



Metropolitan Airports Commission
6040 28th Avenue South
Minneapolis, Minnesota 55450

Disadvantaged Business Enterprise Plan for Construction and Concessions

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1. Introduction

1.1 Overview

The Metropolitan Airports Commission (MAC) is committed to the development of Disadvantaged Business Enterprises (DBE). To accomplish that mission, MAC operates Programs to facilitate participation in construction and concessions opportunities.

The MAC, as a recipient of U.S. Department of Transportation (DOT) funding for airport improvement projects (AIP), is required under 49 CFR §23 and §26 to develop and implement Programs. These regulations require Programs to provide DBEs the maximum opportunity to participate in the performance of construction and concession contracts financed in whole or in part with federal funds. In accordance with this regulation, MAC and its contractors and concessionaires will take all necessary and reasonable steps to ensure that DBEs have the maximum opportunity to compete for and perform on contracts. MAC and its contractors and concessionaires will not discriminate based on race, color, national origin, or sex in the award and performance of DOT-assisted contracts.

This document will be available on-line and when requested distributed to internal and external clients of the MAC's Office of Diversity, Equity, and Inclusion. The document will be used in a variety of ways including but not limited to a tool for: training new staff, educating, marketing and clarification of policy and procedures.

MAC's has integrated the Programs into construction and concessions. MAC is committed to building on its past success in achieving DBE construction and concession goals, and to expanding its base of DBE contractors, professional services providers, concessionaires and vendors.

This Plan consists of two components: a DBE Construction Plan and DBE Concessions Plan. The Plans are designed to provide guidance to MAC staff regarding Federal Aviation Administration (FAA) requirements for MAC's DBE construction and concession programs, and to define the process and procedures being followed by MAC in bidding, proposing and selecting contractors, consultants and concessionaires to perform work for MAC. These Plans are intended to assist in conducting effective outreach, setting goals, and monitoring and reporting results to assess performance and achievement of its DBE goals.

In addition to serving as a policy and procedures manual, this Plan is a communication tool to advise the public on "how to do business with MAC."

MAC believes that careful planning, implementation and monitoring of its Plans for construction and concessions will not only meet the established DBE requirements of the FAA, but will set MAC apart as a leader in the aviation industry, nationally, regionally and locally, producing significant benefits to MAC and the community.

The DBE Construction and Concessions Plans will be updated as new policies and procedures are developed.

DBE PLAN

1.2 Policy Statement

The Metropolitan Airports Commission (MAC) owner of Minneapolis-St. Paul International Airport has established a Disadvantaged Business Enterprise (DBE) and Airport Concessions Program Programs in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26 and Part 23. The MAC has received Federal financial assistance from the DOT, and as a condition of receiving this assistance, MAC has signed an assurance that it will comply with 49 CFR Part 23 and 26. It is the policy of the MAC to ensure that DBEs and ACDBEs as defined in Part 23 and 26, have an equal opportunity to receive and participate in DOT-assisted contracts.

It is also our policy to:

1. Ensure non-discrimination in the award and administration of DOT-assisted contracts;
2. Create a level playing field on which DBEs and ACDBEs can compete fairly for DOT-assisted contracts;
3. Ensure that the Programs are narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 CFR Part 23 and 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in DOT-assisted contracts;
6. Promote the use of DBEs and ACDBEs in all types of federally assisted contracts, procurement activities and concessions;
7. Assist the development of firms that can compete successfully in the marketplace outside the DBE and ACDBE Programs; and
8. Provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs and ACDBEs.

Tekia Jefferson, Manager of Diversity, Equity, and Inclusion (“Diversity Manager” of “Manager of Diversity”) has been delegated as the DBE Liaison Officer. In that capacity, The Diversity Manager is responsible for implementing all aspects of the DBE and ACDBE Programs. Implementation of the programs is accorded the same priority as compliance with all other legal obligations incurred by MAC in its financial assistance agreements with the DOT.

MAC has disseminated this policy statement to the MAC’s Commission all of the components of our organization. We have distributed this statement to DBE, ACDBE and non-DBE business communities that perform work for us on DOT-assisted contracts. The distribution was accomplished by posting on the Minneapolis-St. Paul International Airport’s website.



Brian Ryks, Executive Director/CEO

11/24/19

MAC reserves the right to change, alter or delete any of the Plans at any time. The Plan will be submitted for approval to the FAA to approve material changes.

1.3 Application

The DBE Construction Plan applies to all construction and construction-related (architectural, engineering, other professional services, equipment) projects undertaken by the MAC that are funded in whole or in part with federal dollars. As a federal grant recipient, MAC's DBE Concession Plan applies to concession operations, leasing activities and purchasing of goods and services at the Minneapolis/St. Paul International Airport (MSP).

1.4 Objectives

MAC has eight (8) objectives it seeks to accomplish through the implementation of the DBE construction and concessions plans:

- To ensure non-discrimination in the award and administration of DOT-assisted contracts;
- To create a level playing field on which DBEs and ACDBEs can compete fairly for DOT-assisted contracts;
- To ensure that the Programs are narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet 49 CFR Part 23 and 26 eligibility standards 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 and ACDBEs in all types of federally assisted contracts, procurement activities and concessions;
- To assist the development of firms that can compete successfully in the marketplace outside the DBE and ACDBE Programs; and
- To provide appropriate flexibility to recipients of federal financial assistance in establishing and providing opportunities for DBEs and ACDBEs.

1.5 Overview

A fifteen (15) member Commission governs MAC. The chairperson is appointed by the Governor to serve at the pleasure of the Governor. The Commission has three standing committees: Finance and Administration; Planning, Development and Environment; and Management and Operations. The committees are responsible for all aspects of MAC which fall within their respective responsibilities.

An effective successful Program requires quality administration. Organizational structure, human resources, and reporting relationships must exist in a supportive and cooperative working environment. The complex Programs are designed to be administered in a manner while recognizing the important involvement of numerous departments and staff members.

The daily management of the airports is the responsibility of the Executive Director/Chief Executive Officer. Six functional areas report to the Executive Director: Chief Information

Officer, Chief Financial Officer, Chief Operating Officer, General Counsel, Director-Internal Audit, and Associate Vice President of Governmental Affairs

1.6 Organization

MAC will commit the necessary resources to provide for the effectiveness of the Programs and its Construction and Concessions Plans.

1.7 Office of Diversity, Equity, and Inclusion

The Office of Diversity, Equity, and Inclusion is responsible for creating, designing and monitoring of MAC's Programs led by the Manager of Diversity has direct and independent access to the Executive Director; and is a standing member of the Minnesota Unified Certification Program Committee (MnUCP);

All employees of the Office of Diversity, Equity, and Inclusion report to the Manager of Diversity who serves as the DBE Liaison Officer, a required designation of the FAA for grant recipients in accordance with 49 CFR §23 and §26.

1.8 Manager of Diversity /DBE Liaison Officer

The Manager of Diversity of MAC has the overall responsibility for directing the development and implementation of the Programs. The Manager of Diversity reports has direct and independent access to the Executive Director. The Manager of Diversity can be contacted at:

6040 28th Avenue S.
Minneapolis, MN 55450
612-726-8196

As the DBE Liaison Officer, the Manager of Diversity is responsible for overseeing the day-to-day administration of Plans to ensure that DBEs are provided an equitable opportunity to bid on the MAC's contracts.

The Manager of Diversity is to:

1. Support staff in the implementation of the Plan for construction and concessions;
2. Recommend any changes in the Plan for construction and concessions to the Commission;
3. Review, approve, and recommend language to the Certification Application Committee (CAC) for certification, recertification, or denial of certification of any DBE/ACDBE applicant;
4. Participate in the review process from request for bid/proposal development through construction contract closeout and throughout the term of operation of a concession lease involving DBEs to ensure that DBEs receive equitable consideration;
5. Monitor any requests for appeals or grievances;
6. Advise the Commission of projected DBE goals and annual accomplishments in construction and concessions;
7. Ensure MAC's DBE/ACDBE goals and Plan updates are submitted to the FAA for approval;
8. Ensure that all Program's elements are adhered to by MAC representatives; and

9. Keep MAC management informed about barriers or impediments to DBE/ACDBE participation, and make recommendation for remedies.

1.9 Certification and Contract Specialist

The Certification and Contract Specialist serves as the day-to-day administrator for implementation of MAC's Programs and performs the daily tasks associated with implementing the Programs. Under the general oversight of the Manager of Diversity, the Certification and Contract Specialist's duties include, but are not limited to, providing the following services:

1. Serve as MAC's liaison with other governmental agencies, contractor organizations and other groups supporting development of the DBE community;
2. Work closely with other staff responsible for purchasing and contracting decisions;
3. Make recommendations to the CAC on applications received by MAC;
4. Disseminate the Plans for construction and concessions to all departments of MAC and to any other interested party and make available on the website and intranet site;
5. Provide referrals to assist in publicizing procurement and concession opportunities at MAC to the DBE community through newspapers, bulletins and websites, etc;
6. Assist in securing management and technical assistance as well as participate in seminars for DBEs, contractor associations and community organizations;
7. Participate in conferences, training sessions and trade fairs for the purpose of informing the DBE community about MAC's DBE Construction and Concessions Plan and contracting and leasing opportunities;
8. Coordinate reporting and monitoring of contractor and subcontractor compliance with the Plans for construction and concessions;
9. Establish and monitor interdepartmental reporting systems for DBE participation on contract awards;
10. Review and monitor all purchasing, contracting and leasing activities to identify opportunities for DBE participation;
11. Ensure that up-to-date contract records are maintained on DBE participation in procurement, contracting, concessions and revenues to track the progress in achieving DBE goals;
12. Prepare annual reports on DBE participation in MAC contracts and concessions and prepare timely submissions of DBE reports required by the FAA; and
13. Assist, as requested, in resolving contractors' concerns pertaining to DBE matters throughout the performance of a contract.

1.10 General Counsel Division

General Counsel Division serves in an advisory capacity to the MAC's Diversity and DBE-related programs. The role of the General Counsel Division includes:

1. Rendering legal opinions as requested on matters related to implementation of the Plan for construction and concessions such as contract disputes, appeals, bid specification requirements, etc;
2. Representing MAC at hearings, as necessary; and
3. Reviewing certification denial letters, as requested.

1.11 Other Key Areas

Airport and Planning Development, Commercial Management and Airline Affairs (CMAA), Risk Management, and Purchasing Departments have key roles in procuring goods and services for MAC. In conjunction with the Office of Diversity, Equity, and Inclusion staff from each of these areas share responsibility for ensuring the effective implementation of MAC's DBE construction and concessions program. The departments will work with the Office of Diversity, Equity, and Inclusion to provide DBEs the maximum opportunity to participate in all MAC purchasing, contracting and concession opportunities.

To assist the Office of Diversity, Equity, and Inclusion these departments will:

1. Inform the Office of Diversity, Equity, and Inclusion of Request for Bids/Proposals prior to public solicitation to ensure that available DBEs are made aware of potential opportunities. Review goals and initiate the DBE notification process;
2. Include the Office of Diversity, Equity, and Inclusion in reviewing bid specifications and proposals to ensure the inclusion of appropriate DBE/EEO requirements, including DBE leasing requirements and non-exclusionary language, prior to a request for bid/proposals;
3. Include the Office of Diversity, Equity, and Inclusion the bid/proposal review process to ensure contractor compliance with DBE/EEO contract requirements;
4. Notify the Office of Diversity, Equity, and Inclusion of all bid openings for goods or services contracts;
5. Seek approval of the Office of Diversity, Equity, and Inclusion on DBE participation in construction or concession leases prior to the award recommendations to the Committee;
6. Work with the Office of Diversity, Equity, and Inclusion (1) to ensure a procurement strategy and (2) to develop a concession bid/negotiation strategy which maximize the possibility of DBE participation consistent with MAC's mission;
7. Assist the Office of Diversity, Equity, and Inclusion in capturing contract activity for DBE report preparation; and
8. Consistently implement Program requirements in all procurement and contracting activities.

1.12 Commercial Management and Airline Affairs Department

The Commercial Management and Airline Affairs Department has the major responsibility for negotiating lease agreements for MAC.

In accordance with federal guidelines, the Director of CMAA will make a business decision that MAC grants no exclusive rights or lease term greater than will be necessary for a concessionaire to achieve a reasonable return on its investment.

In conjunction with the CMAA Department, the Office of Diversity, Equity, and Inclusion will be responsible for reviewing and approving the DBE involvement in concessions.

To assist the Certification and Contract Specialist, the Director of CMAA will perform those responsibilities listed above and:

1. Consistently assess the feasibility of DBE participation in all lease renewals and renegotiations.
2. Review and set goals on RFPs and contract agreements.
3. Ensure specific provisions are included in concession agreements and management contracts as stated in 49 CFR §23.
4. Review financial reports of concession gross receipts and develop projections or forecasts of future revenues.

