
Disadvantaged Business Enterprise Program



Merrill Sanford, Mayor

Kimberly A. Kiefer, City & Borough Manager

**CITY AND BOROUGH OF JUNEAU
DBE PROGRAM UPDATE
FOR FFY 2013 through FFY 2015**

Definitions of Terms

The terms used in this program have the meanings defined in 49 CFR 26.5. The website for this regulation is http://www.access.gpo.gov/nara/cfr/waisidx_02/49cfr26_02.html).

Objectives /Policy Statement (26.1, 26.23)

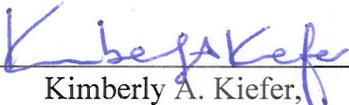
The City and Borough of Juneau has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City and Borough of Juneau has received Federal financial assistance from the Department of Transportation and as a condition of receiving this assistance, the City and Borough of Juneau has signed an assurance that it will comply with 49 CFR Part 26.

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

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

The Director of the Engineering Department, Rorie Watt, P.E., has been delegated as the DBE Liaison Officer. In that capacity, Rorie Watt, P.E. is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City and Borough of Juneau in its financial assistance agreements with the Department of Transportation.

The City and Borough of Juneau has disseminated this policy statement to the City and Borough of Juneau Airport Board and client departments which receive FAA/DOT funding. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts. This is accomplished by annual correspondence to businesses which have bid on City and Borough of Juneau projects as well as all DBE firms in Southeast Alaska.

Signed: 
Kimberly A. Kiefer,
City & Borough Manager

Date: 8/7/13

Nondiscrimination. (26.7)

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

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

DBE Program Updates (26.21)

We will continue to carry out this program until all funds from FAA/DOT financial assistance have been expended. We will provide to FAA/DOT updates representing significant changes in the program.

Quotas (26.43)

The City and Borough of Juneau does not use quotas in any way in the administration of this DBE program.

DBE Liaison Officer (DBELO) (26.25)

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

Mr. Rorie Watt, P.E., Director
City and Borough of Juneau
Engineering Department
155 S. Seward St.
Juneau, Alaska 99801
Phone (907) 586-0877
FAX (907) 463-2606
Email Rorie_Watt@ci.juneau.ak.us

Rorie Watt, P.E. is responsible for implementing all aspects of the DBE program and ensuring that the City and Borough of Juneau complies with all provisions of 49 CFR Part 26. Rorie Watt, P.E. has direct, independent access to the City Manager concerning DBE program matters. An organizational chart displaying the DBELO's position in the organization is found in Attachment 1 included with this document.

The DBELO is assisted in this program by the Engineering Contract Administrator and three Contract Specialists. Staff in these positions have the following duties and responsibilities:

1. Ensure that bid notices and requests for proposals are available to DBEs in a timely manner;
2. Identify contracts and procurements so that the DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitor results;
3. Provide DBEs with information and assistance in preparing bids, obtaining bonding and insurance, upon request;
4. Participate in DBE training seminars; and
5. Track all Bidders for projects with FAA/DOT funding (See Attachment 2).

Also assisting in implementation of the program are Project Managers for federal aid projects. The duties and responsibilities of these individuals are:

1. Review the information provided by Contractors regarding DBE participation;
2. Monitor work performed by Subcontractors to ensure work actually committed to a DBE Subcontractor at contract award is performed by that Subcontractor;
3. Maintain a running tally of actual DBE attainments, i.e. work performed and payments received by the DBE Subcontractor; and
4. Assist in determining appropriateness of Subcontractor replacement should a DBE Subcontractor be removed from a project.

The DBELO or his designee is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gather and report statistical data and other information as required by DOT;
2. Work with all departments to set overall annual goals;
3. Ensure that bid packages and requests for proposals are available to DBEs in a timely manner;
4. Identify contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitor results;
5. Analyze City and Borough of Juneau's progress toward goal attainment and identify ways to improve progress;

6. Participate in pre-bid meetings;
7. Advise the Airport Board and other client agencies on DBE matters and achievement;
8. Participate with legal counsel and project managers to determine Contractor compliance with good faith efforts;
9. Participate in DBE training seminars;
10. Act as the City and Borough of Juneau liaison to the Uniform Certification Process in Alaska;

Federal Financial Assistance Agreement Assurance (26.13)

City and Borough of Juneau has signed the following assurance, applicable to all DOT-assisted contracts and their administration:

The City and Borough of Juneau shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any FAA/DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The City and Borough of Juneau shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of FAA/DOT assisted contracts.

