



Disadvantaged Business Enterprise Program

Connecticut Department of
Transportation



2025 Plan

Table of Contents

Subpart A – General Requirements	4
Introduction	4
Section 26.1 Objectives	4
Section 26.3 Applicability	4
Section 26.5 Definitions	5
Section 26.7 Non-Discrimination Requirements	9
Section 26.9 USDOT Guidance and Interpretation	9
Section 26.11 Recordkeeping Requirements	9
Section 26.13 Required DBE Contract Assurance	11
Subpart B – Administrative Requirements	11
Section 26.21 DBE Program Requirements	11
Section 26.23 Policy Statement	12
Section 26.25 DBE Liaison Officer	12
Section 26.27 DBE Financial Institutions	14
Section 26.29 Prompt Payment Mechanisms	14
Section 26.31 DBE Directory	14
Section 26.33 Overconcentration	15
Section 26.35 Business Development Programs	15
Section 26.37 Monitoring and Enforcement Mechanisms	16
Section 26.39 Fostering Small Business	17
Subpart C – Goals, Good Faith Efforts, And Counting	19
Section 26.43 Set-Asides or Quotas	19
Section 26.45 Overall Goals	19
Section 26.47 Goal Attainment	19
Section 26.49 TVM	19
Section 26.51 Meeting Our Overall Goals	20
Section 26.53 DBE Good Faith Effort (GFE) Procedures	23
Section 26.55 Counting DBE Participation	25
Subpart D – Certification Standards	26
Section 26.61 – 26.73 Certification Standards	26
Section 26.65 Business Size Standards	27

Section 26.67 Social and Economic Disadvantage Standards.....	27
Section 26.69 Ownership and Control	28
Section 26.71 Control	28
Section 26.73 Other Standards	28
Subpart E – Certification Procedures	29
Section 26.81 Unified Certification Program.....	29
Section 26.83 Procedures for Certification Decisions	29
Section 26.85 Interstate Certification.....	30
Section 26.86 Denials of Initial Requests for Certification.....	30
Section 26.87 Removal of Eligibility	30
Section 26.88 Summary Suspension of Certification.....	33
Section 26.89 Certification Appeals to DOT	33
Section 26.91 DOT Certification Appeals Decisions.....	34
Subpart F –Compliance and Enforcement.....	34
Section 26.101 Compliance Procedures for Recipients.....	34
Section 26.103 Enforcement Actions	34
Section 26.107 Enforcement Actions for Firms.....	35
Section 26.109 Information, Confidentiality, Cooperation.....	35
URL Summary List	36
Attachments.....	36

Subpart A – General Requirements

Introduction

The Connecticut Department of Transportation (CTDOT) submits this Disadvantaged Business Enterprise (DBE) Program Plan to the United States Department of Transportation (DOT), acting through the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA) in accordance with [49CFR Part 26](#), as amended.

The DBE Program described within this manual has been designed and implemented by the CTDOT to satisfy the DBE regulations codified at 49 CFR Part 26, as amended. SUBPART A – GENERAL REQUIREMENTS

Section 26.1 | Objectives

The CTDOT's DBE Program aims to achieve the following DBE regulatory objectives for all types of firms, contractors, and consultants:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the CTDOT's highway, transit, and airport financial assistance programs.
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts.
- To ensure that the CTDOT's DBE Program is narrowly tailored in accordance with applicable law.
- To ensure that only firms that fully meet the eligibility standards of Part 26 are permitted to participate as DBEs.
- To help remove barriers to the participation of DBEs in DOT-assisted contracts.
- To promote the use of DBEs in all types of DOT-assisted contracts and procurement activities.
- To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.
- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

Section 26.3 | Applicability

The DBE Program applies to all financial assistance where the CTDOT expends DOT funds, as well as to any sub recipient to whom the CTDOT extends federal financial assistance. The DBE Program requirements do not apply to projects that do not include federal assistance.

The CTDOT is the recipient of Federal-Aid highway funds authorized under Titles I (other than Part B) and V of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), Pub. L. 102-240, 105 Stat. 1914, or Titles I, III, and V of the Transportation Equity Act for the 21st Century (TEA-21), Pub. L. 105-178, 112 Stat. 107. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405; and Infrastructure Investment and Jobs Act Pub. L. 117-58, Nov. 15, 2021.

The CTDOT is the recipient of Federal Transit funds authorized by Titles I, III, V and VI of ISTEA, Pub. L. 102-240 or by Federal transit laws in Title 49, U.S. Code, or Titles I, III, and V of the TEA-21, Pub. L. 105-178. Titles I, III, and V of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU), Pub. L. 109-59, 119 Stat. 1144; and Divisions A and B of the Moving Ahead for Progress in the 21st Century Act (MAP-21), Pub. L. 112-141, 126 Stat. 405; Titles I, II, III, and VI of the Fixing America's Surface Transportation Act (FAST Act) Public L. 114-94; and Divisions A and C of the Bipartisan Infrastructure Law (BIL), enacted as the Infrastructure Investment and Jobs Act (IIJA) Pub. L. 117-58.

Section 26.5 | Definitions

The CTDOT uses the definitions contained in Part 26, Section 26.5, for this program. In addition, the following terms not included in Part 26, Section 26.5, will have the meanings provided in the Documents section of the manual.

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

- 1) One concern controls or has the power to control the other; or
- 2) A third party or parties controls or has the power to control both; or
- 3) An identity of interest between or among parties exists such that affiliation may be found

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

Agreement – contract instrument between the CTDOT and an entity for the provision of professional services.

Alaska Native – a citizen of the United States who is a person of one-fourth degree or more Alaska 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 who a Native village or Native group regards as an Alaska Native if their father or mother is regarded as Alaska Native.

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

Airport Concession Disadvantaged Business Enterprise (ACDBE) – a concession that is for-profit small business concern.

- 1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals who own it,
- 2) Whose management and daily business operations are controlled by one or more of the of the socially and economically disadvantaged individuals who own it.

Compliance – a recipient has correctly implemented the requirements of this part.

Concession – one or more of the types of for-profit businesses listed in paragraph (1) or (2) of this definition.

- 1) A business, located on an airport subject to this part, that is engaged in the sale of consumer goods or services to the public under an agreement with the recipient, another concessionaire, or the owner or lessee of a terminal, if other than the recipient.
- 2) A business conducting one or more of the following covered activities, even if it does not maintain an office, store, or other business location on an airport subject to this part, as long as the activities take place on the airport: Management contracts and subcontracts, a web-based or other electronic business in a terminal or which passengers can access at the terminal, an advertising business that provides advertising displays or messages to the public on the airport, or a business that provides goods and services to concessionaires.
- 3) For purposes of this subpart, a business is not considered to be “located on the airport” solely because it picks up and/or delivers customers under a permit, license, or other agreement. For example, providers of taxi, limousine, car rental, or hotel services are not considered to be located on the airport

just because they send shuttles onto airport grounds to pick up passengers or drop them off. A business is considered to be “located on the airport,” however, if it has an on-airport facility. Such facilities include in the case of a taxi operator, a dispatcher; in the case of a limousine, a booth selling tickets to the public; in the case of a car rental company, a counter at which its services are sold to the public or a ready return facility; and in the case of a hotel operator, a hotel located anywhere on airport property.

- 4) Any business meeting the definition of concession is covered by this subpart, regardless of the name given to the agreement with the recipient, concessionaire, or airport terminal owner or lessee. A concession may be operated under various types of agreements, including but not limited to the following: i) leases, ii) subleases, iii) permits, iv) contracts or subcontracts, v) other instruments or arrangements.
- 5) The conduct of an aeronautical activity is not considered a concession for purposes of this subpart. Aeronautical activities include scheduled and non-scheduled air carriers, air taxis, air charters, and air couriers, in their normal passenger or freight carrying capacities; fixed base operators; flight schools; recreational services providers (e.g., skydiving, parachute jumping, flying guides); and air tour services.
- 6) Other examples of entities that do not meet the definition of a concession include flight kitchens and in-flight caterers servicing air carriers, government agencies, industrial plants, farm leases, individuals leasing hangar space, custodial and security contracts, telephone, and electric services to the airport facility, holding companies, and skycap services under contract with an air carrier or airport.

Concessionaire – a firm that owns and controls a concession or a portion of a concession.

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

Contractor – one who participates, through a contract or subcontract, in a DOT-assisted highway, transit, or airport program.

CTDOT – State of Connecticut Department of Transportation (CTDOT)

Disadvantaged Business Enterprise or DBE – a for-profit small business concern,

- 1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- 2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DOT – 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)

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

DCO – CTDOT Division of Construction Operations

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

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

Immediate Family member – father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, father-in-law, sister-in-law, brother-in-law and domestic partner and civil unions recognized under State law.

Indian Tribe – 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.

Joint Venture – an association of a DBE or ACDBE 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 or ACDBE is responsible for 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. Joint venture entities are not certified as ACDBEs.

Management Contract or Subcontract – an agreement with a recipient or another management contractor under which a firm directs or operates one or more business activities, the assets of which are owned, leased, or otherwise controlled by the recipient. The managing agent generally receives, as compensation, a flat fee or a percentage of the gross receipts or profit from the business activity. For purposes of this subpart, the business activity operated or directed by the managing agent must be other than an aeronautical activity, be located at an airport subject to this subpart, and be engaged in the sale of consumer goods or provision of services to the public.

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

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

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

Noncompliance – a recipient has not correctly implemented the requirements of this part.

OOE – CTDOT Office of Equity.

OOC – CTDOT Office of Construction.

Operating Administration or OA – 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.

Overconcentration – A situation in which DBE firms perform such a disproportionate share of a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work.

Primary Industry Classification – the North American Industrial Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual <https://www.census.gov/naics/>.

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

Principal Place of Business – the business location where the individuals who manage the firm’s day-to-day operations spend most working hours. If the offices from where Management is directed and where business records are kept are in different locations, the recipient will determine the principal place of business. The term does not include trailers or other temporary construction sites.