1.13 Finance Department

1. Provide the Certification and Contract Specialist financial reports on concession activity;
2. When requested, review financial information submitted by potential DBEs to determine the financial strength of a firm;
3. DBE Financial Institutions - To the full extent possible to seek out financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions and to encourage contractors and concessionaires to make use of these institutions.

The Metropolitan Airports Commission in 2017 held a session with area banking communities to educate and seek input on services which could be provided to businesses that perform at Minneapolis-St. Paul International Airport.

1.14 Risk Management Department

The Risk Management Department will provide the following assistance to Airport Development, CMAA and Office of Diversity, Equity, and Inclusion Departments:

1. Identify and refer potential sources to obtain required bonding and insurance; and
2. Advise as to the appropriate level of bonding and insurance required of a contractor or concessionaire by MAC.

1.15 Finance and Administrative Committee

The Finance and Administration Committee will serve as a policy committee on Affirmative Action and DBE related matters. The Committee meets monthly. The Committee's duties and responsibilities will include, but not be limited to, the following:

1. Meet with the Manager of Diversity and other appropriate individuals to review concerns of DBEs and to make recommendations for improvement to the Programs.
2. Assist the Manager of Diversity to identify DBEs that are ready and willing to provide goods and services to MAC.
3. Review the annual DBE construction participation reports from the Office of Diversity, Equity, and Inclusion and make recommendations as appropriate.
4. Will consider, study, review and make recommendations to the Commission related to employment policies and affirmative action/equal opportunity issues related to MAC personnel, concessions, operations, maintenance and construction.

1.16 Airport Development Department

The Airport Development Department assists in the implementation of the DBE Construction Plan. The Department writes the grant proposals to fund federal projects. They also participate or implement the following procedures:

1. Assist in setting annual DBE construction goal and individual project goals;
2. Ensure DBE goals are placed in specifications and proposals, if appropriate;
3. Verify with the Certification and Contract Specialist the correctness of DBE goals on individual projects or proposals;
4. Administer fulfillment of DBE goals by the lowest responsible bidder or proposer
5. Assist in determinations of good faith by the lowest responsible bidder or proposer; and
6. Notify the Office of Diversity, Equity, and Inclusion of problems on project sites that affect DBE's.

1.17 Dissemination of DBE Construction and Concession Plans

1. Internal

The Manager of Diversity will have the major responsibility for internal dissemination of MAC's DBE Construction and Concession Plans. Directors and managers will disseminate the Plans to appropriate staff. In order to ensure the effectiveness of MAC's Programs, the Manager of Diversity will take the following steps to disseminate the Plans internally:

- a. Distribute the Plans for construction and concessions electronically or hard copy as requested;
- b. Encourage directors and managers to share copies of the Plans with their staff members responsible for purchasing and contracting;
- c. Include MAC's DBE construction and concessions policies and procedures in all purchasing and contracting policy manuals and directives;
- d. Include DBE construction and concessions participation goals, objectives and results in the appropriate MAC reports;
- e. Ensure that MAC staff receives training and assistance in understanding the importance of the DBE construction and concessions goals and objectives, and strategies of implementation to accomplish the objectives; and
- f. Report progress of the DBE construction and concessions programs annually to the Finance and Administration Committee.

2. External

MAC, through its Office of Diversity, Equity, and Inclusion, will take the following steps to ensure dissemination of its Plans externally:

- a. Make available upon request copies of these documents to all interested parties;
- b. Include notice of MAC's DBE construction and concessions policy and plans in all documents for procurement, i.e., notice to bid, invitations to bid, requests for

- qualifications, requests for proposals, contracts, and concessions and lease agreements;
- c. Publish on MAC's website, www.metroairports.org, a notice announcing the preliminary establishment of the annual DBE construction and concession goals to inform the public, pursuant to federal regulations. A description of how the goals were developed will be available for inspection during normal business hours at MAC for thirty (30) days following the date of notice. If the proposed goal changes following review by the FAA, the revised goal will be posted on MAC's website;
 - d. Inform DBE professional business associations, trade associations and community organizations about MAC's DBE construction and concession plans and encourage member of these organizations to participate in MAC contract and leasing opportunities; and
 - e. Advise all MAC contractors, consultants, suppliers, concessionaires and lessees of MAC's Plan's in construction and concession requirements and encourage them to provide similar access and opportunities to DBEs as subcontractors, subconsultants, sub-concessionaires and sublessees.

Concerns, comments or questions regarding the program will be directed to the Office of Diversity, Equity, and Inclusion at:

Metropolitan Airports Commission
The Office of Diversity, Equity, and Inclusion
6040 – 28th Avenue South
Minneapolis, Minnesota, 55450
(612) 726-8100
or via www.metroairport.org

2. Outreach to DBEs

2.1 Overview

The purpose of the outreach process is to ensure that DBEs interested in a construction or concession opportunity with MAC are identified and informed of potential opportunities. Through effective communication with the DBE community MAC intends to achieve its DBE goals. MAC outreach efforts will be comprehensive and continuous.

It is MAC's intention to communicate to the community its policy of and commitment to the inclusion of DBEs in its concession and construction activities. Toward this end, it is incumbent upon all employees of MAC to play a role in communicating the MAC's policy and philosophy through interworking relationships with each other, and interaction with the public at large. The Office of Diversity, Equity, and Inclusion will lead the planned outreach to the (AC)DBE community. The Office of Diversity, Equity, and Inclusion will be assisted in this process by the Airport Development Department through the release of timely information about upcoming construction and concession opportunities. Effective communication will serve to establish confidence in the DBE community concerning the commitment of MAC to include (AC)DBEs in construction and concession operations.

2.2 Outreach Process

In order to facilitate the involvement of (AC)DBEs in construction projects and concession operations, MAC will first assess the feasibility of (AC)DBE participation. Upon a determination of feasibility, (AC)DBE participation will be communicated formally as part of the solicitation process. The Certification and Contract Specialist will be responsible for coordinating the outreach effort for the Office of Diversity, Equity, and Inclusion and will serve as a communication link between MAC and the DBE community. The Certification and Contract Specialist will provide information to (AC)DBEs on construction and concession opportunities and how to get involved and take advantage of such opportunities.

The Office of Diversity, Equity, and Inclusion will employ measures to minimize the communication barriers and maximize the utilization of (AC)DBEs available and interested in construction and concession opportunities with MAC. The outreach efforts will include but not be limited to the following:

1. Identifying, locating and notifying (AC)DBEs who may be interested in participating as concessionaires and/or contractors in MAC opportunities;
2. Notifying professional, trade, business and community organizations of concession and construction opportunities and encouraging DBEs to compete, when appropriate;
3. Informing potential proposers of (AC)DBE requirements on construction and concession opportunities when soliciting;
4. Place notifications on MAC's website;
5. Providing information to potential proposers concerning the availability of (AC)DBEs to assist them in meeting (AC)DBE requirements; and
6. Working with the appropriate departments in making suggestions pertaining to opportunities and methods of award to facilitate the participation of (AC)DBEs, including but not limited to, recommendations for best practices, joint ventures and (AC)DBE subleasing program, etc.

The staff will be available to the (AC)DBE community to assist (AC)DBEs in their efforts to understand the requirements and gain access to the process for award of contracts and concession leases.

2.3 Outreach Media

MAC will utilize several sources to outreach to the (AC)DBE community to determine their interest in construction and concession opportunities with MAC. These sources will provide a pool of potential (AC)DBEs that are ready and willing to take advantage of these opportunities. These sources include:

1. (AC)DBE Directory: The Directory will serve as a list of (AC)DBEs who have been certified as such by the CAC of the MnUCP. The directory will be kept current through the Certification Application Committee (CAC) bi-weekly meetings and be made available to all interested, potential and present contractors and lessees;

2. Advertisements and Bid Notices: MAC will utilize appropriate publications to advertise bid notices and requests for proposals;
3. (AC)DBE Publications: MAC may utilize special audiences, e.g. publications (AMAC newsletters, MBE magazines, Black Enterprises, Hispanic Enterprise) to advertise construction and concession opportunities. These publications are of specific interest and are circulated to minorities and women interested in business opportunities; and
4. Trade Fairs and Conferences: These provide excellent opportunities to communicate MAC's (AC)DBE construction and concession programs to a targeted audience. They also provide special opportunities to contact, meet and network with minority and women business owners. MAC staff with responsibilities for (AC)DBE Programs implementation will be encouraged to attend such activities.

3. Certification

3.1 Overview

Certification is the process of verifying the eligibility of a business owner to participate in the MAC's (AC)DBE Programs for federally-funded construction projects and all concessions operations in accordance with federal regulations (49 CFR §23 & §26).

The success and credibility of the (AC)DBE Programs requires a solid certification process that expeditiously and objectively verifies the status of a firm as owned and controlled by minority, women, or other socially and economically disadvantaged (SED) persons. Only those businesses certified in 49 CFR §23 or §26 as (AC)DBE are eligible to participate in MAC's programs.

3.2 Confidentiality

The CAC must safeguard from disclosure to unauthorized persons information gathered as part of the certification process that may reasonably be regarded as proprietary or other confidential business information, consistent with applicable Federal, state, and local law. This includes other departments, divisions or administration within the Certifying Agencies organization.

3.3 Eligibility Standards

To qualify for certification as a (AC)DBE firm in construction or concession, a firm must meet the definitional requirements of a (AC)DBE. MAC utilizes the following federal standards in determining whether a firm is a disadvantaged business as defined in 49 CFR §23 and §26:

1. A firm must be at least fifty-one percent (51%) owned and controlled by one or more socially and economically disadvantaged (SED) individual.
2. Socially disadvantaged individual are those who have been subjected to racial or ethnic prejudice or cultural bias within American society because of their identities as

members of groups and without regard to their individual qualities. Social disadvantage must stem from circumstances beyond their control.

- a. The Socially disadvantaged owner may be disqualified if there is evidence that the owner is not economically disadvantaged due to assets and resources that indicate an ability to accumulate substantial wealth based on specific factors, similar to those used by the Small Business Administration (SBA), that are set out in the rule.
3. Economic disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged.
4. To be SED, such person must be a U.S. citizen or permanent residents. Individuals in the following groups are rebuttably presumed to be socially and economically disadvantaged (SED). (49 CFR §23 & §26):
 - a. Black Americans, which includes persons having origins in any of the Black racial groups of Africa;
 - b. Hispanic Americans, which includes persons of Mexican, Puerto Rican, Cuban, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - c. Native Americans which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - d. Asian-Pacific Americans, which includes person whose origins are form Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Korea, Vietnam, Philippines, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic or Palua), Republic of the Marshall Islands, Federated States of Micronesia, or the Commonwealth; and the Northern Marianas; Kiribati, Tuvalu, or Mairi.
 - e. Subcontinent Asian Americans, which include persons whose origins are from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, The Maldives Islands or Nepal;
 - f. Other minorities or individuals found to be disadvantaged by the SBA under section 8(a) of the Small Business Act or;
 - g. Women.
2. Minority group membership shall be established on the basis of the individual's claim as a member of a minority group as defined herein and is so regarded by that particular minority community:
 - a. Other individuals, who, on the basis of clear and convincing evidence, demonstrate from individual circumstances that they are SED and who are determined to be SED by the CAC on a case-by-case basis, in accordance with 49 CFR §23 or §26.
 - b. The social disadvantage must stem from circumstances beyond the individual's control. The social disadvantage must stem from the business *owner's* race, national origin, gender, or physical disability, long-term

residence in an environment isolated from the mainstream of American society or other similar cause beyond that person's control. In addition, the social disadvantage must be chronic, longstanding and substantial, not fleeting or insignificant. The owner cannot establish social disadvantage on the basis of factors, which are common to small business owners who are not socially disadvantaged.

- c. Assuming the individual can satisfactorily establish social disadvantage, the individual must then show that she/he is economically disadvantaged, i.e., "that their ability to compete in a free enterprise system" has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business and competitive market who are not socially disadvantaged.
 - d. Each individual owner whose ownership and control are relied upon for (AC) DBE certification must certify he or she has a personal net worth that does not exceed \$1.32 million.
3. An eligible (AC)DBE must be an independent business. The ownership and control by minorities or women shall be real, substantial and continuing.
 4. The (AC)DBE must have made a real and substantial contribution of capital or expertise to acquire the interest in the business.
 5. If the owners of the firm who are not minorities or women are disproportionately responsible for the operation of the firm, then the firm is not controlled by minorities or women and shall not be considered a (AC)DBE within the meaning of this part.
 5. The (AC)DBE owners must possess the power to direct the day-to-day operations of the business independently of a non-minority firm or individual.
 7. All securities which constitute ownership and/or control of a corporation for purposes of establishing it as a (AC)DBE under this part shall be held directly by minorities or women.
- 3.4 In addition to the criteria set forth above, an eligible (AC)DBE must meet the following standards:
1. Concession Structure Eligibility Exceptions
 - a. In accordance with guidance provided by the FAA the requirement of listing equipment is not required for firms seeking certification to do business as concessions. For a firm to be eligible as a (AC)DBE concession, it must be a sole proprietorship, corporation, general partnership or other structure. MAC will not approve limited partnerships in which the non-(AC)DBE is the general partner and the DBE partner does not have ownership and control.