The City and Borough of Juneau'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 City and Borough of Juneau of its failure to carry out its approved program, the FAA/DOT may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

DBE Financial Institutions (26.27)

It is the policy of the City and Borough of Juneau to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage Contractors on DOT-assisted contracts to make use of these institutions. Juneau has one lending institution that is owned and controlled by socially and economically disadvantaged individuals. This institution only handles mortgage loans. Attachment 3 has a list of each lending institution contacted.

Directory (26.31)

The City and Borough of Juneau maintains access to the State of Alaska Department of Transportation and Public Facilities (AKDOT&PF) DBE Directory, which identifies all firms in Alaska eligible to participate as DBEs. The directory provides a breakout by type of work and lists each firm's name, address, phone number, date of recertification, and the type of work that the firm has been certified to perform as a DBE. The AKDOT&PF DBE Directory is available in hardcopy or via the Internet through the AK DOT&PF Home Page at the following Internet address: <http://www.dot.state.ak.us>. AKDOT&PF updates their directory every week.

Over-concentration (26.33)

The City and Borough of Juneau has not identified an over-concentration of DBEs in a given type of work. An analysis for over-concentration for a given type of work shall begin when either of the following conditions has been met:

1. More than 50% of the total number of firms ready, willing and able to perform such work are composed of DBE firms; or
2. More than 50% of the total federal-aid dollars spent on such work during the previous federal fiscal year were earned by DBE firms.

Required Contract Clauses (26.13, 26.29)

Contract Assurance

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

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

Prompt Payment

We will include the following clause in each DOT-assisted prime contract:

The CONTRACTOR agrees to pay each Subcontractor under this Contract for satisfactory performance of its Contract no later than 8 days from the receipt of each payment the CONTRACTOR receives from the City and Borough of Juneau. The CONTRACTOR agrees further to return retainage payments to each Subcontractor within 8 days after the Subcontractor's WORK is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur

only for good cause following written approval of the OWNER. This clause applies to both DBE and non-DBE Subcontractors.

The CONTRACTOR agrees to comply with AS 36.90.210. (See Attachment 4.)

Monitoring and Enforcement Mechanisms (26.37)

DBE Contract Specification

“Section 00420 – DBE Goals” is the specification used in all contracts funded by DOT. This is included as part of the DBE program as Attachment 5.

Commercially Useful Function

In order to be in compliance with the program and eligible for DBE credit, a DBE must perform a Commercially Useful Function as defined by 49 CFR, Part 26 and Section 00420.

Monitoring of Projects

Project managers review the information provided by Contractors regarding DBE participation. During performance of the contract, project managers monitor work performed by Subcontractors to ensure work actually committed to a DBE Subcontractor at contract award is performed by that Subcontractor. This will include a running tally of actual DBE attainments, i.e. work performed and payments received by the DBE Subcontractor. DBE participation is not credited toward overall or contract goals until payment has been made to the DBE firm.

Penalties and Sanctions

Compliance with 49 CFR 26 and this program is essential. Failure to comply will result in enforcement action against those not complying. Actual enforcement action could be anything available under Federal, State, or Local law. It will depend upon the infraction but could take the form of:

1. Suspension of Work - All CBJ construction contracts contain Section 00700 – General Conditions. Paragraph 15.1 covers Suspension of Work by Owner. See Attachment 6.
2. Termination – All CBJ construction contracts contain Section 00700 – General Conditions. Paragraph 15.2 covers Termination of Agreement by Owner (Contractor Default). See Attachment 6.
3. Suspension of Contractor - The CBJ Purchasing Code (Section 53.50.400 – 53.50.440) allows suspension of a Contractor for up to three months. See Attachment 7.
4. Debarment - The CBJ Purchasing Code (Section 53.50.400 – 53.50.440) allows debarment of a Contractor for up to three years. See Attachment 7.
5. Hearing and penalty – Alaska Statute 36.30.115 places strict requirements upon Contractors with regard to Subcontractors. See Attachment 8.