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

Race-conscious – a race-conscious measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs and ACDBEs.

Race-neutral – a race-neutral measure or program is one that is, or can be, used to assist all small businesses, without making distinctions or classifications on the basis of race or gender.

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

Secretary – the Secretary of Transportation or his/her designee.

Set-aside – a contracting practice restricting eligibility for the competitive award of a contract solely to DBE or ACDBE firms.

Small Business Administration or SBA – United States Small Business Administration.

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

Socially and Economically Disadvantaged Individual – any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her individual qualities. The social disadvantaged must stem from circumstances beyond the individual’s control.

- 1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.
- 2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged: “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa; “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; “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians, “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, Macau, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong; “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal, or Sri Lanka; “Women,” Other,” any additional groups whose members are designated as socially

and economically disadvantaged by SBA, at such time as the SBA designation becomes effective.

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

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

Sub recipient – Any entity, public or private, to which the CTDOT has extended DOT financial assistance in support of the programs of the FHWA or FTA, or any entity that has applied for such assistance.

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

Tribally-owned Concern – any concern at least 51 percent owned by an Indian Tribe as defined in this section.

Unsworn declaration – means an unsworn statement, dated and in writing, subscribed as true under penalty of perjury.

You – refers to a recipient unless a statement in the text of this part or the context requires otherwise.

Section 26.7 | Non-Discrimination Requirements

The CTDOT shall 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 Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE Program, the CTDOT shall 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.

Section 26.9 | USDOT Guidance and Interpretation

The Secretary of Transportation, Office of the Secretary of Transportation, FHWA, FTA and FAA may issue written interpretations of or written guidance concerning this part. Written interpretations and guidance are valid and express the official positions and views of the Department of Transportation or any of its operating administrations, only if they are issued over the signature of the Secretary of Transportation or if they contain the following statement: The General Counsel of the Department of Transportation has reviewed this document and approved it as consistent with the language and intent of 49 CFR part 26.

Section 26.11 | Recordkeeping Requirements

The CTDOT reports DBE participation to each DOT agency in accordance with Part 26 recordkeeping requirements and with additional requirements imposed by FHWA and FTA in conformance with Part 26. The CTDOT will continue to submit the Uniform Report of DBE Commitments/Awards and Payments to FHWA and FTA at the intervals required by

and in the format acceptable to the concerned Operating Administration. Data used to populate the Uniform Report of DBE Awards or Commitments and Payments is collected by the CTDOT on an ongoing basis. The CTDOT consolidates the collected data and uses it to complete the Uniform Report, which is then forwarded to DOT to meet the appropriate deadlines.

The CTDOT will retain records documenting a firm's compliance with the DBE program requirements, this information will include the complete application for certification for each certified DBE firm, all Declarations of Eligibility, change notices, and on-site reports. Other certification compliance records shall be maintained for a minimum of three (3) years.

The CTDOT will report to the Department of Transportation's Departmental Office of Civil Rights each year the following information:

- (1) The number and percentage of in-state and out-of-state DBE certifications by gender and ethnicity (Black American, Asian-Pacific American, Native American, Hispanic American, Subcontinent-Asian Americans, and non-minority).
- (2) The number of DBE certification applications received from in-state and out-of-state firms and the number found eligible and ineligible.
- (3) The number of decertified firms:
 - (i) Total in-state and out-of-state firms decertified.
 - (ii) Names of in-state and out-of-state firms decertified because SEDO exceeded the personal net worth cap.
 - (iii) Names of in-state and out-of-state firms decertified for excess gross receipts beyond the relevant size standard.
- (4) The number of in-state and out-of-state firms summarily suspended.
- (5) The number of in-state and out-of-state applications received for an individualized determination of social and economic disadvantage status.
- (6) The number of in-state and out-of-state firms certified whose owner(s) made an individualized showing of social and economic disadvantaged status.

Bureaus and sections within the CTDOT report DBE commitments, DBE Awards and Commitments by running electronic reports from their database systems. The information is then forwarded to the OOE.

The CTDOT and sub recipients maintain all internal records relevant to DBE compliance, including, but not limited to commitments and awards, goal attainment, commercially useful function reviews, etc. for a minimum of three years.

Bidders List

In accordance with Title 49, Section 26.11 of the Code of Federal Regulations (CFR), for federally assisted contracts (FHWA or FTA), CTDOT requires prime contractors to provide information about: 1) themselves (prime contractor) 2) all subcontractors (DBE and non-DBE) included in the prime's bid and 3) all firms (DBE and non-DBE) who quoted to the prime contractor on subcontracting opportunities on the bid. CTDOT collects this information using an online form. The CTDOT will submit the data in the designated DOT system as required.

Section 26.13 | Required DBE Contract Assurance

The CTDOT and its sub-recipients have signed the following assurance, which is applicable to all DOT-assisted contracts and their administration:

The CTDOT 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 CTDOT 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 CTDOT'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 CTDOT of its failure to carry out its approved program, the DOT 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.).

Each DOT-assisted contract that the CTDOT signs with a contractor and each subcontract the prime contractor signs with a subcontractor must include the following assurance:

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

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

Sub-recipients must similarly require that each DOT-assisted contract that is signed with a contractor (and each subcontract the prime contractor signs with a subcontractor) include the above assurances.

Subpart B – Administrative Requirements

Section 26.21 | DBE Program Requirements

The CTDOT, as a direct recipient of federal funds, is required to establish a DBE Program and must apply the DBE Program to all expenditures of federal highway and transit funds. These expenditures include construction contracts, professional services, management services, and research. The CTDOT's sub recipients, as indirect recipients of federal funds, must comply with the CTDOT's DBE Program.

The CTDOT administers its DBE Program as required and submits periodic updates to DOT regarding significant changes in its program.

The CTDOT is not eligible to receive DOT financial assistance unless DOT has approved its program and the CTDOT is in compliance with its program as well as the requirements of part 26.

Section 26.23 | Policy Statement

The CTDOT's signed and dated DBE Policy Statement (Attachment 1) applies to the CTDOT as well as its sub recipients. It is disseminated CTDOT-wide, to sub recipients, and DBE and non-DBE business communities that perform work on the agency's DOT assisted contracts. The policy statement expresses the CTDOT's objectives and outlines the responsibilities for implementation. When updates are made to the DBE Program, notice is given to affected business units of the CTDOT and sub recipients; information and training is provided as needed. Significant changes to the program will be submitted to FHWA and FTA for approval.

Section 26.25 | DBE Liaison Officer

The CTDOT has designated the following individual as the DBE Liaison Officer (DBELO):

Debra Goss, Director
Office of Equity
Connecticut Department of Transportation
2800 Berlin Turnpike
Newington, CT 06111
(860) 594-2169

In this capacity, the OOE Director is responsible for directing all aspects of the DBE Program and for ensuring that the CTDOT complies with all provisions of Part 26.

This includes ensuring adequate staff to administer the program in compliance with Part 26. The OOE Director has direct independent access to the CTDOT's Commissioner concerning DBE Program matters. The organizational chart for the CTDOT showing the DBELO's access can be found in Attachment 3. The OOE consists of a Director, DBE Certification Manager, Associate Accounts Examiner, Accounts Examiner, DBE Supportive Services Manager, Contract Compliance Manager, Lead Planning Analyst, and Planning Analyst. The organizational chart for the OOE can be found in Attachment 4.

- The DBELO is responsible for administering and monitoring the DBE Program. Duties and responsibilities include but are not limited to the following:
- Gathering and reporting statistical data and other information required by DOT.
- Establish and submit the CTDOT's FHWA and FTA DBE Methodology and Goals.
- Review sub recipient contracts and purchase requisitions for compliance with this program.
- Work with contracting units to establish project goals.
- Participate in pre-construction and assignment meetings.
- Submit required reports.
- Administering the CTDOT's DBE Supportive Services Program.
- Administering the approved Small Business Program.
- Assisting in identifying contracting opportunities for DBEs.
- Analyzing the CTDOT's progress toward goal attainment and identifying ways to improve progress.
- Advising the CTDOT's Commissioner and Deputy Commissioner on DBE matters.
- Working to resolve disputes between prime contractors and DBEs, planning and participating in DBE training seminars, workshops, and networking sessions.
- Providing outreach to DBEs/SBEs and community organizations on how to do business with the CTDOT and to promote contracting opportunities.

- Certifying DBEs and Airport Concessionaire DBEs (ACDBEs) in accordance with the criteria set by DOT.
- Respond to USDOT certification appeals and conduct eligibility investigations.
- Maintaining and updating the statewide directory of certified CT UCPDBEs and ACDBEs.
- Advise the Screening Committee of goal achievement progress.
- Review updates to the DBE specifications and contract provisions.
- Make determinations of GFEs and project goal achievement.
- Act as an advocate for the program.

The CTDOT is responsible for the UCP for Connecticut and is the only agency authorized to perform DBE certification under 49 CFR for Connecticut. The OOE is responsible for performing on-site reviews and making certification determinations.

Although the responsibility for directing all aspects of the DBE Program lies within the OOE, responsibilities may be assigned to other agency departments to assist in the administration of the program. See Attachment 13 for a Roles & Responsibilities memo between the Office of Equity and Office of Construction, Division of Construction Operations (DCO).

Office of Contracts

- Accepts or rejects bids, based in part on proposed DBE goal achievement
- Coordinates GFE submissions to the Office of Construction, including data gathering
- Prequalifies prime contractors to bid on CTDOT administered construction projects.
- Collect Bidders List Information ("Bidders list Questionnaire") at the time of bid
- Provides ad hoc reports on DBE goals and commitments.