Franchises may be acceptable if upon review the (AC)DBE is determined to have met all standards in this and appropriate sections and the franchiser is not affiliated with the franchisee. MAC will not accept as documentation of (AC)DBE status franchise agreements that are merely employment agreements or other agreements or arrangements that do not result in substantial (AC)DBE ownership and control.

The Office of Diversity, Equity, and Inclusion will review all franchise agreements and similar agreements to determine whether a franchise is an affiliate or an independent organization.

An eligible (AC)DBE franchise must provide the following evidence: (1) investment by the (AC)DBE owner; (2) the opportunity for profit; and (3) responsibility for the risk of failure commensurate with ownership.

- b. A concession must meet the size standards as provided in Appendix A to subpart F, 49 CFR §23, "Size Standards for Airport Concessionaires: Maximum Average Annual Gross Receipts in Preceding Three Years."

Only (AC)DBEs able to perform the work will be counted toward the (AC)DBE goal. This ensures that the (AC)DBE programs truly benefits those businesses which are owned and controlled, in both form and substance, by socially and economically disadvantaged persons.

3.5 (AC)DBE Certification Process

1. To become a certified (AC)DBE an owner must complete the MnUCP (AC)DBE Certification Application and submit the application to a Certifying Agency. The Certifying Agency will assign a Specialist to the application. The Certifying Agency must also notify the Firm they are in receipt of the application and inform the CAC administrative person responsible for recording CAC minutes to add the Firm's name including a receipt date to the application log within ten working days.

ANY INFORMATION COLLECTED DURING THE CERTIFICATION OR REVIEW PROCESS IS PLACED IN A FILE AT THE METROPOLITAN AIRPORTS COMMISSION AND BECOMES CONFIDENTIAL.

2. The CAC must make decisions on applications for certification within 30 days of receiving from the applicant all information required under this part. If not all of the information is received within 30 days of the application being submitted there are two options; the Certifying Agency may extend this time period once and report to the CAC the extension,

for no more than an additional 60 days, upon written notice to the applicant. The second option is to return the file within the 30 days including information about what specifically was not included in the application. The Certifying Agency's failure to submit a recommendation to the CAC or an extension letter within 90 days by the applicable deadline under this paragraph is deemed a constructive denial of certification for the applicants' firm as a (AC)DBE, which is appealable to the USDOT

3. The agency responsible for the (AC)DBE directory will ensure that information on newly certified firms is added to the MnUCP on-line and print directories soon as changes are made.

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

4. The Specialist will perform the following functions:
 - a. The Specialist is responsible for reviewing the Firm's application and all supporting documents. The Specialist must ensure the application is complete including attachments and all forms are properly signed and notarized. If an applicant does not have all the required documents, the Specialist will request the required documents and provide a due date no longer than 10 working days unless the applicants request an extension in writing or email. An application is not complete until all relevant information and materials has been received. The Specialist may schedule an on-site and get the required documents at the on-site.
 - b. The Applicant must be notified of missing document within 30 working days of receipt of the application. The applicant will have 10 working days to send the requested information or provide a written explanation of why the documents are not available. The applicant may request in writing an extension of the 10-business day period to provide the requested information.
 - c. If the requested documents are not received within 10 working days and an extension has not been requested the Specialist will send a letter informing the applicant of the Intent to Deny the application from the process. The letter will include an additional 5 days to submit the documents and their right to submit a completed application at any time. If the applicant fails to respond or provide the requested documents after the first request the applicant will be deemed to have failed to cooperate and the Specialist will initiate the denial process. The Specialist must notify the CAC of the Intent to Deny the application and return all application materials to the Firm. All letters sent to the applicant including electronic communication will be retained according to each agency's retention

policy.

An applicant may also decide to request a voluntarily withdrawal of their pending (AC)DBE application at any point prior to the Specialist making a recommendation to the CAC. The applicant must voluntarily withdraw in writing; i.e. email or letter. The Specialist must notify the CAC about the change of the Applicants' status and return all documents. A record of the request must be kept as part of the Certifying Agencies tracking system. The applicant is eligible to reapply at any time for (AC)DBE certification.

- d. Ensure that the applicant attests to the accuracy and truthfulness of the information on the application form. This shall be done either in the form of an affidavit sworn to by the applicant before a person who is authorized by state law to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the laws of the United States.
- e. The Specialist must take all the following steps in determining whether an applicants' firm meets the minimum standards.
 - i. Perform an on-site visit to the offices and to a job site of the Firm. Certifying Agencies Specialist must utilize the MnUCP approved "On-Site Review Form" during the visit to record responses and findings. The "On-Site Review Form" must be signed by the applicant applying for (AC)DBE status present during the on-site as well as the Specialist and retained in the applicants' file as the official record of the on-site. The Specialist member(s) must:
 - a. Interview the disadvantaged majority principal officer(s) of the Firm and all key personnel in the Firm. This may include family members, Officers or Directors key to the business functions. Review the resumes, salary schedules and/or work histories of all officers; and
 - b. Perform an on-site visit to any job site, if there are such sites, on which the Firm is currently working at the time of the eligibility investigation in the local area.
 - c. If a supplier, verify the stock on hand, space available for storage, a list of manufacturers where materials are purchased from, and hours of operation. Confirm that the warehouse is open to the public and that signage is clearly visible. The CAC may rely upon the on-site report performed by another DOT Recipient with respect to certifying out-of-state (AC)DBE Firms applying for certification in the MnUCP;
 - ii. If the Firm is a corporation, analyze the ownership of stock in the Firm,

examine all stock certificates and share transfers, and the capital investments made to obtain said stock, Articles of Incorporation, By-Laws and Minutes;

- iii. Analyze the bonding and financial capacity of the Firm;
- iv. Determine the work history of the Firm, including contracts it has obtained and work currently completed or underway;
- v. Obtain a statement from the Firm of the type of work it intends to perform as part of the (AC)DBE program and its preferred geographic locations for performing the work, if any;
- vi. Obtain a complete list of all equipment and vehicles owned by or used by the Firm, Titles/Proof of Ownership and any necessary licenses the Firm and its key personnel possess to perform the work it seeks to perform as part of the (AC)DBE program, review lease agreements and bank signature cards;
- vii. Examine the operational structure of the Firm paying particular attention to who performs key tasks; confirm what specific daily responsibilities are carried out by the majority disadvantaged owner; examine contracts/purchase orders and bank documents to determine who signs on behalf of the Firm; confirm that all equipment required to operate the business is visible and clearly displays the Firm's logo; evaluate the expertise and experience of the disadvantaged owner to operate and control the Firm as well as assess the owner's reliance on any other key personnel; and establish that the Firm is independently owned and operated.

An assumption is created when a non-disadvantaged individual who is a former owner of the firm remains involved in the operation of the firm unless a determination is made by the agency that the disadvantaged owner is in control.

- viii. Review and verify all asset and liability information contained on the disadvantaged owners Personal Net Worth (PNW) statement, tax returns and supporting documentation to determine if there are any obvious mistakes, omissions, or suspicious information. The spouse of a disadvantaged owner who is involved in the operation of the firm must also submit a PNW statement with the application.
- ix. Confirm real estate holdings, retirement assets, stocks, trusts, personal property, etc. Examine the past three years of business tax returns for the firm and determine an average of the firm's gross receipts to ensure the Firm meets both the SBA and (AC)DBE size standards. If the Specialist has a reasonable basis to believe that the PNW statement is incomplete or inaccurate, the Specialist may seek further information or investigate

to obtain clarification. The Firm seeking certification has the burden of demonstrating to the Specialist, by a preponderance of the evidence, that it meets the requirements of §26.61(b).

- x. The Specialist must prepare a written memo on the format adopted by the CAC with a recommendation to include company history, expertise of disadvantaged and non-disadvantaged owners, company structure, percent ownership, initial capital investment, management, gross receipts, independence, physical property (i.e. office or warehouse space and whether it is leased or owned), equipment, personnel and banking information.
- xi. The Specialist must recommend either certification or denial based upon a thorough review of all information. The CAC may question any portion of the recommendation or documentation and ask the Specialist to contact the Firm and obtain more clarification or evidence, as it deems necessary in order to render a decision.
- xii. The Specialist must also prepare a Transmittal signature sheet in the format agreed upon by the CAC to accompany the recommendation on which the CAC will officially record their approval or denial. Recommendations, motions and outcomes will be documented in the CAC meeting minutes.

3.6 Certification Application Committee

1. The Chairperson is the facilitator of the CAC meeting and is eligible to vote if there is a split decision. The Chairperson only signs the Transmittal sheet if required to cast a vote because of a split decision.
2. The designated voter for each Certifying Agency will be identified at the beginning of the meeting and the information will be included in meeting minutes.
3. Conflict of Interest: A Specialist may abstain only when there is a clear conflict of interest. Any person at the CAC should disclose of a conflict of interest prior to any discussion about the Firms' application status. The Chairperson has discretion to request the Specialist to leave the meeting until the discussion is complete.
4. Discussions regarding the recommendations will occur during the CAC meeting.
5. Each Certifying Agency will have a vote.
 - a. A Certifying Agency's designated voter may request to table a file, request additional information and if necessary, to recess the meeting to discuss the vote with staff.
 - b. Certifying Agency decisions are to be made by staff that regularly perform the duties of a Specialist. Agency caucusing prior to the CAC meeting is not

encouraged. The value of the CAC includes individual perspectives, opinions and expertise.

- c. Each designated voter for a Certifying Agency must sign the Transmittal Memorandum regardless of the vote.
6. Once the CAC approves by a majority vote of the Certifying Agencies, the Specialist presenting the application will prepare the Denial or Certification letter.
7. If the majority decision is to certify the firm, the letter will include the NAICS, description of the Firms' area of work and date of CAC decision. The Certification letter will not include an expiration date. The Specialist of the certifying agency responsible for the application will sign the letter. New letters will be issued to a Firm whenever there is a change to the NAICS codes, description of work performed or upon completion of an update on-site review.
8. Once the CAC has certified a (AC)DBE, it will remain certified until or unless its certification has been removed through the appropriate procedures. The CAC will review a firm's eligibility annually through a No Change Affidavit Form completed by the owner of the firm. An on-site review may be conducted if appropriate in light of changed circumstances, a complaint or other information concerning a firm's eligibility.
9. All certified (AC)DBE's must provide written notice to the Certifying Agency to which it originally applied stating any changes in circumstances affecting its ability to meet size, PNW, disadvantaged status, ownership, or control requirements or any other changes deemed a material change. Failure to notify the Certifying Agency may result in "Intent to Remove Certification" for failure to cooperate.
 - a. Changes in management responsibility among key staff members, directors or officers are covered by this requirement.
 - b. The DBE must attach supporting documentation describing in detail the nature of such changes.
 - c. Notice must be made by the majority owner to the Certifying Agency in writing. The (AC)DBE must provide the written notification within 30 days of the occurrence of the change. If the (AC)DBE fails to notify within 30 days, it may be deemed to have failed to cooperate under Section 6.1 of this UCP.
 - d. If the Certifying Agency request information from a (AC)DBE related to PNW and a (AC)DBE is not responsive; an "Intent to Remove" letter will be sent to the owner.

3.7 Interstate Certification

When a firm currently certified in Minnesota applies to another State for (AC)DBE certification, the other State may, at its discretion, accept Minnesota's certification and certify the firm, without further procedures.

1. To obtain certification in this manner, the (AC)DBE must provide to the out state UCP a copy of its certification letter from Minnesota (MN).
2. Before certifying the MN (AC)DBE, the out of state UCP must confirm that the (AC)DBE is currently certified in Minnesota. The out of state UCP can do so by reviewing Minnesota's (AC)DBE Directory or requesting written confirmation from Minnesota.
3. Minnesota Certifying Agency must provide to the out of State UCP a complete copy of the application form, all supporting documents, and any other information submitted to Minnesota. This includes affidavits of no change including any correspondence with the (AC)DBE if the out of state UCP chooses not to accept Minnesota certifying agency's certification of the firm.
4. If the Minnesota on-site report is more than three years old, as of the date of the application to the outstate UCP, the out of state UCP may require that the affidavit also affirm that the facts in the on-site report remain true and correct.
5. If Minnesota is the out of state UCP working with a (AC)DBEs homestate and all the information has been received, we will take the following actions:
 - a. Within seven days contact the homestate of the (AC)DBE and request a copy of the on-site visit report for the firm, any updates to the on-site and any evaluation of the (AC)DBE based on the on-site visit. If there is a determination of good cause to believe that homestate's certification of the (AC)DBE is erroneous or inappropriate in Minnesota. Reasons for making such a determination may include the following:
 - i. Evidence that homestate (AC)DBE certification was obtained by fraud;
 - ii. New information, not available to the homestate at the time of the (AC)DBE's certification, showing that the (AC)DBE does not meet all eligibility criteria;
 - iii. The homestate's certification was factually erroneous or was inconsistent with the requirements of this part;
 - iv. Minnesota State law requires a result different from that of the homestates laws;
 - v. The information provided by the (AC)DBE did not meet the requirements of paragraph (c) of this section.
 - b. If, an out of state UCP requesting information from the MnUCP determines that there is good cause to believe the MnUCP certification is erroneous or should not apply to the out of state UCP we will, no later than 60 days from the date on which the information was received from the Homestate or (AC)DBE; review all the information required by paragraph (c) of this section and place the (AC)DBE in the directory of certified firms.