Legal Remedies

The City and Borough of Juneau will bring to the attention of the FAA/DOT any false, fraudulent, or dishonest conduct in connection with the program, so that FAA/DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the FAA/DOT Inspector General, action under suspension and debarment or Program Fraud and

Civil Penalties rules) provided in 26.107. We also will consider similar action under our own legal authorities, including responsibility determinations in future contracts.

Overall Goals (26.45)

Amount of goal

City and Borough of Juneau's overall goal for FFY 2014 through FFY 2015 for DBE participation in FAA/DOT-assisted contracts is the following: 5.92% of the Federal financial assistance will be expended in FAA/DOT-assisted contracts.

The contracts anticipated for these Federal Fiscal Years are as follows:

<u>FFY</u>	<u>JNU Projects</u>	<u>Project Funding</u>
13	Construct Snow Removal Equipment Facility (SREF/Shop) – Phase II	\$25,000,000.00
13	Update Airport Master Plan	\$750,000.00
13	JNU Terminal Renovation Design	\$1,000,000.00
14	JNU Terminal Renovation Construction	\$9,000,000.00
15	Construction Rehab Runway 08/26	\$25,000,000.00
15	Design & Construction Apron, Drainage, Electrical, Taxiways & Tie-Downs (NE Quad)	<u>\$6,315,789.00</u>
	Total	\$67,065,789.00

Method

The following is a summary of the method we used to calculate our goal:

Step 1

We used the approach in 49 CFR, Part 26.45 (c) (1).

From the Alaska Department of Transportation and Public Facilities DBE Directory it was determined there are 18 active DBE firms in Southeast Alaska ready, willing, and able to perform work on our FAA/DOT assisted projects. This is the figure that we used in the numerator.

From the Census Bureau County Business Patterns for 2002 for the North American Industry Classification System (NAICS) code 23 (Construction) at website (www.census.gov/econ/census02/guide/g02zip.htm) we identified the following firms for our market:

<u>Southeast Alaska City</u>	<u>No. of Firms</u>
Haines	9
Juneau	124
Ketchikan Gateway	69
Prince of Wales/Outer Ketchikan	17
Sitka	50
Skagway, Hoonah, Angoon, Gustavus, Yakutat	11
Wrangell/Petersburg	<u>24</u>
Total	304

This total (304) became our denominator. Thus, our results for 18/304, is a relative availability percentage of 5.92%.

Step 2

Our historical average of DBE achievements for the past five years on FAA/DOT funded construction projects has been:

Federal Fiscal Year	Avg. Goal Achieved (%)	Annual Goal (%)
2008	0.0	5.2
2009	0.0	6.1
2010	0.0	5.5
2011 – 2012	31	5.8

The above 0% goals achieved represents a period of time during which an injunction was put in place by the 9th Circuit Court of Appeals, requiring all of our FAA/DOT-funded procurements to be race-neutral.

The number of available DBEs in Southeast Alaska has consistently been around 21 firms or less for the past five years. There are 6 FAA/DOT-assisted projects anticipated for FFY13 through FFY15 for the City and Borough of Juneau.

The City and Borough of Juneau has a total of \$67 million in FAA/DOT funded contracts, approximately \$63 million will be FAA/DOT funds, scheduled for FFY13 through FFY15. In addition, it is estimated that CBJ will have approximately \$104 million in Capital Improvement contracts that are not FAA/DOT funded for this same period.

Process

The City and Borough of Juneau will submit its overall goal to FAA/DOT on August 1 of each year. Before establishing the overall goal each year, the City and Borough of Juneau will invite all DBEs certified by the State of Alaska to comment on the proposed goal and to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the City and Borough of Juneau's efforts to establish a level playing field for the participation of DBEs. The following groups will also be invited to comment:

- The Alaska Department of Transportation and Public Facilities;
- The Alaska Chapter of Associated General Contractors (AGC);
- General Contractors from the bidder's list in development by the City and Borough of Juneau

Following this consultation, the City and Borough of Juneau will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the City and Borough of Juneau Engineering Offices for 30 days following the date of the notice, and informing the public that the City and Borough of Juneau and FAA/DOT will accept comments on the goals for 45 days from the date

of the notice. The goal will be advertised in one or more newspapers of general circulation in the State of Alaska and Southeast Alaska. Normally, the City and Borough of Juneau will issue this notice by June 1 of each year. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed.