Office of Construction

- Approves proposed subcontractors
- Provides ad hoc reports on DBE goal achievement as requested by FHWA or FTA
- Coordinates with the DBELO to resolve project-related problems involving DBE participation
- Provides training to Districts on DBE involvement
- Monitors DBE goals for specific projects
- Reports on DBE project goal attainment
- Monitors Prompt Payment of DBE subcontractors
- Conducts project site record reviews for FHWA projects
- Verifies that DBE firms are performing a Commercially Useful Function (CUF)
- Monitors Prompt Payment and handles complaints
- Reviews Pre-award Commitments
- Determine DBE goal attainment at the end of a project and submits any shortfalls to the DBELO

Consultant Design

- Monitors DBE goals during the engineering phase for specific projects
- Provides data for reports on DBE goals, commitments, and attainments
- Prepare request for establishing DBE goals for specific projects for engineering and/or construction phases.
- Review Prime consultant's documents involving Good Faith Efforts and coordinate with DBELO for approval.

Agreements and Negotiations

- Reports on DBE project goal commitments
- Provides data for ad hoc reports on DBE goals and commitments

Consultant Selection Office

- Reviews proposals for proposed DBE involvement

Section 26.27 | DBE Financial Institutions

There are no DBE financial institutions in Connecticut. We have made efforts to identify institutions throughout the state.

The CTDOT and its DBE Supportive Services Consultant encourage and promote the use of small disadvantaged owned banks.

Section 26.29 | Prompt Payment Mechanisms

Prompt payment of subcontractors, suppliers, and/or dealers by a prime contractor is required by the CTDOT. The CTDOT requires that subcontractors be paid within 30 days of the prime receiving payment for work performed. Sub recipients are also required to have a contract clause requiring prime contractors to pay subcontractors within 30 days of receipt of payment or provide notification to the subcontractor and the CTDOT regarding the prime's reason for not paying.

Regarding the holding of retainage, the CTDOT follows 49 CFR 26.29 (b)(1) and does not hold retainage from its contractors and requires that its contractors not hold retainage from their subcontractors.

The CTDOT has contract language which holds the contractor responsible for paying subcontractors within 30 days of being paid or providing notification to the subcontractor and the CTDOT regarding the prime's reason for not paying. Failure of the Contractor to comply with the prompt payment provisions may result in a finding that the Contractor is non-responsible as a bidder for a CTDOT contract.

See Construction Directive CD-2024-2 (Attachment 14) and related documents (Attachments 15 and 16) for additional information.

The OOC addresses prompt payment when performing its Project Site Record Reviews on FHWA projects and in monthly progress meetings for FHWA and FTA projects. The prime contractor's procedures to ensure prompt payment of subcontractors are inspected during the Project Site Record Review. In addition, the following is included as part of the review.

- Are subcontractors being paid in a timely manner? Verify procedures to ensure prompt payment.

The CTDOT employs a proactive approach using AASHTOWare Project to monitor prompt payment. In addition, any allegation of prompt payment anomalies are investigated by the OOC in conjunction with District personnel and the DCO.

Section 26.31 | DBE Directory

The CT UCP maintains a shared database that produces the statewide directory of firms eligible to participate as DBEs on DOT-assisted contracts. The CT UCP database is electronic and provides updates to the online directory OED

in real time. For each firm, the CT UCP online Directory lists the firm name, address, owner, phone number, fax number, e-mail, website, applicable North American Industry Classification System (NAICS) codes, service category, and a description of work the DBE has been certified to perform.

A searchable online directory of certified DBEs can be viewed by visiting https://www.biznet.ct.gov/dot_dbe/dbesearch.aspx. The directory is available at no cost to all agency offices, contractors, consultants, construction/consultant associations, minority, women and small business development entities, federal/state agencies, all interested bidders/proposers, and the general public.

Section 26.33 | Overconcentration

The CTDOT has not currently identified the existence of overconcentration in the types of work that DBEs perform. If there is an area of overconcentration exist, the CTDOT will provide business development services and technical assistance to expand the scope of work DBE firms can provide. The CTDOT will also vary the use of contract goals to ensure non-DBE firms are not unfairly prevented from competing for subcontracts.

Section 26.35 | Business Development Programs

The business development programs offered by the CTDOT are discussed below.

DBE Business Development Program

The CTDOT operates a comprehensive DBE Supportive Services Program aimed at enhancing the growth, development, and self-sufficiency of all DBE firms competing for DOT- assisted contracts and subcontracts. The most current DBE Statement of Work can be found in Attachment 5. That program is part of the CTDOT's Race-Neutral efforts.

As part of the DBE Supportive Services Program, the CTDOT administers a Comprehensive Business Development Program (BDP) that is made available to a limited number of DBE firms that are considered mid-level or established. The CTDOT contracts with a consultant to provide BDP services. DBE firms are selected based on criteria including the firm's commitment to the program and readiness. Both the DBE Supportive Services Program and the BDP are federally funded.

The DBE Supportive Services Program assists firms through conducting a comprehensive assessment and developing an implementation plan, which:

- Provides an analysis of the participating DBE's market potential, the competitive environment, and other business analysis capable of estimating the prospects for profitable operation during the term of participation in and after completing the DBE Supportive Services program.
- Provides an analysis of the firm's strengths and weaknesses, with particular attention to the means of correcting any financial, managerial, technical, or labor conditions which could impede the participant from receiving contracts for work that historically has not been performed by DBEs.
- Sets specific targets, objectives, and goals for the DBE participant.
- Assist with preparing bids and proposals and identifying contracting opportunities.
- Training. Assist with bid and proposal preparation and identification of contract opportunities.
- Assist in the development and/or updating of a Business Plan.
- Technical assistance coaching and, if necessary, identifying other support resources.
- Networking Opportunities.
- Mentoring.

The DBE Supportive Services Program is operated by one or more contractor(s) chosen using the CTDOT's approved

procurement process. The CTDOT has also developed partnerships with other organizations that provide assistance to small businesses. This allows the CTDOT to provide additional services at little to no cost.

Connecticut Department of Administrative Services (DAS)–Supplier Diversity

DAS refers firms certified in the State of Connecticut’s Small Business Program that are interested in becoming certified in the DBE program which allows for the expansion of businesses within the CT UCP. The CTDOT also refers DBE firms to DAS for certification in the Small Business Program. https://www.biznet.ct.gov/dot_dbe/dbesearch.aspx

Section 26.37 | Monitoring and Enforcement Mechanisms

The CTDOT utilizes the following monitoring and enforcement mechanisms to ensure compliance with Part 26.

The CTDOT brings to the attention of the DOT any known activities that appear to be inconsistent with Part 26 of this program so that the DOT can take the steps provided in Part 26, Section 26.107 (e.g., referral to the United States Department of Justice for criminal prosecution, referral to the DOT Inspector General and/or the Commonwealth’s Office of Inspector General, or action under suspension and debarment or Program Fraud and Civil Penalties rules).

The CTDOT employs a number of standard forms used to collect DBE information for initial project setup and for ongoing monitoring of DBE participation:

- Screening Committee Request for Goal Assignment
- Pre-Award DBE Commitment Approval Request Form (Attachment 11)
- DBE Approval Memo
- DBE Certification Form (Page 6 of Attachment 22)
- Project Site Record Review on FHWA projects (Attachment 24)
- Contractor Compliance Review on FHWA projects (Attachment 25)
- Subconsultant Payment Log for Site Manager (legacy) projects (Attachment 18)
- Subcontractor Approval Form (CLA-12) (Attachment 17)
- Bi-monthly and Final DBE or SBE Participation Report (Attachment 19)
- Request to Reduce or Eliminate Design-Related Work Assigned to DBE (Page 7 of Attachment 22)
- Commercially Useful Function Form (Attachment 21)
- Uniform Report of DBE Awards and Commitments
- Request to Modify DBE Pre-Award Commitment, CRD-15-1 (Attachment 23)

The CTDOT conducts direct monitoring of DBE requirements via a number of methods. The Equal Employment Opportunity (EEO) Coordinators conduct project site record reviews (Attachment 24) of FHWA-funded Highway Construction projects. The EEO Coordinator reviews DBE subcontracts, payments, completed CUF reports, and evaluates any DBE firms working on the project during the date of the visit. The EEO Coordinator also reviews monthly progress reports submitted by individual Engineering Districts which provide status on all FHWA funded projects. Based upon the comments included in the report and the progress of individual projects in meeting the goal, the EEO Coordinator conducts follow up inquiries and provides technical assistance as needed.

The Project DBE Special Provisions (Attachment 2) define how DBE participation is counted towards credit throughout the document. In order to receive credit toward the Contract DBE goal, the firms utilized as DBE subcontractors or suppliers must be certified as DBEs in the type of work to be counted for credit by CTDOT’s OOE prior to the date of the execution of the subcontract. Only DBE work specified in the Pre-Award Commitment (PAC) and work that meets a Commercially Useful Function (CUF) (see attachment 20 and 21) will be counted towards the Project DBE goal. The Prime Contractor is held responsible to meet these requirements at all times, from the time of award (by the Office of Contracts and the OOE units) to ensure they and/or their subcontractors are eligible and not debarred, through the

end of the project. The OOC unit provides monitoring of the Prime and subcontractor by various staff after award, as follows:

1. Each CLA-12 is compared against the approved project PAC for uniformity by OOC staff.
2. the Prime is monitored daily by the Project Inspector using Daily Work Reports (DWRs).
3. DBE issues are monitored monthly at each monthly progress meeting,
4. EEO coordinators monitor DBE dollars to be counted towards the project DBE goal by use of bi-monthly payment verifications (Attachment 19).
5. Any PACMOD must be approved by DCO under the guidance of the DBELO; and
6. Upon completion of the project, a DBE summary memo is prepared, and noncompliance DBE issues are reviewed and addressed by OOC/OED before the project is closed.

This is stated in the DBE special Provisions in sections: I(k); II(A); II(B); II(C) (upon modification approval); III(when GFE applicable) and form 819, in articles 1.02.01, 1.03.04 & 1.08.01.

The CTDOT's [Construction Manual](#) provides a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs.

The CTDOT uses AASHTOWare Project to track DBE commitments, DBE subcontracts, and DBE payments. The Contract Awards Section also generates a monthly report showing projects awarded using federal dollars, which is submitted to the DBELO. This report includes a breakdown of DBE goals established for each project and the percentage of participation the prime contractor committed to as a condition of award.