- c. If, the MnUCP is processing an out of state (AC)DBE application and determines there is good cause to believe the homestate's (AC)DBE certification is erroneous or does not qualify in Minnesota; ie a state licensing law.

The MnUCP within 60 days from the date on which the MnUCP received all the information required by paragraph (c) of this section, send to the out of state (AC)DBE a notice stating the reasons for the determination including the (AC)DBE appeal process for DOT.

- i. The determination must state the specific reasons the MnUCP is not certifying the(AC)DBE and offer the (AC)DBE to respond within 10 business days with a rebuttal about why the MnUCP's determination is wrong.
 - ii. The firm may elect to respond in writing, to request an in-person meeting with the CAC Chair, agencies representatives and Specialists assigned to their file to discuss MnUCP determination to their (AC)DBE's eligibility. If the (AC)DBE requests a meeting it must take place within 30 days of receiving the (AC)DBE's request.
- d. The out of state (AC)DBE bears the burden of demonstrating, by a preponderance of evidence, that it meets the requirements regarding the particularized issues raised by MnUCP's written notice. The (AC)DBE is not otherwise responsible for further demonstrating its eligibility to the MnUCP.

3.8 Interstate Timelines and Requirements

1. The Specialist must submit to the CAC within 10 working days a recommendation regarding the out of state (AC)DBE eligibility in Minnesota. The CAC's decision must be issued within 15 working days signed by the Certifying Agency's Director or Manager to the out of state (AC)DBE including the right to request a meeting and to the USDOT appeal process.
2. If Minnesota as the out of state UCP does not receive from the homestate an on-site review within 14 business days after the Certifying Agency's request the CAC may process the (AC)DBE application pending receipt of the site visit review. The Certifying Agency's responsible for the out-of-state (AC)DBE application must report the action to the CAC and send to the out-of-state (AC)DBE within 30 days the CAC action and what information has been delayed by their UCP.
3. As a UCP, when we deny or decertify any application for (AC)DBE status from an out-of-state (AC)DBE a representative of the CAC will enter the information in the Department of Transportation Office of Civil Rights' (DOCR's) Ineligibility Determination Online Database.

The following information will be entered into the database:

- a. The name of the (AC)DBE;
 - b. The name(s) of the (AC)DBEs owner(s);
 - c. The type and date of the action; and
 - d. The reason for the action.
4. As a UCP, Certification Specialists will regularly check the DOCR Web site to determine whether any firm that is applying to Minnesota for certification or a DBE that is already certified is on the DOCR's Ineligibility list.
 5. Any Specialist reviewing the list will place on the CAC agenda the information regarding the DBE listed on the DOCR's Ineligibility list under new business. The Specialist responsible for the (AC)DBE file will request a copy from the UCP listing the (AC)DBE ineligibility information.

If the MnUCP receives a request for information from another state UCP, the responsible Certifying Agency will provide a copy of the decision and notify the CAC of the request for information. When the MnUCP receives information from a UCP, the Specialist responsible for the (AC)DBE's status will review the file along with the outstate UCP representative regarding their decision and make a recommendation to the CAC regarding the (AC)DBE status of the Minnesota firm.

3.9 No Change Affidavit

1. Each calendar year all certified (AC)DBE's must provide to the Certifying Agency an affidavit sworn to by the (AC)DBE's owners before a person who is authorized by state law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United.

This (AC)DBE Affidavit of Eligibility (aka No Change Affidavit) must affirm that there have been no changes in the (AC)DBE's circumstances affecting its ability to meet size, disadvantaged status, ownership, personal net worth or control requirements any material changes in the information provided in its application form, except for changes about which the (AC)DBE has notified the CAC.

The affidavit shall specifically state that the (AC)DBE continues to meet SBA business size criteria and the overall gross receipts cap requirement. The (AC)DBE must send supporting documentation such as the (AC)DBE's taxes and personal taxes. This documentation must be (1) retained in the (AC)DBE file, (2) reviewed and approved by the Specialist, and (3) presented to the CAC as an Information Item.

2. The (AC)DBE will be sent a No Change Affidavit and given 30 days to return the affidavit along with supporting documents. If documents are unavailable (ie taxes), the (AC)DBE

must return the No Change Affidavit and state in writing when the (AC)DBE expects the information to be sent to the Specialist.

- a. If the Affidavit and documents are not received within 30 days and the firm has not made any attempt to contact the Specialist; the Specialist will send a certified letter allowing an additional 10 business days to submit the affidavit and documents. The certified letter will include the “Intent to Deny” process if the information is not received by the due date. The “Intent to Deny” letter will include the appeals process. If the information is not received by the due date the Specialist will send a certified letter of the “Intent to Deny” and the (AC)DBE will be involuntarily removed from the directory.
- b. The (AC)DBEs failure to provide this affidavit in a timely manner will be deemed to have failed to cooperate.

3.10 Updating (AC)DBE Files

1. In addition to the submittal of annual Affidavits of (AC)DBE Eligibility, the Specialist may conduct an on-site visit if warranted. The Specialist will review the findings of the current on-site, all supporting documents submitted with the current years Affidavit of (AC)DBE Eligibility, and any other documentation the Specialist deems necessary to review in order to confirm that the (AC)DBE continues to meet all eligibility requirements under 49 CFR Part 26 or 23.

If the firm continues to meet the eligibility requirements, the Specialist will prepare a “Review Memorandum” stipulating the purpose for the review and will present to the CAC along with a transmittal signature sheet. If a change of certification is warranted, the Specialist will present their recommendation to the CAC.

- a. Upon approval, a new letter will be issued to the (AC)DBE reflecting a current approval date. The letter will be sent to the (AC)DBE for their records. The letter will have an expiration date.
- b. If the CAC votes to issue an “Intent to Deny” an existing (AC)DBE, the process outlined in Section titled “Removals” will be followed.

3.11 Denials (49 CFR Part 26.85)

The CAC may, by majority, vote to deny an applicant certification as a (AC)DBE.

1. If the Specialist finds there are significant facts and evidence that the Firm does not meet the minimum requirements of 49 CFR Part 26 (or Part 23 as applicable to airport concessions), the Specialist may discuss concerns with the applicant and give the applicant an opportunity to “voluntarily withdraw” or advise the applicant they will make a recommendation to the CAC which may not be in favor of the applicant.

2. If the applicant voluntarily withdraws, they must send to the Specialist a request to withdraw by email or on company letterhead. In response, the Specialist will inform the CAC about the applicant's request to withdraw. The Specialist is required to send a letter to the applicant stating they are being voluntarily withdrawn and can reapply at any time.
 - a. If the applicant does not "voluntarily withdraw" the Specialist will continue to move the application through the CAC process and bring a recommendation to the CAC for discussion.
 - b. When the CAC denies a (AC)DBE application, which is not currently certified, the Specialist must provide the applicant a written explanation of the reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based must be made available to the applicant, on request. The Certifying Agency will sign the denial letter on behalf of the MnUCP. The denial letter must be sent by U.S. Mail, return receipt requested.
 - i. The applicant must be informed of their right to make a written appeal of the decision directly to the United States Department of Transportation (USDOT), Office of Civil Rights within 90 days of the receipt of the denial letter.
 - ii. The appeal must be made in writing by the applicant to USDOT and must address each point outlined in the denial letter. No new information will be considered.
 - iii. If a (AC)DBE is informed by certified letter of the "Intent to Deny" from the CAC, the letter will include information about the appeal process including information regarding an informal hearing and appeals may be made directly to USDOT.

3.12 Removals

1. When an applicant is denied certification, the MnUCP has to establish a time period of no less than twelve months from the date of the Intent to Deny letter sent by the CAC, or if appealed to the (AC)DBE Reconsideration Committed ("RC"), the date of the letter from the (AC)DBERC, for which the applicant can reapply. The clock will start ticking from the date of the final letter either from the CAC or (AC)DBERC.
2. A new applicant has no appeal right to the (AC)DBERC, the CAC's decision constitutes the administratively final decision of the UCP. If a (AC)DBE appeals to the (AC)DBERC, the (AC)DBERC's decision constitutes the administratively final decision of the UCP. When the (AC)DBERC makes an administratively final denial of certification concerning a (AC)DBE, the (AC)DBE may appeal the denial to the USDOT.
3. If there is no appeal to the (AC)DBERC, the CAC's decision constitutes the administratively final decision of the UCP. If there is an appeal to the (AC)DBERC, the (AC)DBERC's decision constitutes the administratively final decision of the MnUCP.

When the (AC)DBERC makes an administratively final denial of certification concerning an applicant, the applicant may appeal the denial to the USDOT.

3.13 Third 3rd Party Challenges

1. Any person may file a written complaint (3rd Party Challenge) with the MnUCP alleging that a currently certified (AC)DBE is ineligible and specifying the alleged reasons why the (AC)DBE is ineligible. The agency in receipt of the complaint must provide a copy of the written complaint to another Agency in the UCP. The UCP Chair will send a written confirmation to the complainant that the complaint has been received and is being reviewed. The MnUCP is not required to accept a general allegation that a (AC)DBE is ineligible or an anonymous complaint. Any complaints other than (AC)DBE's ineligibility will be investigated at the prerogative of the UCP. Confidentiality of 3rd party complainant about a (AC)DBE's ineligibility shall be protected.
2. All 3rd Party written complaints will be presented to the CAC as an agenda item. The CAC Chair is responsible for identifying the agency which performed the certification of the (AC)DBE. A Specialist or representative from the Non-Certifying Agency will then be assigned to gather all materials utilized in approving the initial certification of the (AC)DBE Firm(s) as well as all relative supporting documents from the (AC)DBE's file such as yearly Affidavits of (AC)DBE Eligibility, PNW and any documentation of changes in ownership or control.

The Specialist may request additional information from the (AC)DBE or conduct any other investigation that the Specialist deems necessary. The investigation may include a current on-site at the (AC)DBEs place of business or conducting interviews with key personnel involved in the operation of the (AC)DBE. The Specialist will make a written recommendation to the CAC regarding the review.

3. If the CAC determines, based on this review, that there is reasonable cause to believe that the (AC)DBE is ineligible, the Specialist must provide written notice of an "Intent to Deny" to the (AC)DBE, setting forth the reasons for the proposed determination. All findings on the issue of reasonable cause must specifically reference the evidence in the record on which each reason is based. The notice must also inform the (AC)DBE it has the opportunity to appeal the decision to the (AC)DBERC in which the (AC)DBE may respond to the reasons for the proposed removal of its eligibility in person and provide argument as to why it should remain certified. The (AC)DBE may also elect to present information and arguments in writing without appearing at the review.
4. If the CAC determines, based on the recommendation and documents submitted, there is not reasonable cause to remove the (AC)DBE's eligibility the Specialist will prepare a letter notifying the (AC)DBE of this determination and the reasons for it. The Specialist must also notify the complainant in writing that the CAC has completed an investigation into the allegations, taken action if warranted, and the complaint file has been closed.

The Specialist will include in the notification to the complainant the right to appeal the decision to USDOT.

- a. All statements of reasons for findings on the “Intent to Deny” must specifically reference the evidence in the record on which each reason is based and a final notice confirming a (AC)DBE’s removal must be sent to the (AC)DBE via certified U.S. Mail, return receipt requested. The notice must also provide instructions to the (AC)DBE on filing an appeal with the (AC)DBERC.
5. The investigation Specialist must make all the new documentation collected available to the Certifying agency for maintaining a complete original record supporting its decision. If the (AC)DBE appeals to the USDOT following a decision by the (AC)DBERC, the Certifying Agency must provide a copy of the record to USDOT.

3.14 CAC-Initiated Proceedings.

1. If, based on notification by the (AC)DBE of a change in its circumstances or other information that comes to the attention of the CAC, the CAC determines that there is reasonable cause to believe that a (AC)DBE may be ineligible; a Specialist from the certifying agency must investigate the changes or information.