The City and Borough of Juneau will begin using our overall goal on October 1 of each year, unless we have received other instructions from FAA/DOT.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

The City and Borough of Juneau will meet the maximum feasible portion of its overall goal by using race-conscious means of facilitating DBE participation. The City and Borough of Juneau uses the following race-neutral means to increase DBE participation:

1. When practicable, arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBE, and other small businesses, participation (e.g., unbundling large contracts to make them more accessible to small businesses, requiring or encouraging Contractors to subcontract portions of work that they might otherwise perform with their own forces);
2. Providing technical assistance and other services such as pre-bid meetings. Pre-bid meetings are held for all construction bids;
3. Provide assistance to start-up firms, particularly in fields in which DBE participation has historically been low, when requested;

We estimate that, in meeting our overall goal of 5.92%, we will obtain 5.92% through race-conscious measures.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation:

We will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following:

- DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures;
- DBE participation through a subcontract on a prime contract that does not carry a DBE goal;
- DBE participation on a prime contract exceeding a contract goal; and
- DBE participation through a subcontract from a Contractor that did not consider a firm's DBE status in making the award.

Contract Goals (26.51)

City and Borough of Juneau will use contract goals to meet any portion of the overall goal the City and Borough of Juneau does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

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

We will express our contract goals as a percentage of the total amount of a FAA/DOT-assisted contract.

Good Faith Efforts (26.53)

Information to be Submitted

City and Borough of Juneau treats bidder/offerors' compliance with good faith effort requirements as a matter of responsiveness.

Each solicitation for which a contract goal has been established will require the bidders to submit the following information within five (5) working days of notification of the apparent low bidder:

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

Demonstration of Good Faith Efforts

The obligation of the bidder is to make good faith efforts. The bidder can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to part 26.

The following staff member is responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible:

Jennifer Mannix, Contract Administrator, (907) 586-0873

The City and Borough of Juneau will ensure that all information is complete and accurate and adequately documents the bidder's good faith efforts before we commit to the performance of the contract by the bidder.

Administrative Reconsideration

Within ten (10) days of being informed by City and Borough of Juneau that it is not responsible because it has not documented sufficient good faith efforts, a bidder may request administrative reconsideration. Bidder should make this request in writing to the following reconsideration official:

Rorie Watt, P.E., Director
City and Borough of Juneau
Engineering Department
155 South Seward Street
Juneau, Alaska 99801

The request will be reviewed by the Reconsideration Committee, comprised of the Director of Engineering and the City Manager, who will not have played any role in the original determination that the bidder did not document sufficient good faith efforts.

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

Good Faith Efforts when a DBE is replaced on a contract

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

In this situation, we will require the Contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts. If the Contractor fails or refuses to comply in the time specified, Alaska Statute 36.30.115 places strict requirement upon Contractors with regard to Subcontractors.

Counting DBE Participation (26.55)

We will count DBE participation toward overall and contract goals as provided in 49 CFR 26.55.

Certification (26.61 - 26.91)

Alaska Unified Certification Program

The FAA/DOT has issued regulations in 49 CFR 26.81 (Subpart E) requiring that all direct and indirect recipients of FAA/DOT funding establish a Unified Certification Program (UCP). As a recipient of FAA/DOT funds, the City and Borough of Juneau has entered into a UCP agreement with other FAA/DOT recipients within the State of Alaska to form an Alaska Unified Certification Program (AUCP). Attachment 9 is a copy of the Alaska Unified Certification Program Agreement. Under the AUCP agreement, the Alaska Department of Transportation and Public Facilities (AKDOT&PF) will perform all certifications.

The AUCP uses the certification standards of Subpart D of part 26 and the certification procedures of Subpart E of part 26 to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. Certification decisions will be based on the facts as a whole.

Process

The certification application form and documentation requirements are found in Attachment 10. For information about the certification process or to apply for certification, firms should contact:

Corinne Rowland, DBE Certification Officer
Alaska Department of Transportation & Public Facilities
Civil Rights Office
P.O. Box 196900, Anchorage, AK 99519-6900
907-269-0853
corrine.rowland@alaska.gov

OR

Corlotta Robinson, DBE Certification Specialist
Alaska Department of transportation & Public Facilities
Civil Rights Office
P. O. Box 196900, Anchorage, AK 99519-6900
907-269-4812
corlotta.robinson@alaska.gov

In the event it is proposed to remove a DBE's certification, procedures consistent with 26.87 will be followed. Attachment 11, Operating Methods – Denial, Decertification, Third Party Complaints, and Informal Decertification Appeal Process, to this program sets forth these procedures in detail.