The districts submit the minutes from construction meetings; the minutes also highlight potential DBE issues or concerns.

The CTDOT reviews payments made to DBEs as part of its contract compliance project reviews on FHWA projects to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts listed in the approved DBE commitments.

For reporting purposes, OOC tracks whether payments from the monthly report are from pre-award committed DBE firms (race conscious) or whether the payments are to DBE primes or additional DBE firms utilized after the goal has been met (race neutral). OOE also keeps track of contracts and agreements that have been awarded, the DBE participation committed to each contract, and what race neutral participation has been achieved in order to keep track of where the CTDOT is with its overall goals, and whether adjustments need to be made on contracts that have been assigned goals by the screening committee but have not yet been advertised for bid. The federal participation amount is also tracked to ensure only federal dollars are being reported on.

The OOC reviews the items of work performed by the DBE firm to compare the items of work performed to the items of work approved for DBE participation on the project. If it is determined that the approved work was performed and met the appropriate CUF requirement then credit is allowed.

The OOC completes a Participation Report (Attachment 19) which provides a running tally of DBE firms on the project, the dollar value of the work performed, and the verified dollar value of work to be credited for DBE participation.

Section 26.39 | Fostering Small Business

The CTDOT has implemented a Small Business Element of its Disadvantaged Business Enterprise Program in accordance with Part 26, Section 26.39. The CTDOT has a program called the Small Business Participation Program

(SBP Program). The program was designed to provide small businesses with fair participation in CTDOT contracting, consulting, and procurement opportunities.

The SBP Program is a race and gender-neutral program in which certain projects may be set-aside for small business participation.

The DBE program regulations that became effective on February 28, 2011, require that recipients include in their DBE program, an element to structure contracting requirements to facilitate competition by small business concerns; in addition to taking all reasonable steps to eliminate obstacles to the participation of small business concerns in procurements as prime contractors or subcontractors.

Purpose

The CTDOT utilizes the SBP Program in order to foster small business participation on FTA and FHWA funded contracts. This program provides an opportunity for small poor firms to compete and participate as prime contractors or consultants, and provides firms owned by individuals who may be socially and economically disadvantaged, an opportunity to participate on projects in which their participation has been traditionally underutilized.

Eligibility

(Proof of eligibility is required)

To be eligible to participate in the SBP Program, the firm must meet the small business definition as defined by 49 CFR 26.65 and meet one of the criteria listed below (each of the programs listed below are race and gender neutral):

1. Current certification as a DBE pursuant to 49 CFR Part 26
2. Current certification in the Connecticut Department of Administrative Services Small Business Enterprise Program (SBE); or
3. Certified as a Small Business by any state or local governmental agency

Firms must also meet the personal net worth (PNW) and Small Business Size standards listed in the solicitation. The determination of eligibility for the program will be a matter of contractor responsibility and will be a condition of award. A joint venture entity would have to qualify for the SBP Program in accordance with eligibility criteria and provide proof. Sub-recipients will be required to comply with the requirements of this program as applicable.

Fostering Involvement

The program is monitored to determine its effectiveness in increasing race neutral small business participation on federal-aid projects. This program shall be applicable only to projects that are federally assisted or fully federally funded.

The CTDOT will further enhance this program by:

- Encouraging the CTDOT personnel to identify additional contracting opportunities that can be reserved for small businesses.
- Monitoring the use of the SBP Program on contracts to determine its impact.
- Consider reserving construction, maintenance, and professional service projects for small businesses
- Offering assistance to firms with little or no experience of working with the CTDOT as a prime.
- Participate in outreach and matchmaker events to educate small businesses about the program and the available opportunities.
- Include information about the SBP Program on the CTDOT website including eligibility criteria.
- Foster participation by facilitating community partnering events and project information sessions specifically targeted to the small businesses.

Unbundling

For Construction Contracts:

The CTDOT will review contracts to determine if they are suitable for unbundling for small business participation.

Criteria to be used will include the following:

- 1) Is the size of the contract conducive to small business participation.
- 2) Availability of small businesses to perform the type of work under the contract.
- 3) Will setting the contract aside for small business participation substantially increase the costs.
- 4) Assess the risk – Is the work schedule critical; will there be work-dependencies between contracts; is work easily broken out (design effort), and identifying the overall risk (high, medium, low).

Other

The CTDOT currently reports all race and gender-neutral participation on federal-aid (FWHA and FTA only) projects by certified DBEs regardless of whether the project has an assigned DBE goal; this includes projects that have an SBP Program requirement.

Subpart C – Goals, Good Faith Efforts, And Counting

Section 26.43 | Set-Asides or Quotas

The CTDOT and its sub recipients do not use set-asides or quotas in the administration of the DBE Program.

Section 26.45 | Overall Goals

The CTDOT develops its overall DBE involvement goal consistent with Part 26, Section 26.45. The goal methodology covering October 1, 2024 – September 30, 2027, can be found in Attachment 10. Additionally, physical copies of the methodology are available upon request by contacting the DBELO at 860-594-2169. The CTDOT submits its FHWA, and FTA methodologies and goals to the appropriate operating administration as required. Submittal is based upon the staggered three-year goal schedule established for the FHWA and FTA. The CTDOT implements the overall goal on August 1 of the appropriate fiscal year unless it receives other instructions from the DOT. The CTDOT's next overall goal submission will be submitted to FHWA and FTA for legal sufficiency approval by August 1, 2027, and will cover October 1, 2027 – September 30, 2030.

Section 26.47 | Goal Attainment

The CTDOT constantly monitors attainment of DBE goals through the use of the various methods described in Section 26.11 – Recordkeeping Requirements and Section 26.37 – Monitoring and Enforcement Mechanisms. If at the end of a fiscal year the CTDOT has not attained the overall goal applicable for that year, the CTDOT shall analyze the reasons for the shortfall and create a corrective action plan in accordance with Part 26, Section 26.47. The analysis and corrective action plan shall be submitted to FHWA and FTA within 90 days of the end of the fiscal year.

Section 26.49 | TVM

The CTDOT requires each transit vehicle manufacturer (TVM), as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section.

Alternatively, the CTDOT may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Section 26.51 | Meeting Our Overall Goals

The breakout of estimated race-neutral and race-conscious participation is updated in the CTDOT's methodology and goal-setting documents for each required DBE goal submission. The CTDOT monitors the race-neutral and race-conscious goal apportionment and makes adjustments up or down as supported by the most recent data available. The DBE goals are monitored on an ongoing basis for race-neutral and race-conscious participation.

Race-Neutral

The CTDOT attempts to meet the maximum feasible portion of its overall goal using race-neutral means. Race-neutral credit is given for the dollar amount of a prime contract awarded to a DBE firm, a DBE subcontract executed on a project that did not contain a DBE goal, or DBE commitment or payment dollar amounts exceeding the contract goal. .

One method used by the CTDOT to improve its race-neutral performance is the establishment and operation of the federally funded DBE Supportive Services Program (SS Program). This program is intended to provide training, assistance, and services to DBE firms certified in the DBE Program to facilitate their development into viable self-sufficient organizations capable of competing for and performing on DOT-assisted highway projects on an equal basis with non-DBE firms.

The program is operated by a contractor as the DBE/SS Program. The program's objectives are to:

- 1) Build relationships and communication networks with available expertise at all government levels in addition to the private, non-profit, and academic sectors. Maintain a database of these contacts.
- 2) Determine critical DBE needs relative to performance on the agency's DOT-assisted highway projects within the areas of business, construction, consulting, and technology management.
- 3) Develop and deploy needs-based training for participating DBE firms.
- 4) Conduct direct consultative assistance to participating DBE firms concerning CTDOT-assisted highway projects.
- 5) Generate support services information through the collection, promotion, and dissemination of business, construction, consultant, and technical materials.
- 6) Spearhead, coordinate, and attend conferences, meetings, and symposia.
- 7) Evaluate and continuously improve the key supportive services activities by collecting, analyzing, and utilizing feedback from a variety of sources.

The DBE/SS Program provides the following services, all of which are free of charge.

Continual Needs Assessment and Identification

The DBE SS Program conducts an annual formal Needs Assessment Survey of DBE firms and conducts ongoing informal needs assessments by means of face-to-face and telephone interviews, e-mails, and self-administered surveys. The objective of the needs assessments is to identify the barriers that DBEs face in competing with non-DBEs for DOT-assisted contracts and subcontracts and determine what services would assist DBEs in overcoming those barriers. The results of both the formal and informal assessments are used to adjust processes and services provided by The DBE SS Center and the objectives of the DBE SS Program.

Training, Consulting, and Information Management

The DBE SS Program develops approaches to providing training, consulting, and information management. This includes a training reimbursement program to provide financial assistance to pre-screened DBEs for company-

specific training. The DBE SS Program coordinates instructor-led training, computer-based training, and one-on-one consulting services. In addition, The DBE SS Program continues to collect, promote, and disseminate information deemed relevant to the DBE community. The DBE SS Program bases the initial need for ongoing trainings on historical information, results of various needs assessments and other available data. The DBE SS Program continually reevaluates and updates those needs based on feedback received from training evaluations, interaction with and requests from DBE firms, and other relevant sources.

Outreach, Networking, and Communication

The DBE SS Program uses various methods of outreach to inform and encourage DBEs to use its services. These include:

- Website
- Email

Networking methods include participating in meetings, preconstruction conferences and symposia (at which DBEs and the prime contracting community are likely to be present), as well as outreach to community, civic, ethnic, business, and construction organizations. In addition to the above outreach and communication methods, The DBE SS Program responds to individual written and telephone requests for assistance.

Continual Evaluation of Processes, Outcomes, and Effectiveness

The DBE SS Program uses personal interviews, online interviews, telephone follow-up, and self-administered survey forms as part of its ongoing self-evaluation. The DBE/SS Program utilizes a combination of qualitative and quantitative methods to analyze the data, as well as evaluation and measurement of the attainment of specific training objectives.