The Specialist must inform the CAC of the circumstances at the first meeting after notification of the circumstances. The Specialist will return to the CAC with a recommendation about the (AC)DBE’s status.

2. If the Specialist recommends an “Intent to Deny” the Specialist must provide written notice to the (AC)DBE outlining the evidence to support the Intent to Deny. The evidence to support the “Intent to Deny” must specifically reference the evidence in the record on which each reason is based.
3. The Specialist must also notify the (AC)DBE that the (AC)DBE has the opportunity to appeal the decision to the (AC)DBERC at which time the (AC)DBE may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments why it should remain certified, or the (AC)DBE may elect to present its information and arguments in writing without appearing at a (AC)DBERC review.
4. The (AC)DBE must respond to the Specialist within seven (7) business days after the date of the letter of the “Intent to Deny” as to whether the (AC)DBE elects to appear at a review or otherwise submit its information or arguments without attending a (AC)DBERC.

3.15 (AC)DBE Review Committee ((AC)DBERC)

1. The (AC)DBERC will consist of one (1) member representing each of the Certifying Agencies of the CAC. Each certifying agency will submit 2 names to the UCP Chairperson to be members of the (AC)DBERC. The (AC)DBERC Chair will be a member of the (AC)DBERC. The (AC)DBERC Chair will not be of the same agency as the Specialist bringing forth the Intent to Deny.

- a. (AC)DBERC meetings will be scheduled as needed. All representatives will schedule a minimum of four hours for the (AC)DBERC. The Chair of the (AC)DBERC will be determined by the UCP Chairperson prior to the scheduled meeting.
 - b. The (AC)DBERC will meet for approximately one hour prior to the hearing to discuss amongst themselves any questions or concerns.
 - c. The (AC)DBERC with the (AC)DBE and representatives will be allowed 1 to 1 ½ hours for the hearing. The Chairperson of the (AC)DBERC will share the expectations prior to the start of the meeting with the (AC)DBE and representatives.
 - d. The (AC)DBERC will meet for ½ to 1 hour after the hearing to discuss and render a decision or to schedule time to make a final determination.
 - i. All (AC)DBERC hearings will be memorialized by a Court Reporter to be paid for by the agency who is Chairing the CAC.
 - ii. The (AC)DBERC hearings are not open to the public because of the confidentiality of financial information and trade secrets.
2. Members of the (AC)DBERC cannot be associated with the Certifying Agency's office responsible for certification.
 3. The (AC)DBERC makes their decision based on majority vote. There cannot be a tie vote with the outcome in favor of the appellant. The Chairperson of the (AC)DBERC shall be the tiebreaker voter.

The (AC)DBERC can:

- a. Request additional information and schedule a second meeting.
- b. Direct the CAC to withdraw the "Intent to Deny" and the (AC)DBE remain certified. The CAC must take action as directed by the (AC)DBERC.
- c. Uphold a (AC)DBE denial can be appealed to USDOT.
- d. The (AC)DBERC is not required to reverse the CAC's decisions if the (AC)DBERC determines that a procedural error did not result in fundamental unfairness to the applicant or substantially prejudice the opportunity of the applicant to present its case.
- e. The (AC)DBERC will not uphold the CAC's decision based on grounds not specified in the CAC's determination sent to the (AC)DBE.
- f. The (AC)DBERC's decision is based on the regulations and circumstances of the (AC)DBE as of the date of the CAC's decision being appealed. In upholding the CAC decision, the Chairperson of the (AC)DBERC is responsible for sending the letter to the (AC)DBE. The letter will either uphold or dismiss each specific point outlined by the CAC to support the denial along with any additional information.
- g. The (AC)DBERC must inform the (AC)DBE of their right to appeal and the removal of the (AC)DBE's name from the (AC)DBE Directory and status of any work that has begun.

The CAC must not remove the Firm's eligibility absent such a proceeding. Where DOT has reversed a denial of certification to or removal of eligibility from a Firm, the CAC must take the DOT action into account in any certification action involving the Firm. However, the CAC shall not be required to certify the Firm based on the DOT decision.

3.17 Status of (AC)DBE During Appeal Proceeding

1. A (AC)DBE remains eligible during the days prior to the appeal request to the (AC)DBERC and if appealed until the (AC)DBERC decision to remove the eligibility is sent to the (AC)DBE.
2. The (AC)DBE does not become ineligible until the issuance of the notice.
3. Effects of Removal of Eligibility:
 - a. When the CAC recommends an Intent to Deny and/or the (AC)DBERC, if applicable, removes a (AC)DBE's eligibility, the CAC must notify any affected Recipient(s), who must take the following action:
 - I. The MnUCP will post on the (AC)DBE Office of Civil Rights the removal of (AC)DBE status. The (AC)DBE shall not be a (AC)DBE even though the (AC)DBE's name may remain in the directory until the next update. The (AC)DBE's status will cease the date of the Final Administrative Decision of the (AC)DBERC.
 - II. When a prime contractor has made a commitment to using the ineligible (AC)DBE, or a Recipient has made a commitment to using a (AC)DBE prime contractor, but a subcontract or contract has not been executed before the Specialist or the CAC, if applicable, issues the notice the Firm's ineligibility, the ineligible Firm does not count toward the contract goal or overall goal.
 - III. The Recipient must direct the prime contractor to meet the contract goal with an eligible (AC)DBE Firm or demonstrate to the Recipient that it has made a good faith effort to do so.
 - IV. If a prime contractor has executed a subcontract with the (AC)DBE before the appeal process is final. The prime contractor may continue to use the (AC)DBE on the contract and may continue to receive credit toward its (AC)DBE goal for the (AC)DBE's work. In this case, or in a case where an Agency has approved a prime contract to the (AC)DBE that was later ruled ineligible, the portion of the ineligible (AC)DBE's performance of the contract remaining after finalized appeal notice has been sent to the (AC)DBE. The (AC)DBE's participation shall not count toward the Agency's overall goal but may count toward the contract goal.
 - i. Exception: If the (AC)DBE's ineligibility is caused solely by its having exceeded the size standard or PNW during the

performance of the contract, the Agency may continue to count its participation on that contract toward overall and contract goals.

4. Methods to Involve (AC)DBEs

4.1 Mentor/Protégé Program

MAC is committed to strengthening its (AC)DBE program by encouraging businesses owned and controlled by disadvantaged persons to increasingly participate in federally funded transportation-related contracts and concessionaire leases. To ensure the success of its (AC)DBE program, the MnUCP has established the Mentor/Protégé program.

The Mentor/Protégé Program is a voluntary, private sector-oriented mechanism aimed at developing (AC)DBEs by forging business relationships between larger firms and (AC)DBE firms. This is a voluntary endeavour rather than a requirement, which gives flexibility and attention to the needs of both parties and allows free will. This program is intended for long-term growth rather than short-term capital gain.

The Mentor/Protégé Program is designed to become the delivery system for the promotion and expansion of disadvantaged businesses in Minnesota. It is intended to increase the availability of qualified businesses. The program is one method that can be utilized to assist the majority firms in achieving qualified (AC)DBE participation in areas where participation has previously been difficult to obtain.

There are many challenges facing (AC)DBE firms during the next few years in concessions and construction. The Mentor/Protégé Program proposes to address these issues through mutual cooperation and joint business efforts between the larger community and the minority and women business communities.

It is anticipated that through this cooperation (AC)DBE firms will obtain a greater opportunity to share in the free enterprise systems.

The Mentor/Protégé Program provides safeguards that will not jeopardize the continued existence of the (AC)DBE firms already in business because it targets new development in non-traditional areas where (AC)DBEs are currently not involved. Yet, it provides growth opportunities for existing (AC)DBEs. This also expands and diversifies the market of available (AC)DBEs since it opens new opportunity areas available for meeting the (AC)DBE goal rather than continuing to allow traditional areas saturated with (AC)DBE firms to bear the burden of meeting the participation goal.

The Mentor/Protégé Program is aimed specifically at increasing (AC)DBE participation in MAC's contracts and leases as required by 49 CFR §23 and §26.

The success of the Mentor/Protégé Program depends on public and private cooperation recognizing that our future economic development is a shared endeavour. The MnUCP seeks the assistance and cooperation of the business community in carrying out this important program.

4.2 Purpose

The purpose of the Mentor/Protégé Program is twofold. The immediate objective is to provide (AC)DBEs with assistance and advice that will increase the number and capacity of (AC)DBEs in non-traditional areas and increase their ability to compete in contract opportunities with MAC. The ultimate objective of the program is to develop (AC)DBEs that are successful, self-sufficient and capable of participating in the construction and concession industries without preference programs.

The significance of the program is that it provides business incentives to the non-(AC)DBE firms to develop mentor/protégé business relationships that are stable and long-term. It encourages mentors and protégés to establish business development plans that are mutually beneficial. The program emphasizes business management and technical assistance that strengthens (AC)DBE protégés. Finally, it allows for successful entry of the (AC)DBE into the American economic mainstream.

A Mentor/Protégé arrangement exists when an experienced company or individual (Mentor) provides assistance and training to a newly formed (AC)DBE or an established (AC)DBE (Protégé) that needs technical assistance. Such arrangements are common in the construction industry and many non-(AC)DBE companies owe their success to such arrangements. The practice is not as common in the concession's arena. The MnUCP's goal is that Mentor/Protégé Program will become a successful mechanism for increasing (AC)DBE participation in both its construction and concession contracts.

This program will not eliminate competition but is developed to limit the problem of unavailable, qualified (AC)DBEs willing and able to participate in construction and concession opportunities in Minnesota.

4.3 Eligibility Standards

The MnUCP will approve a Mentor/Protégé relationship that meets the following criteria:

Protégé:

1. Must be an eligible (AC)DBE under 49 CFR Part 26 or 23;
2. Must be in a business area approved by the MnUCP;
3. May be a new or existing (AC)DBE; and
4. Must be selected by a mentor.

Mentor:

1. An experienced company or individual provides assistance and training to a DBE (Protégé); and
2. Must submit a request for recognition of the relationship.

4.4 Waiver

Mentor/Protégé relationships may be approved in all areas of construction and concessions in which mentor assistance is needed to develop (AC)DBE capacity.

However, the MnUCP's approval is limited to a determination of ownership and control in accordance with 49 CFR §23 and §26 and does not extend to a determination of the profitability of the relationship, appropriateness of the business relationship, or any other aspect.

4.5 Requirements

The following requirements must also be met for participation in the Mentor/Protégé program:

1. Only firms that are certified as (AC)DBEs before they are proposed for participation in a mentor-protégé program are eligible to participate in the mentor-protégé program.
2. Any mentor-protégé relationship shall be based on a written development plan, approved by the CAC, which clearly sets forth the objectives of the parties and their respective roles, the duration of the arrangement and the services and resources to be provided by the mentor to the protégé. The formal mentor-protégé agreement may set a fee schedule to cover the direct and indirect cost for such services rendered by the mentor for specific training and assistance to the protégé through the life of the agreement. Services provided by the mentor may be reimbursable under the FTA, FHWA, or FAA programs.
3. The mentor and protégé must be separate entities with the (AC)DBE firm responsible for the management of portions of the work and neither shall be treated as affiliates when both are participating under an approved mentor-protégé program.
4. (AC)DBE personnel involved must be identified in the lease or project and must be on the payroll and under the direct supervision of the (AC)DBE firm. Compensation to the (AC)DBE shall be relative to the amount of work accomplished rather than on an hourly basis;
5. In general, only one Mentor/Protégé arrangement will be allowed per mentor firm;
6. No (AC)DBE credit will be given to a non-(AC)DBE mentor firm for using its own protégé firm for more than one half of its goal on any contract let by a MnUCP agency.
7. No (AC)DBE credit will be given to a non-(AC)DBE mentor firm for using its own protégé firm for more than every other contract performed by the protégé firm.
8. The Mentor must submit for review to the Certification and Contract Specialist a summary of historical and recent activities and accomplishments under MAC's (AC)DBE Program, as applicable including any outreach activity to (AC)DBEs;
9. The Mentor must submit a detailed listing with total dollar value of contract and subcontract awards received during the past two years showing prime and subcontracts separately;
10. The Mentor must submit a listing of subcontracts and total dollar value awarded to (AC)DBEs on federally funded contracts;

11. The Mentor must submit information on its ability to provide development assistance to (AC)DBEs;
12. The Mentor must conduct and present a preliminary assessment of the protégé's developmental needs;
13. Protégé firms will not be permitted to release or subcontract any portion of or assign its work to any other firm without the prior approval of MAC;
14. The Mentor/Protégé must prepare a three-year development plan and update it annually. The development plan shall state current status of the firm and goals for the next three years. The three-year period may be extended to five years on a case-by-case basis. The development plan shall contain, at a minimum, information on the background and experience of the owners; the number and types of personnel; the amount of capital; types and values of equipment; and the amount and types of projects or leases to be pursued;
15. The Mentor/Protégé shall provide monthly updates for short-term project specific mentor/protégé agreements and quarterly updates for long-term mentor/protégé agreements.
16. The Protégé will submit an annual update on progress to MAC; if project-specific at the end of the work.
17. The protégé firm shall maintain an attorney and accountant other than the mentor's attorney and accountant; and
18. The Mentor/Protégé relationship shall be limited to three years, with a possible extension to five years.