To ensure separation of functions in a decertification, the AUCP has determined that a member of the Western Region Executive Committee will serve as the knowledgeable decision-maker in a decertification appeal. By utilizing the resources of the Western Region Executive Committee, the AUCP has established an administrative firewall to ensure that the knowledgeable decision-maker will not have participated in any way in the decertification proceedings against the DBE firm (including in the decision to initiate such a proceeding).

If the AUCP denies a firm's application or decertifies it, the firm may not reapply until 12 months have passed from date of the AUCP's action.

Certification Appeals

Any firm or complainant may appeal the AUCP decision in a certification matter to FAA/DOT. Such appeals may be sent to:

Department of Transportation
Office of Civil Rights
Certification Appeals Branch
1200 New Jersey Avenue, SE
W78-338
Washington, DC 20590

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

Attachment 11, Operating Methods – Denial, Decertification, Third Party Complaints, and Informal Decertification Appeal Process, details the appeal system adopted by the AUCP.

"Recertifications"

The AUCP will review the eligibility of DBEs that were certified under former part 23, to make sure that they meet the standards of Subpart D of part 26. This review will be completed no later than three years from the most recent certification date of each firm. The CBJ DBE Directory lists the recertification date for each DBE firm.

For firms that the AUCP has certified or reviewed and found eligible under part 26, their eligibility will be reviewed within three years of their initial certification as a DBE or sooner if a written complaint is made against the DBE and brought to the attention of the AUCP. These reviews will include the following components of the DBE's recertification application:

- The DBE's social and economic disadvantage status, including but not limited to annual revenues and personal net worth;
- Control of the DBE;
- Independence of operations of the DBE;
- Historical review of work performance and bonding; and
- Validation interview and on-site inspection of the DBE.

"No Change" Affidavits and Notices of Change

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

The AUCP also requires all owners of all AUCP certified DBE's submit, on the anniversary date of their certification, a "no change" affidavit meeting the requirements of 26.83(j). The text of this affidavit is the following:

I affirm that there have been no changes in the circumstances of [name of DBE firm] affecting its ability to meet the size, disadvantaged status, ownership, or control requirements of 49 CFR part 26. There have been no material changes in the information provided with [name of DBE]'s application for certification, except for any changes about which you have provided written notice to the [Name Recipient] under 26.83(i). [Name of firm] meets Small Business Administration (SBA) criteria for being a small business concern and its average annual gross receipts (as defined by SBA rules) over the firm's previous three fiscal years do not exceed \$22.41 million.

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

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

Personal Net Worth

The AUCP will require all disadvantaged owners of applicants and of currently-certified DBEs whose eligibility under part 26 the AUCP reviews, to submit a statement of personal net worth annually, during the month the DBE would recertify their firm. (For example, a DBE's recertification date is March 2009; then, the DBE's personal net worth statement would be due annually during the month of March.)

Attachment 12 is the personal net worth and personal financial statement form. The affidavit and the documentation that respondents must submit with it may include, but is not limited to the submission of federal business and individual tax returns for the three most recent years.

Information Collection and Reporting

Bidders List

The City and Borough of Juneau will create a bidder's list, consisting of information about all DBE and non-DBE firms that bid or quote on FAA/DOT-assisted contracts. The purpose of this

requirement is to allow use of the bidder's list approach to calculating overall goals. The bidder's list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

We will require bidders to submit the required information when they submit a bid on FAA/DOT-assisted contracts. The City and Borough of Juneau will develop a database with this information. Failure to register this information will result in the rejection of the Contractor's bid. Attachment 2 is the form Contractors will be required to complete.

Monitoring Payments to DBEs

We will require Contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City and Borough of Juneau or FAA/DOT. This reporting requirement also extends to any certified DBE Subcontractor.

We will keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

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

Reporting to FAA/DOT

We will report DBE participation to FAA/DOT as follows:

The City and Borough of Juneau will submit by December 1, through the online reporting system called "DOORS", the FAA/DOT Form, "Uniform Report of DBE Commitments/Awards and Payments" for previous FFY.

Confidentiality

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than FAA/DOT) without the written consent of the submitter.