Designated Race-Neutral Programs and Contracts

In addition to the strategies noted above, the CTDOT may consider certain program areas and/or contracts to be race-neutral and no contract goals are established. In making such a determination, the CTDOT considers a number of factors including subcontracting opportunities, dollar value, project type, location, and the availability of DBEs. Work that is performed intermittently or that deviates from what is generally performed by the CTDOT is also considered.

Race-Conscious

The CTDOT utilizes race-conscious efforts to attain its overall DBE participation goal. Contract goals are applied in order to meet the overall goal that is not projected to be met through the use of race-neutral means.

The CTDOT does not establish a DBE goal on every federally funded contract as Part 26 does not require that it do so. The CTDOT establishes goals only on those contracts that lend themselves to subcontracting opportunities. Dollar value, project type, location, and the availability of DBEs to perform specific services are considered in setting an appropriate DBE goal on a given project; consistent with the CTDOT's approved DBE goal-setting methodology. If a sub recipient intends to offer a contract with a DBE goal, the goal is determined in consultation with the CTDOT.

The CTDOT expresses its contract goals as a percentage of the total dollar amount of a DOT-assisted contract. The CTDOT does not permit the use of rounding in determining DBE contract goal attainment.

Screening Committee

The Screening Committee is made up of CTDOT personnel from various Bureaus. The committee oversight and chair are appointed by the Commissioner. The committee members are appointed by the Bureau Chiefs.

The Screening Committee's function is to determine the project goal percentages for the federal DBE Program, the set-aside percentages for the state SBE Program. The committee also hears requests for SBE set-aside waivers.

The committee normally meets every second and fourth Wednesday of each month. All requests for goal or set-aside considerations are submitted to the attention of the committee Chairperson. DBE, SBE, and SBPP determinations are made by a consensus of the committee. The committee assigns goals to assist the CTDOT in achieving its overall annual goal requirements. Projects are to be submitted to the Screening Committee by the initiating unit prior to the project being advertised.

The Screening Committee receives recommendations from the initiating units for project DBE, SBE, SBPP goals. The initiating unit typically has a representative attend the Screening Committee meeting. This representative should be knowledgeable about the project presented to the committee and will respond to any questions about the project and the method used to determine the proposed goal or set-aside.

The initiating unit determines the proposed recommended DBE goal or SBE set-aside by factoring in the type of project; the phase of the project, the funding source; availability of subcontracting opportunities; and the availability of certified DBE or SBE firms available to perform the type of work required for the project.

The Screening Committee reviews the recommended goals and determines if the recommended goal percentage is appropriate for the project and how the project goal will impact the CTDOT in meeting its overall program goals. Upon receiving the justification, the Screening Committee will discuss the recommended goal. The Committee will approve the goal based on the justification submitted by the initiating unit, the CTDOT's overall goal requirements and any other relevant factors. All 0% recommended DBE goals are sent to the DBELO for review and determination.

The Screening Committee may decide to accept the initiating unit's recommendation or may assign a different goal or set-aside. The goals are decided by the consensus of the Screening Committee. This goal then becomes the goal of record. A notice of the goal assignment is e-mailed to the initiating unit by the Chair or OOE. The initiating unit must place a copy of the Screening Committee confirmation e-mail of the DBE, SBE, or SBPP goal in the project record. This record should be maintained for future review by other interested units during the various project phases, including, and up to final closeout and audit.

If the Screening Committee requires additional information prior to making a decision and a representative from the initiating unit is not available, or is not able to provide the required information, the Screening Committee may defer the goal assignment pending a conference with the initiating unit.

If the decision cannot wait until the next scheduled Screening Committee meeting, an emergency vote (e-vote) may be taken by e-mail. Once the Screening Committee makes a decision, a notice of goal assignment will be sent to the initiating unit by the OOE or Chair.

The committee will reconsider goals on projects that have a change in the funding source, significant change to the scope, or a significant change to the estimated contract value. Requests for goal reconsideration must include the Initiating Unit's written justification for the change, and the analysis used for recommended goal changes. The initiating Unit must meet with the DBELO to discuss any recommended goal changes prior to submitting the request to the Screening Committee. The DBE goals cannot be changed after the project has been advertised; the exception would be if the project became non-federal participating.

The Screening Committee has eight (8) members, (7) alternates, and two (2) non-voting members. The non-voting members are the DBELO and her designee. The committee requires a quorum to convene; a quorum is considered five (4) voting members. Goal determinations are approved by a consensus of the members.

Section 26.53 | DBE Good Faith Effort (GFE) Procedures

For all DOT-assisted projects in any bureau of the CTDOT, the obligation of the apparent low bidder is to make a GFE to meet the DBE goal. The low bidder must demonstrate that it has done so either by meeting the DBE contract goal or documenting GFEs taken in its effort to meet the goal.

The CTDOT will ensure that all information is complete, consistent, and adequately demonstrates the low bidder's GFE before the contract is awarded.

The CTDOT treats bidders' compliance with GFE requirements as a matter of responsibility. Each proposal for which a contract goal has been established requires the low bidder to submit the following information within five days after the bid opening, using the Pre-Award DBE Commitment Approval Request form (Attachment 11).

- Names and contact persons for DBE firms that will participate in the contract.
- A description or list of work items that each DBE will perform. To count toward meeting a goal, each DBE firm must be certified in a NAICS code applicable to the kind of work the firm would perform on the contract.
- Dollar amount of each DBE's participation.
- Written signature of a commitment to use a DBE subcontractor whose participation is being used to meet a contract goal.
- Written signature confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment.
- If the contract goal is not met, evidence of GFE that meet the standards set forth in Part 26, Appendix A, must be documented. The documentation of GFE must include copies of each DBE and non-DBE subcontractor quote submitted to the bidder when a non-DBE subcontractor was selected over a DBE for work on the contract.
- If a DBE serves as the prime contractor, the firm is permitted to use its own work to meet the DBE goal requirement providing that work is covered under the firm's DBE certification. If a DBE prime contractor commits in the pre-award to use other DBE firms, the DBE prime is expected to meet the DBE commitment to those pre-award DBE subcontractors.

The CTDOT requires bidders to submit DBE commitments no later than 5 days after the bid opening as a matter of responsibility. For design-build, the offeror will make a binding commitment to meet the goal with the initial proposal or bid submission. The specific Commitment information listed above will be submitted before the execution of the contract.

If the contract goal is not met, the bidder's GFEs are reviewed by the CTDOT and may be approved or disapproved. If approved the contractor is required to submit a monthly update. If disapproved, the bidder may seek administrative reconsideration of the disapproval, which is conducted by persons other than those involved in the initial determination. For complete description of the process please see Attachment 12.

If a prime contractor intends to terminate or replace a DBE firm, prior to requesting to terminate the firm, the prime contractor must give the DBE written notice and an explanation of the reasons. DBE firms are to be given a minimum of 5 (five) days from receipt of that notice to respond, agreeing or disagreeing with the prime's intention, including reasons for disagreement. After providing adequate notice the prime must submit a written request using the "Request to Modify DBE Pre-Award Commitment CRDI5-1" (Attachment 23) form to the OOC requesting approval to terminate the DBE along with the reasons and the backup documentation. A prime contractor cannot terminate a DBE subcontractor listed in the pre-award without the CTDOT's written approval.

A DBE firm approved to meet the DBE goal cannot be terminated without just cause and the approval of the CTDOT. Provided, that good cause does not exist if the prime contractor seeks to terminate a DBE it relied upon to obtain the

contract so that the prime can self-perform the work for which the DBE contractor was engaged, or so the prime can substitute another DBE or non-DBE contractor after contract award.

Reasons for termination may include:

- 1) A listed DBE subcontractor fails or refuses to execute a written contract.
- 2) The listed DBE fails or refuses to perform the work of its subcontract in a way consistent with normal industry practice; providing the DBE's refusal to perform the work is not resulting from bad faith or discriminatory action of the prime contractor.
- 3) The listed DBE subcontractor fails or refuses to meet the prime contractor's reasonable nondiscriminatory bond requirements.
- 4) The listed DBE subcontractor is ineligible to work on public works projects because of suspension and debarment proceedings pursuant to 2 CFR parts 180, 215 and 1200 or applicable state law.
- 5) The listed DBE subcontractor becomes bankrupt, insolvent, or exhibits credit unworthiness.
- 6) The listed DBE subcontractor has been determined by the CTDOT as not responsible.
- 7) The listed DBE subcontractor voluntarily withdraws from the project and provides to you written notice of its withdrawal.
- 8) The listed DBE is ineligible to receive DBE credit for the type of work required.
- 9) The listed DBE owner dies or becomes disabled with the result that the listed DBE contractor is unable to complete its work on the contract; or
- 10) Other documented good cause.

If the recipient requests documentation under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days, if necessary, at the request of the contractor, and the recipient shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

The CTDOT establishes contract goals on design-build projects and utilizes the overall dollar amount of both the final design portion and construction cost estimate to determine the design-build DBE contract goal. The CTDOT uses the same monitoring methods for design-build projects as it does for traditional project delivery.

Pre and Post Award GFE

Pre-Award

If the Contractor cannot show that it will meet the goal through its pre-award commitments, then the Contractor must document GFE towards goal achievement. The Contractor is required to submit the documentation to the unit specified in the Contract specification; typically, it is either the Initiating Unit or the Advertising Unit (ex. The Office of Contracts is typically the advertising unit for most construction contracts). The DCO reviews the firms submitted for DBE participation and signs-off that the firms provided are DBE Certified and have the appropriate NAICS code(s). If it is determined that a shortfall exists, the Contractor may request a GFE review. This review is performed by the OOE. The OOE will notify the OOE & Office of Contracts or the initiating unit of its determination; if DCO determines that a GFE was not made, the Contractor may appeal to the DBE Reconsideration Panel.

Typical GFE documentation should include the following information. (Note: The actual Contract specification should be reviewed and followed.)