4.6 Guidelines for Mentor/Protégé Application/Agreement

As part of the review process for participation in the Mentor/Protégé Program, the potential mentor and protégé must submit a signed mentor/protégé application and agreement to the Specialist of the CAC. The Mentor and Protégé shall each fill out an application approved by the MnUCP and attach required documents. The following information is required in the applications;

1. **Nature of Business:** The type of business and expertise that the protégé firm will bring to the relationship should be detailed.
2. **Developmental Program:** All mentor/protégé relationships shall be evidenced by a written development plan. The following guidance shall be considered in the writing of such plan:
 - a. The developmental plan shall clearly set forth the objectives of the parties and their respective roles.
 - b. Copies of the development plan shall be retained by both parties and the agency who certified the (AC)DBE.
 - c. The development plan shall establish factors to assess the protégé's development progress under the plan at successive stages.
 - d. The development plan should provide that if resources of the mentor are utilized by the (AC)DBE in the performance of contracts or subcontracts for the mentor or for another contractor, the resources must be separately identified, accounted for and compensated directly by the (AC)DBE to the mentor. If the plan provides for extensive use of the mentor's resources by the (AC)DBE the arrangement will be closely scrutinized.
 - e. The plan shall anticipate number and type of subcontracts to be awarded to the protégé firm consistent with the mentor's forecast of work.

- f. The development plan shall detail assistance or training to be provided by the mentor to the protégé firm which may include:
 - i. Business management including accounting, (general tax) loan packaging, personnel management, insurance and bonding, marketing and business plans;
 - ii. Technical assistance including bidding, estimating, inventory control, quality assurance, scheduling and project management;
 - iii. Any other assistance designed to develop the capabilities of the protégé firm; and/or
 - iv. Award of subcontracts on federally funded or other contracts non-competitive basis.

3. **Termination of Agreement:** The agreement shall contain provisions for termination of the mentor/protégé relationship by either the mentor or protégé for due cause which shall be defined. The agreement shall allow for a 30-day notice of such action on behalf of either party and allow for a rebuttal period. Notice shall be provided to both parties and MAC.

The MnUCP may no longer recognize the mentor/protégé relationship if:

- a. The protégé firm no longer meets the eligibility standards for certification as a (AC)DBE;
- b. Either party has failed or is unable to meet its obligations under the development plan;
- c. The (AC)DBE is not progressing or is not likely to progress in accordance with the development plan;
- d. The (AC)DBE has reached a satisfactory level of self-sufficiency to compete without relying on assistance provided for in the development plan; and/or
- e. The development plan or provisions of the agreement are contrary to the requirement of federal, state or local law or regulations.

Termination of a mentor/protégé agreement shall not impair the obligations of the mentor firm to perform pursuant to any contractual obligations.

A mentor firm may not require a (AC)DBE to enter into a mentor/protégé agreement as a condition for being awarded a contract by the mentor firm.

4.7 Types of Assistance

MAC offers the following guidelines on assistance that may be rendered by the mentor to the protégé firm:

1. **Financial:** A mentor may provide a protégé with working capital, time notes, loans and stocks which are acceptable methods of assuring payment in exchange for working capital. Stock issuance to a mentor firm may not exceed 10% of the total stock. In no instance can the day-to-day control of the firm be relinquished by the (AC)DBE as a requirement of the loan.

Part ownership in a (AC)DBE by a non-disadvantaged entity, including a mentor, is permitted by the regulations (49 CFR §23 or §26). Property, equipment, supplies or other services which are sold, rented or donated to the (AC)DBE, as well as any investment by non-disadvantaged individuals, must be reported to the Responsible Agency in the mentor/protégé development plan and should further be covered by bill of sales, lease agreements, etc. Furthermore, any financial investment by the mentor must not create a situation wherein the mentor may assume control over the protégé.

The mentor/protégé relationship may include, when not in conflict with state law, an arrangement by mutual consent in which an independent third party, such as a bank or an accountant, is designated as an agent for the (AC)DBE. Such agents could receive progress payments for work accomplished by the (AC)DBE, made out jointly to the agent and the (AC)DBE, and make payments, on behalf of the (AC)DBE, for material supplies or federal and state payroll taxes, etc.

- 2. Technical and Management:** The mentor should provide guidance on project management and in the case of construction information, on the latest techniques. Training in such areas as plan interpretation, estimating and cost accounting should be provided. However, the (AC)DBE must retain final decision making and managing authority. In the concessions arena the mentor could provide management guidance and training to the protégé firm. Training could be in the areas such as customer service, employee relations or inventory control.
- 3. Equipment and Personnel:** The mentor may provide, in limited instances, skilled personnel and equipment, provided that the equipment is covered by a written lease or rental agreement and that the personnel are on the payroll and under direct supervision of the (AC)DBE firm. Generally, rental or lease agreements with the mentor will be reviewed on a cost benefit analysis based on average prices of long-term, continual or repetitive use by a (AC)DBE. If the mentor employs the (AC)DBE it will be construed as an attempt to artificially inflate (AC)DBE participation.
- 4. Bonding and Insurance:** The mentor firm may provide the protégé firm with assistance in bonding and/or insurance by charging on a prorate basis or by charging the (AC)DBE firm for a bond or assisting the (AC)DBE firm in obtaining the appropriate insurance.

After gaining the appropriate construction or concession experience, the protégé firm will develop the ability to obtain bonding or insurance independently of the mentor. The examples contained in this document are not meant to be definitive. Other methods of encouraging and supporting (AC)DBEs may be allowable under the regulations.

- 5. Exclusive Arrangements:** Federal antitrust statutes are concerned with contracting or lease arrangement which may limit competition. An area of special concern is the exclusive arrangement. Any relationship in which a mentor requires a protégé to have an exclusive bidding agreement may violate federal law with respect to limiting competition.

In addition, de facto exclusivity that may occur in the initial state of the relationship, because the protégé is new, inexperienced and less marketable, is not construed as an agreement by the parties to exclusive arrangements.

- 6. Generally Unacceptable Practices:** Any subcontracting arrangement which is contrived to artificially inflate (AC)DBE participation is not acceptable. Of particular concern are (AC)DBE middle people which are not in accordance with standard industry practices or which serve no commercially useful purpose or arrangement in which a (AC)DBE is acting essentially as a broker.

In addition, any formal or informal agreement that limits the (AC)DBE's control and management of the firm would be unacceptable.

4.8 Monitoring

The Specialist will conduct an annual review of each mentor/protégé relationship they recommended to the CAC. Staff from the Agency responsible for certifying the (AC)DBE will conduct the review. The annual review will evaluate, in addition to the program requirements, the following items:

1. Improved competency of the individual (AC)DBE entrepreneur;
2. Ability to successfully manage a project or concession;
3. Decreasing reliance of the protégé firm on the mentor firm for equipment, personnel, expertise and support;
4. Increasing financial capacity; and
5. Increasing number of projects with contractors or additional concessions other than the mentor firm.

If the Specialist determines that the Mentor/Protégé Program requirements are not being followed, a summary of the areas of concern and a recommendation will be made to the CAC. If the CAC agrees with the recommendation the Mentor/Protégé relationship will be revoked.

4.9 Joint Venture

The "Joint Venture" concept is a process of conducting business which has been used by individuals to accomplish a common objective. Joint Ventures are an effective mechanism for developing business relationships and increasing record of accomplishment as a means of achieving increased participation. The MAC is committed to encouraging the use of joint ventures to increase (AC)DBE participation in construction and concession contracts with MAC.

The FAA is responsible for overseeing airport compliance with the Airport Concessions Disadvantaged Business Enterprise ((AC)DBE) program found in 49 CFR Part §23.

Airports have a vested interest in ensuring that appropriate (AC)DBE participation is counted and that there is effective structuring and monitoring of joint ventures and joint venture participation by (AC)DBEs in the concession activities of airports.

The Certification and Contract Specialist will have the major responsibility for determining the acceptance of the joint venture agreement to satisfy the (AC)DBE participation goal.

4.10 What is the Joint Venture Program?

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

The program creates an environment conducive to transferring industry knowledge, skills and abilities between (AC)DBEs and majority firms by sharing respective property, capital, expertise, manpower and other resources. The long-term objective of the program is to support the development of (AC)DBE management skills to a level necessary for a transition as a prime contractor or concessionaire. The program is intended to produce advantages for all involved parties.

Benefits MAC by:

1. Meeting its (AC)DBE requirements for federal funding;
2. Increasing its pool of available bidders/proposers; and
3. Getting quality work performed.

Benefits (AC)DBEs by:

1. Gaining opportunity to do work with MAC;
2. Gaining knowledge, skills and abilities to perform work as a prime contractor or concessionaire; and
3. Developing a performance track record.

Benefits Majority firms by:

1. Developing long term business relationships;
2. Meeting (AC)DBE requirements; and
3. Gaining opportunity to do business with MAC.

4.11 Eligibility Standards

A joint venture is eligible to participate in MAC's program if the (AC)DBE partner meets the standards for certification as a (AC)DBE under 49 CFR §23 & §26.

The (AC)DBE partner must also:

1. Share in the ownership, control and management responsibilities;
2. Share risks and profits of the joint venture commensurate with ownership;
3. Be responsible for a clearly defined portion of the work to be performed.

MAC will count toward the (AC)DBE participation goal that dollar amount of the contract equal to the percentage of ownership by the (AC)DBE partner in the joint venture.

For example, if the (AC)DBE partner owns 35% of the joint venture, then 35% of the total value of the contract will counted toward the (AC)DBE participation goal, provided that the (AC)DBE joint venture performs 35% of the work.

Qualification to participate in the program will be based on completion of the Certification Application and the Joint Venture agreement submitted for review by the Certification and Contract Specialist. The role of the (AC)DBE partner will be evaluated in the joint venture based on the degree of (AC)DBE involvement in the joint venture (should depend on the nature of work to be performed, the experience and size of the (AC)DBE firm). Monitoring will take place after a joint venture award to ensure the participation of the (AC)DBE partner.

4.12 Joint Venture Considerations

A majority firm or (AC)DBE that is interested in pursuing a joint venture relationship should consider:

1. Reasons for the joint venture;
2. Expected results;
3. Time length of venture;
4. Partner's qualifications or attributes;
5. Technical needs of Partners; and
6. Legal structure of venture (corporation, general or limited partnership).

4.13 Joint Venture Requirements

Firms pursuing a potential joint venture relationship must understand the purpose of a joint venture. While it is impossible to prepare for every problem, there are specific requirements that should be explored. Each joint venture partner must clearly understand these requirements and commit to their role and responsibility to perform in the joint venture.

4.14 Basis for Joint Venture Relationships:

1. A partnership to perform a specific project;
2. An agreement to share in the ownership, control and management of the venture;
3. Each partner to the joint venture agreement will maintain separate management and operating procedures;

4. A fiduciary duty on behalf of each partner to act in good faith and with fairness and honesty in the venture;
5. Full disclosure by each partner on matters relating to the venture; and
6. Each partner working cooperatively toward a goal.

4.15 Guidelines for Review of Joint Venture Agreements

The Certification and Contract Specialist will review all joint venture agreements, which involve (AC)DBE participation submitted to meet MAC's (AC)DBE goals on contracts.

The Certification and Contract Specialist will review the agreement to ensure that the (AC)DBE is certified under 49 CFR Part 23, the (AC)DBE firm shares in the ownership and control in the joint venture, has a substantial role in the operation and management, and is responsible for a clearly defined portion of work to be performed on the contract. The Certification and Contract Specialist will recommend to the CAC an approval or denial of a joint venture for participation in the (AC)DBE Programs.

The Certification and Contract Specialist will review the following components of the joint venture agreement for details of (AC)DBE involvement:

1. **Ownership:** The joint venture agreement will identify the specific firms (majority and (AC)DBE) to be involved in the joint venture. It shall specify the name of the joint venture to be used and its legal structure (corporation, partnership). The participation percentage to which each partner will share in the profits or losses shall be stated. The partners will be required to contribute capital in proportion to their interest. Any contribution of capital, tools or equipment should be made prior to the award of the contract. Independent financing is preferred. However, if the (AC)DBE is unable to do so, the Joint Venture agreement shall detail assistance to the (AC)DBE in obtaining financing. The (AC)DBE will at least make an equity contribution.
2. **Operation:** The joint venture agreement shall define the day-to-day operation of the venture. A managing partner shall be designated; the duties, responsibilities, and liabilities of each partner shall be designated. Authority for purchasing shall be stated as well as authority for entering into subcontracting agreements.