- 1) A statement setting forth in detail which parts, if any, of the Contract were reserved for the Contractor and not available for bid from subcontractors.
- 2) A statement setting forth all parts of the Contract that are likely to be sublet.
- 3) A statement setting forth in detail the efforts made to select subcontracting work in order to likely achieve the stated goal.
- 4) Copies of all letters sent to DBEs.

- 5) A statement listing the dates and DBEs that were contacted by telephone and the result of each contact.
- 6) A statement listing the dates and DBEs that were contacted by means other than telephone and the result of each contact.
- 7) Copies of letters received from DBEs in which they decline to bid.
- 8) A statement setting forth the facts with respect to each DBE bid received and the reason(s) any such bid was declined.
- 9) A statement setting forth the dates that calls were made to the OOE seeking DBE referrals and the result of each call; and
- 10) Any information of a similar nature relevant to the application.

Approval of pre-award GFE does not relieve the Contractor from its obligation to make additional ongoing GFEs. The contractor is expected to make GFEs throughout the duration of the contract as subcontracting opportunities arise. The Contract record of ongoing GFEs taken should be maintained for future review during the life of the Contract, including and up to the final close out and audit.

Post-award DBE Goal Monitoring

The Administering Unit is responsible for monitoring the goal progress and achievement during the life of the Contract.

At a minimum, the Administering Unit will perform the following functions:

- 1) Collect Data from the Contractor on a periodic basis; not less than quarterly. Data includes, but is not limited to, utilizations, commitments, and actual verified payments made to DBEs on the Contract.
- 2) Analyze the goal achievement as the Contractor submits the Data.
- 3) If during the life of the Contract, a DBE is unable or unwilling to perform the allocated work, the Contractor should be informed of his/her responsibility to make GFEs to curtail a goal shortfall. The Contractor's efforts should be documented appropriately. This documentation should be substantive, verifiable, and provided to the Administering Unit as the efforts occur.
- 4) Coordinate with the OOE during the project site record reviews.
- 5) Summarize all DBE participation and perform analysis to determine if goal was met. If the goal is not met, the DBELO will conduct a shortfall review.

For complete description of the process, please see Attachment 3, Section III.

The OOE receives DBE data from each Bureau or major unit. The office utilizes the data to facilitate their global agency-wide monitoring and reporting responsibilities to other State and Federal agencies.

As part of the CLA-12 (Attachment 17) subcontractor approval process, the prime contractor is required to submit a copy of all DBE subcontracts. Primes are not permitted to refuse to provide a copy of the DBE subcontract to the CTDOT.

Section 26.55 | Counting DBE Participation

The CTDOT counts DBE participation toward overall and contract goals as described in Part 26, Section 26.55. The CTDOT monitors its projects to ensure that DBEs are performing a commercially useful function (CUF) on a project-by-project basis (Attachment 20 and 21). The results of the CUF evaluation are reported using the OOC/CUF report in AWP. The OOC verifies that DBE firms are performing a CUF on projects receiving USDOT funds.

For Joint Ventures, the CTDOT only counts DBE credit for the portion of work of the contract that the DBE performs with its own forces/supervision and for work the DBE firm is certified to perform.

No DBE credit will be given if a firm is not certified at the time the contract is awarded, or for any work where payments have not been made or the firm does not perform a CUF. There may be situations after the award of the prime contract, however, in which it is appropriate to count DBE credit for the use of a DBE subcontractor certified after the prime contract is executed. To be eligible to obtain DBE credit, a DBE subcontractor must be certified before the subcontract on which it is working is executed.

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

If a DBE firm loses certification while working on a project, the CTDOT will follow 49 CFR 26.55 to determine goal counting.

For a description of the CTDOT's policy for counting credit for non-subcontractors, please see Attachment 2, section VI.

The OOC performs CUF reviews on DBEs performing work on construction projects. For a copy of the CTDOT's CUF review process and forms, please see Attachments 20 and 21.

The Project DBE Special Provisions define how DBE participation is counted towards credit throughout the document. In order to receive credit toward the Contract DBE goal, the firms utilized as DBE subcontractors or suppliers must be certified as DBEs in the type of work to be counted for credit by the CTDOT's OOC prior to the date of the execution of the subcontract. Only approved DBE work, that meets a CUF for which the DBE has been paid will be counted towards the Project DBE goal. The Prime Contractor is held responsible to meet these requirements at all times, from the time of award to ensure they or subcontractors are eligible and not debarred, through the end of the project. The OOC unit provides monitoring of the Prime and subcontractors as follows:

- 1) Each CLA-12 is compared against the approved project PAC for uniformity by OOC staff.
- 2) The Prime is monitored daily by the Project Inspector using Daily Work Reports (DWRs).
- 3) DBE issues are monitored monthly at each monthly progress meeting,
- 4) EEO coordinators monitor DBE dollars to be counted towards project DBE goal by use of bi-monthly payment verifications.
- 5) Any PACMOD must be approved by OOC; and
- 6) Upon completion of the project, a DBE summary memo is prepared, and noncompliance DBE issues are reviewed and addressed by OOC/OOE before the project is accepted, as needed.

This is stated in the DBE special Provisions in sections: I(k); II(A); II(B); II(C) (upon modification approval); III (when GFE applicable) and form 819, in articles 1.02.01, 1.03.04 & 1.08.01.

Subpart D – Certification Standards

Section 26.61 – 26.73 | Certification Standards

As a member of the CT UCP, the CTDOT uses the certification standards of Part 26, Subpart D, to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts.

Additionally, the CTDOT utilizes [49 CFR Part 23](#), Subpart C, to determine the eligibility of airport concessionaries to participate as Airport Concessionaire DBEs (ACDBE) in DOT- assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. The firm seeking certification has the burden of proving, by a

preponderance of the evidence, that it meets the requirements concerning group membership or individual disadvantage, business size, ownership, and control. The CTDOT will make certification decisions based on all the facts in the record as required by Parts 26 and 23.

The groups with a presumption of social disadvantage are Women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the U.S. Small Business Administration (SBA). Each individual owner applying to participate as a DBE, whose ownership and control are relied upon for DBE certification, must certify that his or her personal net worth (PNW) does not exceed \$2.047 million. This PNW cap will be adjusted, as needed, due to inflation. This excludes retirement assets from the calculation as well as their main personal residence.

If, based on the documents received with their DBE application, the CTDOT has rebuttable evidence they are not socially or economically disadvantaged; the CTDOT will notify the DBE owner in writing. The DBE will be provided an opportunity to respond with documentation of their social and economic disadvantage. If the response is not sufficient, the CTDOT will deny the application for DBE status, in writing, outlining the reasons for the denial. The DBE will then be allowed the opportunity to appeal to USDOT. There is no internal appeal process with the CTDOT.

For detailed information on applying for certification, the certification process, and certification standards, firms may contact the CTDOT at the following address/phone number:

Connecticut Department of Transportation
Office of Equity
2800 Berlin Turnpike
Newington, CT 06111
(860) 594-2177

DBE firms certified to perform certain types of work (under certain NAICS codes) may request to become certified in additional areas of work.

Section 26.65 | Business Size Standards

To qualify for certification as a DBE, a firm must be an existing small business, as defined by Federal Small Business Administration business size standards found in 13 CFR Part 121 and have had average annual gross receipts (as defined by SBA regulations in 13 CFR 121.402) for the firm's five previous fiscal years less than the amount specified in Part 26, Section 26.65(a) and (b).

Section 26.67 | Social and Economic Disadvantage Standards

Citizens of the United States and 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 presumed to be socially and economically disadvantaged individuals. Applicants in one of these groups must submit a signed, Declaration of Eligibility (DOE) that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged. In addition, each firm owner whose ownership and control are relied upon for DBE certification must certify that he or she has a personal net worth that does not exceed the current \$2.047 million cap.

An individual's presumption of disadvantage can be rebutted in one of two ways: (1) Having a net worth in excess of \$2.047 million. (2) A reasonable person would not consider the individual poor.

An owner who is not presumed to be Socially and Economically Disadvantaged (SED) may demonstrate that he is SED based on his own experiences and circumstances that occurred within American society. To attempt to prove individual SED, the owner provides the certifier a Personal Narrative (PN) that describes in detail specific acts or omissions by others, which impeded his progress or success in education, employment, and/or business, including obtaining financing terms available to similarly situated, non-disadvantaged persons. The term “Native Americans” was revised in the Department’s 2014 final rule to make it consistent with the Small Business Administration’s definition of the term. The revision clarified that an individual must be an enrolled member of a Federally or State recognized Indian tribe to receive the presumption of social disadvantage as a Native American. Native American applicants will be required to submit documentation proving that they are enrolled members of a Federally or State recognized Indian tribe. Firms applying under interstate certification must be a member of a federally recognized tribe or a Connecticut recognized Indian tribe.

Section 26.69 | Ownership and Control

To be eligible for DBE certification, a firm must be at least 51 percent owned by one or more socially and economically disadvantaged individuals. Clarifies that ownership investment includes purchases, capital infusions, gifts, and additional investments after initial ownership.

Section 26.71 | Control

The disadvantaged majority owner(s) must “run the show”, be the ultimate decision maker, have present control of the board of directors, have an overall understanding of the firm’s operations to the extent necessary to make managerial decisions, and demonstrate a chain of command within the company. 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.

The CTDOT assigns NAICS codes to the certified DBE firms based on the narrowest description of work the disadvantaged owner is able to control for the work the firm performs/intends to perform on federally assisted contracts. In addition to the NAICS code, the CTDOT includes a detailed description of the work the DBE firm is certified to perform in its UCP directory. If a DBE firm wishes to add services and/or a NAICS code after they are certified with the CTDOT, the firm must request the additional service/code in writing and document their ability for the firm to perform the work (including owning any necessary equipment) and for the disadvantaged owner to control the work being performed.

Section 26.73 | Other Standards

When making certification decisions, the CTDOT may consider whether a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or the requirements of the DBE program. In all other situations, the eligibility of the firm for certification will be evaluated only on present circumstances.