Accounting procedures shall be detailed. How profits and losses will be calculated and divided between the partners in proportion to their interest shall be stated. The agreement shall specify the timing of distributions. The parties shall receive payments only for work performed. Guaranteed payments to (AC)DBEs without work performance does not comply with requirements for participation in MAC's Joint Venture program. In addition, the agreement shall address the rights of each partner to have access to the books and records of the joint venture.

3. **Management:** The joint venture agreement shall identify how the venture will be managed overall as well as day-to-day. This may occur through a managing partner or through a management committee with representation by the majority as well as the (AC)DBE firm.

If there is a managing partner or a management committee, representation is usually based on percentage of interest in the joint venture. The participation of each party in management meetings is not only a right but an obligation.

The agreement shall define the management committee's duties and responsibilities for directing the business affairs of the joint venture.

It shall designate a managing partner for daily operations, authority for binding the joint venture, borrowing money or use of credit of either partner and compensation to partners, selecting a bank, insurance company or accounting firm; and the reporting mechanisms to inform the partners of the joint venture progress. The agreement shall specify the frequency of meetings and attendance requirements of the management committee.

If either partner is to provide a management service or assistance to the joint venture, the agreement shall address this as a charge back or management fee to the joint venture. This fee is a charge for indirect management of the operation such as: data processing, payroll or purchasing, etc.

Such a fee shall be reasonable and represent a recovery of cost not a profit for a partner. All services for fees shall be listed in the agreement and how the cost for services are derived. Cost for services shall compare favourably with general industry standards.

4. **Work Performance:** At a minimum, the joint venture agreement shall clearly define the portion of work to be performed by the (AC)DBE relation to its interest in the joint venture. (AC)DBE involvement in a joint venture shall depend on the nature of a contract (type project, concession), percentage of interest the (AC)DBE can carry, its skills, knowledge and capability to perform.

The (AC)DBE partner shall be given full responsibility for a specific portion of work. The (AC)DBE partner shall not be relegated to a subordinate role or employee/employer relationship with the majority firm.

The joint venture shall ensure that the (AC)DBE performs in areas where it is capable and that assistance is provided to the (AC)DBE to gain exposure and expertise in areas where it is weak or unskilled. This may be accomplished by the joint venture through technical assistance or training programs.

5. **Termination:** The joint venture agreement shall specify the basis for termination of the venture. It shall discuss liquidation of the venture's assets upon completion of a project. It shall also discuss the rights of each partner upon the failure of either party to perform or to make a required contribution in a timely manner.

4.16 Monitoring the Joint Venture

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Once a joint venture firm has been awarded a contract, the progress of the joint venture will be monitored. The Certification and Contract Specialist, in conjunction with other appropriate representatives, will be responsible for periodic monitoring of the work performance of the joint venture and more specifically the role and performance of the (AC)DBE partner.

The joint venture will be subject to the same contract monitoring requirements outlined in the monitoring section of the Construction and Concession Plans. In addition to mandated reporting requirements, joint ventures will be evaluated to determine the effectiveness of the joint venture program in increasing (AC)DBE involvement in MAC contracting as primes, subcontractors or prime concessionaire. This will be accomplished through periodic interviews with joint venture partners and assessment of technical assistance or training provided to the (AC)DBE.

4.17 Overview

This (AC)Plan for construction applies to all Airport Improvement Project (AIP) funding and terminal building concessions, purchasing of goods and services and car rental companies.

5. (AC)DBE Goal Criteria

5.1 Overview

The program is designed to increase the utilization of (AC)DBEs. The goals must reflect creative planning and thoughtful consideration of the needs of the MAC as well as the availability of (AC)DBEs able to provide the goods and services needed by MAC.

Setting (AC)DBE goals is a means of targeting opportunity for participation and of measuring the achievement of (AC)DBE participation in MAC's federally funded activities. The FAA has advised grant recipients to establish two types of (AC)DBE goals: (1) overall goals for the entire (AC)DBE Programs for a three-year period, to be reviewed and updated annually; and (2) specific contract goals for each prime contract which a bidder or proposer must meet, exceed or demonstrate acceptable good faith efforts to meet.

MAC, as a federal grant recipient, shall:

1. Ensure that certified (AC)DBEs have the maximum opportunity to participate in its projects pursuant to the mandates of its policy, as well as federal requirement, through contracting, subcontracting, supplying and other agreements;
2. Identify those contracting activities which have the greatest potential for (AC)DBE participation and;
3. Set goals that are practical and related to the potential availability of (AC)DBEs in desired areas of expertise.

(AC)DBE goals will be established for construction projects, federally funded professional service contracts and concession opportunity.

1. Concession Goals

- a. Two separate overall (AC)DBE goals are to be established: car rentals and non-car rental concessions.
- b. Each goal must cover a three-year period unless annual revenues for both (car rental and non-car rental concessions) averaged over five-years preceding the date on which to submit overall goals did not exceed \$200,000. If this occurs, then no overall goal is not required.
- c. Each overall goal must be reviewed annually.
- d. Goals established must provide for participation by all certified (AC)DBEs and may not be subdivided into group-specific goals.

2. Construction Goals

- a. FAA recipients who reasonably anticipate awarding \$250,000 or less in FAA funds in prime contracts in a Federal fiscal year are not required to develop overall goals for that fiscal year.
- b. Overall goals must be based on demonstrable evidence of the availability of ready, willing and able (AC)DBEs relative to all businesses ready, willing and able to participate on DOT-assisted contracts.

- c. Goals must reflect the level of (AC)DBE participation expected absent the effects of discrimination.

5.2 Goal Setting Criteria

Goals are impacted by the unique factors affecting MAC's marketplace and by MAC's (AC)DBE goal setting policies. Certain criteria are common to all goal setting methodologies. MAC includes these common elements in its goal setting process:

1. Number and size of contract opportunities;
2. Number and capacity of qualified (AC)DBEs available to participate in those contract opportunities;
3. Past goals established by the MAC;
4. Actual (AC)DBE participation levels achieved; and
5. Factors known to have influenced the levels of participation.

MAC's effective goal setting process also requires cooperative teamwork between the Office of Diversity, Equity, and Inclusion and other appropriate departments. Good communication and positive business relationships with the total community is important. MAC will continue outreach to the (AC)DBE community to identify available (AC)DBEs for contract opportunities and to address barriers which impede their access to opportunities.

In addition, consultants will provide assistance to the Certification and Contract Specialist in the overall annual goal setting process by providing a forecast of upcoming (AC)DBE participation in federally-funded projects. The Certification and Contract Specialist, in conjunction with Airport Development and consultants, will consider the impact of dividing large contracts into smaller contracts, as well as the feasibility of breaking out sizable items of work within a contract to provide commercially viable opportunities for smaller (AC)DBE firms. To accomplish this, the Certification and Contract Specialist will be informed of contract opportunities and knowledgeable about available (AC)DBEs capable to be matched with these opportunities.

The (AC)DBE Directory serves as the primary tool for identifying available (AC)DBE firms. The MnUCP electronic and print Directory is updated as changes are made in order to maintain a current list of (AC)DBEs. The MnUCP shall make the Directory available to the public electronically, on the Internet, as well as in print. Efforts will be made by the Office of Diversity, Equity, and Inclusion to diversify the MAC contract opportunities for (AC)DBEs; and (AC)DBEs will be informed of all opportunities associated with a construction project. The Certification and Contract Specialist will consider resources identified by the state, local government and other community and private organizations.

The following factors may be considered in setting overall goals:

1. Definition of MAC's relevant market (the geographical location of the majority of MAC's prime and subcontractors);
2. The number of certified women and minorities in the relevant market;
3. Analysis of contract opportunities e.g., type and dollar amount of work anticipated over goal year;
4. The degree of outreach and training that MAC is reasonably able to undertake as a means of making opportunities available to (AC)DBEs;

5. The commercial feasibility of dividing large contracts into smaller contracts and the itemization of subcontract work elements to increase possible opportunities for (AC)DBE participation; and
6. The results of past efforts to meet (AC)DBE goals.

5.3 Identification of Construction-Related Opportunities

In its process of goal setting, MAC will consider and assess the potential for (AC)DBE contract opportunities in all the various areas of contracting related to its construction projects. Opportunities for (AC)DBE participation will occur at the prime and subcontract level. These areas include:

1. Planning
2. Finance
3. Design
4. Construction
5. Equipment

The identification of all possible opportunities is critical to (AC)DBE participation in MAC purchasing and contracting activities. MAC may establish (AC)DBE goals for potential opportunities in any one or in a combination of these five areas.

1. **“Planning”** includes but is not limited to contract opportunities such as site location, financial feasibility, environmental impact studies and noise abatement.
2. **“Finance”** encompasses all opportunities essential to fiscal operations of MAC airports including but not limited to bond counsel, financial audit services, banking services, insurance providers and all other activities associated with revenue management.
3. **“Design”** entails all opportunities associated with designing new facilities, renovations to existing structures, runways, and all other eligible improvements to airport facilities. Opportunities may include architectural and engineering services, land acquisitions, space planning, interior design and signage.
4. **“Construction”** includes all construction-related opportunities associated with building facilities, runways, roads and utilities, etc.
5. **“Equipment”** involves all opportunities associated with the purchasing of major equipment and machinery needed by airports. This may include security equipment, communication equipment, snow moving equipment, power generators, etc. Much of this equipment may be bought directly by the airport or through subcontracts by MAC’s prime contractors.

MAC determines potential for (AC)DBE participation when federal funds are utilized and will assess each of these areas.

5.4 Overall Goal

The overall annual goal is determined by dividing the federal dollar value share of potential awards to (AC)DBEs by the federal dollar share of all prime contract awards forecasted for the goal period.

Only the federal share of Airport Improvement Project-funded projects is considered in the overall goal. Excluded from consideration in the (AC)DBE goals are contracts for land, funds from force accounts and other non-contractual work.

$$\text{Overall (AC)DBE Goal} = \frac{\text{(\$) Federal Share of Potential (AC)DBE Awards}}{\text{(\$) Federal Share of All Prime Contract Awards}}$$

An updated overall 3-year goal will be submitted to the Regional FAA Office of Civil Right in accordance with the schedule set by FAA. In accordance with 26.45 f.4., MAC understands that it does not have to wait for FAA concurrence on the overall goal; however, if the FAA's review of the goal suggests that the overall goal has not been correctly calculated or that the method for calculating goals is inadequate, the FAA may, after consulting with MAC, adjust our overall goal or require Mac to do so.

5.5 Contract Goals

A contract goal may be established for each prime federally funded contract that has subcontracting possibilities. The requirement may apply to both construction and construction-related (e.g., architectural, engineering, other professional services, equipment, etc.) contract opportunities. Contract goals may reflect higher or lower percentages of (AC)DBE participation than the overall goal depending on the analysis of work items and the availability of (AC)DBEs for individual contract opportunities.

The contract goal is determined by dividing the total dollar value of potential material purchases and subcontract awards to (AC)DBEs by the total estimated dollar value of the prime contract.

Unlike the overall goal, a portion of which is based on the federal dollars only, contract goals are based on the total contract amount, the federal share plus the MAC's matching funds.

$$\text{Specific Contract} = \frac{\text{Potential (AC)DBE Contracts (Dollars)}}{\text{Total Estimated Cost of Prime Contract (Dollars)}}$$

MAC is not required to submit individual project goals to the FAA upon approval of its overall (AC)DBE goal. MAC submits as part of its (AC)DBE Program goals, a description of the methodology used in establishing the annual goal. The FAA Regional Office may require approval of contract goals prior to solicitation.

5.6 Submission of Annual (AC)DBE Goals

Historically, MAC's (AC)DBE goals have exceeded 10% and MAC does not anticipate any (AC)DBE goals below 10%. However, when an overall annual goal of less than 10% is submitted to the FAA for approval, MAC will:

1. Consult with minority, women, disadvantaged businesses and general contractors; associations, trade organizations, community organizations, and other officials or organizations that could be expected to have information concerning the availability of (AC)DBEs and the adequacy of MAC's efforts to increase (AC)DBE participation.
2. Submit a justification to the FAA which provides evidence of the following:
 - a. Efforts to identify and locate (AC)DBEs in MAC's marketplace;
 - b. Availability of (AC)DBEs to participate in contracting opportunities;
 - c. Efforts to make (AC)DBEs aware of contracting opportunities;
 - d. Efforts to encourage and develop (AC)DBEs;
 - e. Population characteristics (size, numbers, etc) which impact the availability of (AC)DBE firms;
 - f. Population characteristics (size, numbers, etc.) which impact the availability of (AC)DBE firms;
 - g. Any policy, procedural or legal barriers which impede the participation of (AC)DBEs and the effort to overcome such barriers; and
 - h. A summary of information and opinions about (AC)DBE availability and MAC's efforts to increase the participation of (AC)DBEs provided by persons and organizations consulted by the MAC.