Subpart E – Certification Procedures

Section 26.81 | Unified Certification Program

The CTDOT is a member of the CT UCP established between and among DOT recipients in the State of Connecticut. The CT UCP received approval of the agreement from DOT on June 28, 2004. The CT UCP meets all of the requirements of Part 26, Section 26.81.

The CTDOT is the only certifying participant in the CT UCP.

The CT UCP uses its Disadvantaged Business Enterprise Plan to ensure uniformity of practice in the implementation of the DBE certification process. The CTDOT amends its Certification standards as corrective amendments to Parts 26 and 23 are issued that impact DBE certification standards and procedures.

The CT UCP utilizes the DOT's Uniform Certification Application (Attachment 7) and Personal Net Worth Statement (Attachment 8). The CT UCP makes all certification decisions on behalf of all DOT recipients in Connecticut. Once a DBE applicant has been certified by the CTDOT, all other DOT recipients within Connecticut recognize the certification. This complies with the "one-stop shopping" component of Part 26, Section 26.81, and ensures that a prospective DBE applicant will need to apply only once for DBE certification. The CTUCP Program MOU can be found in Attachment 6.

Out-of-state firms seeking DBE certification in Connecticut must first be DBE-certified in their jurisdiction of original certification (JOC). The CT UCP has not formed regional reciprocity with other states at this time. See Section 26.85.

Section 26.83 | Procedures for Certification Decisions

The CT UCP reviewed the eligibility of DBEs that were certified under former Part 23 to ensure that each firm met the standards of Subparts D and E of Part 26.

DBEs that are found to be eligible in accordance with Part 26 are considered certified until they are removed from the program under procedures outlined under Part 26, Section 26.87.

Firms seeking certification as a DBE may do so by visiting the CTDOT website or by contacting the DBE Certification manager directly, as noted on the website. CTDOT procedures for processing certification requests are contained in the Manual.

A DBE firm is required to notify the CTDOT of changes that may affect its ability to meet size, disadvantaged status, ownership, or control criteria of Part 26 or when there are any material changes to the information provided with the DBE's application for certification within 30 days.

A DBE is required to submit, every year on the anniversary of its original certification, a new Declaration of Eligibility (DOE) along with company tax returns affirming that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control criteria of Part 26 or of any material changed in the information provided with the DBE's application for certification. Approximately one month prior to the firm's certification anniversary date, the DBE will be required to complete a DOE form, unless changes have been made.

A DBE may be required to provide additional information to determine continued eligibility for the program. Additionally, the CTDOT reserves the right to revisit or investigate a firm if there is a reason to suspect that the firm is no longer eligible to participate as a DBE.

Section 26.85 | Interstate Certification

A firm certified as a DBE in its home state may apply for certification in Connecticut.

A DBE would no longer have to provide additional UCPs a copy of the entire application package it submitted to the JOC. It must only request certification in writing, provide evidence of certification, and submit a declaration of eligibility. If the additional UCP confirms the DBE has certification, it must certify the firm within 10 business days. After certifying the DBE firm, the additional UCP may conduct its own certification review and initiate decertification procedures if it finds there is reasonable cause for determining that the firm is ineligible for certification. Additional UCP must notify the other UCPs in which the firm is certified and explain why it found reasonable cause. The other UCPs must provide their concurrence or non-concurrence within 30 days.** After receiving all responses from other UCPs, the UCP initiating decertification independently determines whether to issue a notice of intent (NOI) to decertify the DBE and notice of decision (NOD). Decertifications under this section must provide due process to DBEs.

Section 26.86 | Denials of Initial Requests for Certification

If a decision is made to deny certification of an initial application for certification, the reviewer will email and mail a certified letter to the applicant explaining the reasons for the denial. Firms may reapply for certification one year from the date the denial was issued. Firms are advised of their right to appeal a decision directly to the DOT in their denial letter.

A firm is allowed to withdraw their application for DBE certification any time prior to the issuance of the official denial letter.

The CTDOT does post the denial information to the DOCR web-based database.

Section 26.87 | Removal of Eligibility

In the event of removal of eligibility of a DBE, the procedures outlined in Part 26 are followed. The firm may reapply for certification one year from the date removal of eligibility was issued. Prior to removing eligibility, the DBE is notified of its right to an administrative due process hearing where a stenographer is present to create a verbatim transcript of the proceedings. When a DBE's eligibility is removed, the firm is advised of its right to appeal the decision to the DOT. To ensure separation of functions in a removal of eligibility proceeding, the CTDOT confirms that the initial decision-maker has not participated in any way in the earlier removal decision against the firm or the decision to initiate such proceeding.

Ineligibility Complaints (Third-Party Challenge): Any person may file a written complaint alleging that a certified firm is ineligible and may specify the alleged reasons why the firm is ineligible. The CTDOT is not required to accept a general allegation that a firm is ineligible or accept 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 according to 49 CFR 26.109(b).

A CTDOT DBE Reviewer will be assigned to review the complaint. The DBE Reviewer must review the records concerning the DBE firm, including any material provided by the DBE firm and the complainant, as well as other available information.

The DBE Reviewer may request additional information from the DBE firm or conduct any other investigation that is deemed necessary.

If it is determined, based upon this review, that there is reasonable cause to believe that the DBE firm is ineligible, the OOE will provide written *Notice of Preliminary Determination to Remove DBE Certification* by certified mail to the DBE firm recommending the firm be found ineligible to be a DBE. The written notice will set forth the reasons for the proposed finding of ineligibility. In addition, all statements of reasons for findings on the issue of reasonable cause must specifically reference the evidence in the record upon which each reason is based. At this time, the DBE firm will be given an opportunity for an eligibility proceeding.

If it is determined, based upon this review, that there is not reasonable cause to believe that the DBE firm is ineligible, the OOE will provide written *Finding of No Reasonable Cause* to the DBE firm and the complainant of this determination and include the basis for the determination. All statements of reasons on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based. The complaint will then be closed.

Recipient-initiated Proceedings: The term “*Recipient*” refers to any agency that receives federal funding (e.g., The CTDOT, Transit Districts, Airports, Ports, and Municipalities). If, based upon written notification by the DBE firm of a change in its circumstances or based upon additional information, a DBE Reviewer will be assigned to review the record.

The DBE Reviewer may determine that there is reasonable cause to find the DBE firm ineligible. If this determination is made, written notice will be provided to the DBE firm indicating that the OOE proposes to find the DBE firm ineligible, and the written notice will include the reasons for the proposed ineligibility 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. At this time, the DBE firm will be given an opportunity for an eligibility proceeding.

If the DBE Reviewer determines that there is no reasonable cause to find the DBE firm ineligible, the OOE will notify the DBE firm, in writing, of this determination and will update the DBE firm’s record.

DOT Directive to Initiate Proceeding; The phrase “*Concerned Operating Administration*” applies to any Federal oversight agency (e.g., FHWA, FTA, FAA). If the concerned operating administration determines that information in the DBE firm’s certification record, or other information available to the concerned operating administration, provides reasonable cause that a Connecticut DBE-certified firm does not meet eligibility criteria of 49 CFR Part 26, the concerned operating administration may direct the State of Connecticut to initiate a proceeding to remove the DBE firm’s certification. The concerned operating administration must provide to the State of Connecticut and the DBE firm a written notice indicating the reasons for the directive, including any relevant documentation or other information. The CTDOT must immediately commence and conduct an eligibility proceeding.

The Eligibility Proceeding consists of members of 3 State of Connecticut employees, who have been designated to hear issues concerning eligibility. Individuals designated to participate on the Eligibility Panel shall not have participated in any deliberations or decisions, which may have resulted in the firm being brought to the eligibility proceeding.

The OOE is responsible for issuing the notice to the DBE firm that an eligibility proceeding will be held. When the OOE notifies a firm that there is reasonable cause to remove its DBE eligibility, as provided for in Section 1-06, the DBE firm must be afforded an opportunity for an eligibility proceeding. The DBE Eligibility Panel will provide the forum for the eligibility proceeding. At the eligibility proceeding, the DBE firm may respond to the reasons for the proposal to remove its eligibility in person or in writing and provide information and arguments supporting their continued certification.

The CTDOT bears the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of 49 CFR Part 26.

The Department must maintain a complete record of the proceeding, by any means acceptable under State law for the retention of a verbatim record of an administrative proceeding. The current practice consists of using the services of a stenographer to provide a transcript to meet this requirement. If there is an appeal to the DOT under 49 CFR 26.89, the CTDOT must provide a transcript of the proceeding to the DOT and, upon request, to the DBE firm. The CTDOT must retain the original record of the proceeding. The CTDOT may charge the firm only for the cost of copying the record.

The firm may elect to present information and arguments, in writing, without attending a proceeding. In this instance, the CTDOT bears the same burden of proving, by a preponderance of the evidence, that the DBE firm does not meet the certification standards of 49 CFR part 26, as if a proceeding had been held.

Separation of Functions: During the eligibility proceeding, the OOE acts as the proponent of the possible removal of eligibility and the DBE Eligibility Panel acts as the decision-making body. The CTDOT has regulations and administrative procedures in place to ensure that the decision-making body or its members are not involved in the decision to hold an eligibility proceeding or to advocate for the removal of a firm's eligibility.

The CTDOT's method of implementing this requirement has been made part of the DBE Program.

The DBE Eligibility Panel members are knowledgeable about the certification requirements of the CTDOT's DBE Program and 49 CFR parts 26 and 23 as applicable.

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

- 1) Changes in the DBE firm's circumstances since the certification of the firm by the CTDOT that rendered the firm unable to meet the eligibility standards of 49 CFR Part 26 and Part 23 as applicable.
- 2) Information or evidence not available to you at the time the firm was certified.
- 3) Information that was concealed or misrepresented by the firm in previous certification actions by the CTDOT.
- 4) A change in the certification standards or requirements of the DOT since the CTDOT certified the firm; or
- 5) A documented finding that the CTDOT determination to certify the firm was factually erroneous.

Notice of Decision: Following the decision, the CTDOT will provide the firm written notice of the decision and the basis 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 the decision and of the availability for an appeal to the DOT under 49 CFR 26.89. The CTDOT will send copies of the notice to the complainant in an ineligibility complaint or the concerned operating administration that had directed the CTDOT to initiate the proceeding.

Status of Firm During Proceeding: A DBE firm remains an eligible DBE during the duration of the CTDOT's proceeding to remove the DBE firm's eligibility. The DBE firm does not become ineligible until the issuance of the *Notice of Determination to Remove DBE Certification*.

Availability of Appeal: When the CTDOT makes an administratively final removal of a DBE firm's eligibility under this section, the firm may appeal the removal to the DOT under 49 CFR 26.89.

Ineligibility will occur when; A) A DBE firm exceeds the DOT statutory Gross Receipts Cap (averaged over five years); B) A DBE exceeds the USSBA Size requirement (the NAICS Code); In the instance where a DBE firm is certified in more than one NAICS Code, the DBE firm will only be found ineligible in the NAICS Code(s) for which the firm has exceeded the USSBA Size requirement; C) A DBE owner(s) with the controlling interest in the certified firm exceeds the PNW requirement (see Section 1-03); and/or D) the DBE firm is no longer owned at least 51% and controlled by a socially and economically disadvantaged individual(s).

**If the Statement of Personal Net Worth shows that the applicant's personal net worth exceeds \$2.047 million, or any future PNW cap, the individual presumption of economic disadvantage is rebutted; and does not require an Eligibility Proceeding.*

If at any time the OOE becomes aware that a DBE firm has exceeded either the Gross Receipts Cap, or the USSBA Size requirement, the OOE will initiate a review of the DBE firm's eligibility. The following then applies:

If a DBE firm is recommended for ineligibility and the DBE Eligibility Proceeding approves the recommendation, the Eligibility Panel will prepare a letter indicating that the DBE firm is no longer eligible for the DBE Program and the reason.

Following a firm's removal of eligibility from the DBE Program, DBE credit may be given for all work performed following the removal of eligibility that had been approved for the firm prior to the firm being found ineligible.

Section 26.88 | Summary Suspension of Certification

The CTDOT shall immediately suspend a DBE's certification if an owner whose ownership and control of the firm are necessary to the firm's certification dies or is incarcerated. The CT UCP may immediately suspend a DBE's certification where there is adequate evidence that there has been a material change in circumstances that may affect the firm's DBE eligibility or when the firm fails to notify the CTDOT of a material change in circumstances or fails to file an annual Declaration of Eligibility (Attachment 9).

The suspension notice will be drafted by the OOE and must be communicated to the firm immediately. The suspension takes effect when the DBE receives or is deemed to have received the notice. Following receipt of a notice suspension, a DBE that believes it is no longer eligible for the program may voluntarily withdraw from the program. If the DBE believes that its eligibility should be reinstated, it must provide to the CTDOT information demonstrating its eligibility. The CTDOT, within 30 days of receiving this information, must either lift the suspension and reinstate the DBE's certification or commence a hearing under Section 26.87.

Section 26.89 | Certification Appeals to DOT

Any firm denied certification or whose eligibility has been removed may appeal to DOT. Such appeals are sent to:

U.S. Department of Transportation Departmental
Office of Civil Rights
1200 New Jersey Avenue, SE W-35
Washington, DC 20590
Phone: 202-366-4754
TTY: 202-366-9696
Fax: 202-366-5575

Section 26.91 | DOT Certification Appeals Decisions

DOT Certification appeal decisions are binding and are promptly implemented as required by Part 26.

If DOT determines the CTDOT erroneously certified a firm as a DBE, the firm's DBE status will be removed, effective on the date of receipt of DOT's decision.

If DOT determines the CTDOT erroneously failed to find reasonable cause to remove a firm's eligibility, the CTDOT will expeditiously begin proceedings to determine whether the firm's eligibility should be removed.

If DOT determines that the CTDOT erroneously declined to certify or removed the eligibility of a firm, the CTDOT will certify the firm effective on the date of receipt of DOT's decision.

If DOT determines that the CTDOT erroneously determined that the presumption of social and economic disadvantage either should or should not be deemed rebutted, the CTDOT will take the corrective action stipulated by DOT.

If DOT affirms the CTDOT's determination, no further action will be taken.

All participants in the CTDOT's DBE program will cooperate with compliance reviews, investigations, and other actions triggered by DOT.

Subpart F – Compliance and Enforcement

Section 26.101 | Compliance Procedures for Recipients

If the CTDOT or any of its sub recipients fails to comply with requirements of Part 26, then the CTDOT or the sub recipient may be subject to formal enforcement action which could result in the suspension or termination of federal funds or refusal to approve projects, grants, or contracts.

Section 26.103 | Enforcement Actions

Non-compliance complaints: Any person who believes that the CTDOT has failed to comply with its obligations under this part may file a written complaint with the concerned operating administration's Office of Civil Rights. The complainant must do so no later than 180 days after the date of the alleged violation or the date on which the complainant learned of a continuing course of conduct in violation of this part. In response to the 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 will protect the confidentiality of the complainant's identity as provided in Part 26, Section 26.109(b).

Complaints under Part 26 are limited to allegations of violation of the provisions of Part 26.

Anyone wishing to file a complaint with the FAA may address it to:

Office of Civil Rights
Federal Aviation Administration
U.S. Department of Transportation
800 Independence Avenue
Washington, DC 20591

Anyone wishing to file a complaint with the FHWA may address it to:

Office of Civil Rights
Federal Highway Administration
Connecticut Division Office
628-2 Hebron Avenue, Suite 303
Glastonbury, CT 06033

Anyone wishing to file a complaint with FTA may address it to:

Office of Civil Rights
Federal Transit Administration
U.S. Department of Transportation
1200 New Jersey Avenue, SE
Washington, DC 20590

If the CTDOT has reason to believe that a sub recipient, contractor, consultant, supplier, or lessee on a DOT-assisted contract is not operating in compliance with the terms, conditions, or requirements of the DBE program and the CTDOT's special provisions, the CTDOT will commence an investigation. Where necessary, the CTDOT will send a contract compliance specialist to the job site for a preliminary assessment and report.

Section 26.107 | Enforcement Actions for Firms

DOT may initiate suspension or debarment proceedings against any firm that does not meet the DBE eligibility criteria and that attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or circumstances indicating a serious lack of business integrity or honesty. Similarly, DOT may initiate suspension or debarment proceedings against any firm that in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use another firm that does not meet the DBE eligibility criteria on the basis of false, fraudulent, or deceitful statements, or representations.

DOT 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. DOT 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 related to participation of a DBE in any DOT-assisted program or who otherwise violates applicable Federal statutes.

Additionally, if the CTDOT has reason to believe that a contractor, consultant, supplier, or lessee on a DOT-assisted contract is not operating in compliance with the terms, conditions, or requirements of the DBE program and the CTDOT's special provisions, the CTDOT will consult with Legal Services to determine the appropriate course of action which may include an investigation and a referral to the Office of Inspector General.

Section 26.109 | Information, Confidentiality, Cooperation

The CTDOT safeguards from disclosure third-party information, including financial information, consistent with federal, state, and local law.

Notwithstanding any provisions of federal or state law, the CTDOT will not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information.

However, the CTDOT will transmit this information to DOT in any certification appeal proceeding under part 26.89 or to any other state to which the individual's firm has applied for certification under part 26.85.

The CTDOT will cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information, and shall require its DBE firms, applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals to also cooperate and comply.

URL Summary List

The following hyperlinks appear in this report; full URLs are provided below.

49 CFR Part 23, as amended

- <https://www.ecfr.gov/current/title-49/subtitle-A/part-23>

49 CFR Part 26, as amended

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

NAICS Manual

- <https://www.census.gov/naics/>

CT UCP Directory

- https://www.biznet.ct.gov/dot_db/dbesearch.aspx

CTDOT Construction Manual

- <https://portal.ct.gov/dot/bureaus/engineering-and-construction/construction/central-construction/construction-manual-committee>

CTDOT Form 819

- https://portal.ct.gov/dot/-/media/dot/aec/form-819_2024.pdf?rev=cac5c8b2283e41b1aa28abebe40cd311

Attachments

General Program Information

Attachment 1 – DBE Policy Statement

Attachment 2 – DBE Special Provision

Attachment 3 – CTDOT Organization Chart

Attachment 4 – OOE Organization Chart

Attachment 5 – CTDOT DBE Supportive Services Statement of Work

Certification Program Information

Attachment 6 – UCP Program MOU

Attachment 7 – DBE Certification Application

Attachment 8 – Personal Net Worth Statement

Attachment 9 – Declaration of Eligibility

DBE Goal Methodology & Goal Setting

Attachment 10 – FHWA DBE Goal Methodology

DBE Project Requirements

Attachment 11 – Pre-award DBE Review and Approval Forms

Attachment 12 – Pre-award Good Faith Efforts Application

Attachment 13 – DBE Office of Equity and Office of Construction Roles & Responsibilities Memo

Attachment 14 – Construction Directive CD-2024-2 Monitoring of Prompt Payments

Attachment 15 – Prompt Payment Section of AASHTOWare Project Agency User Manual Version 3.0

Attachment 16 – Prompt Payment 1st and 2nd Notice Templates

Attachment 17 – Subcontractor Approval Request (CLA-12)

Attachment 18 – Subconsultant Payment Log (Site Manager Projects)

Attachment 19 – Bi-Monthly Report on DBE Participation

Attachment 20 – CUF Directive CD-2024-4

Attachment 21 – CUF Review Packet

Attachment 22 – DBE Participation on Engineering Agreements Directive ED-2016-4

Attachment 23 – Request to Modify DBE Pre-Award Commitment CRD15-1

Attachment 24 – Project Site Record Review Packet

Attachment 25 – Compliance Review Packet