5.7 Overview

The ability to accurately assess (AC)DBE participation and achievement of goals is predicated upon a sound assessment of available opportunities for (AC)DBE participation during the contract goal setting process. Such an assessment enables the establishment of realistic goals and defines the criteria by which to measure achievement.

MAC will assess each contracting opportunity for (AC)DBE participation to determine if it meets the test of commercial viability. Each (AC)DBE contracting opportunity shall be consistent with the generally accepted practices in the marketplace for the procurement of similar goods and services.

In counting (AC)DBE participation on a contract, MAC will assess the viability of the subdivision of work or product proposed by a bidder. Potential (AC)DBE participation on MAC contracts shall be consistent with existing business activities, customs and practices of the relevant industry and trades.

Commercial viability involves at least three components: appropriate work, available work and workload consistent with capacity. A (AC)DBE that is engaged in commercially viable work is:

1. Practicing in its usual trade or business areas where it has knowledge and experience;

2. Performing work available to it in the usual trade or business areas and perhaps working in areas in which it has some related or previous experience that it seeks to build upon or expand; and
3. Performing work recognizing their limits and the business risk involved in the contract.

An assessment of commercial viability is necessary to ensure that proposed (AC)DBE participation is real, substantial and allows (AC)DBEs to undertake work to the limits of their respective capacities.

Participation is measured, by quantity as well as quality of the involvement. Quantity of participation is evidence by the level of involvement in the contract, e.g. percentage of work to be performed and dollars to be received by (AC)DBEs participating in the contract. Each contract will be evaluated on its own merit. Quality participation is evidenced by the total conformance with project specifications of (AC)DBEs in a particular contract, e.g. prime, joint venture prime, subcontractor or supplier.

5.8 Counting (AC)DBE Participation

All (AC)DBE bidders must be certified by the CAC of the MnUCP. Upon certification as an eligible (AC)DBE, the total dollar value of a contract awarded to the (AC)DBE is counted toward meeting the (AC)DBE participation goal as follows:

1. A contractor may count toward its (AC)DBE goal only expenditures to (AC)DBEs that perform a commercially useful function in the work of a contract. A (AC)DBE is considered to perform a commercially useful function when it is responsible for execution of a distinct element of work of a contract and carrying out its responsibilities by actually performing, managing and supervising the work involved. To determine whether a (AC)DBE is performing a commercially useful function, the contractor shall evaluate the amount of work subcontracted, industry practices and other relevant factors.

The fact that a firm does not perform a commercially useful function in a certain transaction does not mean that the firm loses eligibility, only that no credit can be counted toward the (AC)DBE goal.

2. An eligible (AC)DBE joint venture contract may be counted toward the (AC)DBE goal for the dollar value of the contract equal to the percentage of ownership and control of the (AC)DBE partner in the joint venture.
3. A contractor may count toward its (AC)DBE goal 60% of its expenditures for materials and supplies required under a contract and obtained from a (AC)DBE regular dealer, and 100% of such expenditures to a (AC)DBE manufacturer.

A manufacturer is a firm that operates or maintains a factory or establishment that produces on the premises the materials or supplies obtained by the contractor.

A regular dealer is a firm that owns, operates or maintains a store, warehouse or other establishment in which the materials or supplies required for the performance of the contract are bought, kept in stock and regularly sold to the public in the usual course of business. To be a regular dealer, the firm must engage in, as its principal business,

and in its own name, the purchase and sale of the products in question. A regular dealer in such bulk items as steel, cement, gravel, stone and petroleum products need not keep such products in stock, if it owns or operates distribution equipment. Brokers and packagers shall not be regarded as manufacturers or regular dealers.

As noted above, a supplier of bulk goods may qualify as a regular dealer if either maintains an inventory or owns or operates distribution equipment. With respect to the distribution equipment (e.g. a fleet of trucks), the term "or operates" is intended to cover a situation in which the supplier leases the equipment on a regular basis for its entire business. It is not intended to cover a situation in which the firm simply provides drivers for trucks owned or leased by another party (e.g. a prime contractor) or leases such a party's truck on an ad hoc basis for a specific job.

4. A contractor may count towards its (AC)DBE goal the following expenditures to (AC)DBE firms that are not manufacturers or regular dealers:

The fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or management services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the contract, provided that the fee or commission is determined by the MAC to be reasonable and not excessive as compared with fees customarily allowed for similar services.

The fees or commissions charged for providing any bonds or insurance especially required for the performance of the contract, if the fee or commission is determined by MAC to be reasonable and not excessive as compared with fees customarily allowed for similar services.

If a bidder fails to meet the (AC)DBE goal, the bidder must demonstrate its good faith effort to meet the goal.

To demonstrate sufficient reasonable efforts to meet the (AC)DBE contract goal, a contractor must document in writing the steps it has taken to obtain (AC)DBE participation.

5. The following factors are used in determining whether a (AC)DBE trucking company is performing a commercially useful function:
 - a. The (AC)DBE must be responsible for the management and supervision of the entire trucking operation for which it is responsible on a particular contract, and there cannot be a contrived arrangement for the purpose of meeting (AC)DBE goals.
 - b. The (AC)DBE must itself own and operate at least one fully licensed, insured, and operational truck used on the contract.
 - c. The (AC)DBE receives credit for the total value of the transportation services it provides on the contract using trucks it owns, insures, and operates using drivers it employs.

- d. The (AC)DBE may lease trucks from another (AC)DBE firm, including an owner-operator who is certified as a (AC)DBE. The (AC)DBE who leases trucks from another (AC)DBE receives credit for the total value of the transportation services the lessee (AC)DBE provides on the contract.
- e. The (AC)DBE may also lease trucks from a non-(AC)DBE firm, including from an owner-operator. The (AC)DBE who leases trucks from a non-(AC)DBE is entitled to credit for the total value of transportation services provided by non-(AC)DBE lessees not to exceed the value of transportation services provided by (AC)DBE-owned trucks on the contract. Additional participation by non-(AC)DBE lessees receives credit only for the fee or commission it receives as a result of the lease arrangement. If a recipient chooses this approach, it must obtain written consent from the appropriate Department Operating Administration.
- f. A lease must indicate the (AC)DBE has exclusive use of and control over the truck. This does not preclude the leased truck from working for others during the term of the lease with the consent of the (AC)DBE, so long as the lease gives the (AC)DBE absolute priority for use of the leased truck. Leased truck must display the name and identification number of the (AC)DBE
- g. Count expenditures with (AC)DBEs for material or supplies toward (AC)DBE goals as provided:
 - i. If the material or supplies are obtained from a (AC)DBE manufacturer, count 100% of the cost of the materials or supplies toward (AC)DBE goals.
 - a. A manufacturer is a firm that operates or maintains a factor or establishment that produces, on the premises, the materials, supplies, articles or equipment required under the contract.
 - ii. If the materials and supplies are purchased from a DBE regular dealer, count 60% of the cost of the materials or supplies toward DBE goals. (26.55 (d)(7)(2)(i). Count 100 percent of the cost of goods purchased or leased from an ACDBE regular dealer (23.55(g).
 - a. A person may be a regular dealer in such bulk items as petroleum products, steel, cement, gravel, stone or asphalt with owning, operating or maintaining a place of business provided if the person both owns and operates distribution equipment for the products.
 - iii. With respect to materials or supplies purchased from a (AC)DBE which is neither a manufacturer nor a regular dealer, count the entire amount of fees or commissions charged for the assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on a job site, toward (AC)DBE goals.

5.9 Consideration of Good Faith Effort

Each bidder/proposer must fully comply with MAC's (AC)DBE program requirements, including satisfying the goal for (AC)DBE participation or demonstrating good faith efforts on a specific project. In this regard, bidders must take all necessary and reasonable steps to ensure that (AC)DBEs have an opportunity to compete.

Meeting the (AC)DBE goal or the bidder showing a good faith effort is a condition of being awarded a federal DOT contract for which contract goals have been established. A bidder that does not meet the (AC)DBE participation goal may be awarded the contract only if MAC determines that the bidder has made good faith efforts to meet the goal and despite these good faith efforts is still unable to do so.

Bidders are required to be active and aggressive in seeking (AC)DBE participation. MAC will examine the quantity, quality and intensity of a bidder's efforts.

In determining good faith efforts, MAC offers the following kinds of efforts a bidder may consider as documented action. This list is not exclusive, exhaustive or mandatory.

1. Attendance at a pre-bid/proposal conference, if any, scheduled by MAC.
2. Advertisement in general circulation media, trade associations, or minority and women focused media concerning subcontracting opportunities, allowing (AC)DBEs a reasonable time to respond.
3. Written notification in a timely manner to a specific number of (AC)DBEs that their interest in the contract is solicited.
4. Follow-up initial solicitation of interest by contacting (AC)DBEs to determine with certainty (AC)DBE interest.
5. Selection and segmentation of portions of the work which are commercially feasible to subcontract, to accommodate the size and capabilities of available (AC)DBEs to perform the work in order to increase the likelihood of meeting the (AC)DBE goal.
6. Provide interested (AC)DBEs with adequate information about the plans, specifications and contract requirements.
7. Negotiation by contractor in good faith with interested (AC)DBEs and not rejecting (AC)DBEs as unqualified without sound reasons based on thorough investigation of their capabilities.
8. Efforts made to assist interested (AC)DBEs in obtaining bonding, lines of credit, or insurance required by MAC or the contractor.
9. Utilization of the services of available minority and women community organizations, minority and women contractors' associations, minority and women business assistance offices and other organizations that provide assistance in the recruitment and placement of women and minorities.
10. Negotiation between the contractor and (AC)DBE in good faith shall not be based on price alone.

If a contractor is unable to meet the (AC)DBE participation goal, he/she is required to submit sufficient documentation to support the good faith efforts undertaken. Documentation may include:

1. Names, addresses and telephone numbers of (AC)DBEs contacted. Record of all telephone responses including date, time of calls place and received.
2. Copies of advertisements which appeared in minority/women publication, including name of publication and date of advertisement;
3. Copies of solicitation letters inviting quotes from (AC)DBEs and describing the portions of work to be performed;
4. Detailed statement of (AC)DBEs contacted, but found to be unavailable to bid; and/or
5. Where (AC)DBE bids were rejected based on price, bidder must demonstrate that negotiation with the (AC)DBE was conducted to attempt to reach a mutually acceptable price.

After a contract has been awarded, all contractors shall take affirmative action measures to ensure equal employment opportunity and shall comply with federal employment goals, as defined in US Department of Labor Executive Order 11246 and set forth in the specifications. The evaluation of the successful contractor's compliance with required employment goals of women and minority employees will be based upon its efforts to achieve maximum results from its actions.

Contract documents will detail the foregoing criteria. Bidders will be advised that these criteria will be used by MAC in assessing whether a bidder, who fails to meet the stated goals, has made sufficient good faith efforts. The bid documents will require that bidders submit evidence required by the following:

1. Within five days submit goal or good faith information to MAC.
2. In a negotiated agreement, including a design-build project, the bidder may make a contractual binding commitment to meet the goal at the time of bid submission, presentation of initial proposal, or prior to award.

Contractors that fail to meet (AC)DBE goals or fail to demonstrate good faith efforts will not be eligible to be awarded the contract. MAC may find the bid non-responsive if it is determined that the bidder has not made adequate effort to meet the (AC)DBE goal or good faith effort within five days.

6. Construction - Contracting Process

6.1 Overview

MAC supports the extent possible, the participation of (AC)DBEs in all of its federally funded contracting activities. These opportunities are made available to (AC)DBEs consistent with sound procurement principles and applicable laws.

Accordingly, MAC has promulgated this (AC)DBE contract review process to evaluate the progress toward achievement of (AC)DBE goals and objectives. The contract review and evaluation processes take into consideration MAC staff implementation responsibilities, availability of minority and women businesses and MAC contractors' good faith efforts to involve (AC)DBEs. MAC has developed language to ensure that all businesses that enter into any contract with MAC are aware of MAC's commitment to (AC)DBE participation and their responsibility to encourage (AC)DBE involvement. The implementation of the (AC)DBE Programs requires the involvement of the Office of Diversity, Equity, and Inclusion from bid/proposal initiation to contract closeout. The Manager of Diversity, acting as the (AC)DBE Liaison, is responsible for coordinating the (AC)DBE Program's initiatives on behalf of the MAC.

The appointment of the (AC)DBE Liaison is pivotal to the success of MAC's (AC)DBE Programs. The (AC)DBE Liaison must be familiar with minority, women and disadvantaged business issues, operational policies, procedures and practices of MAC's procurement system and Affirmative Action and (AC)DBE requirements and procedures.

It is the responsibility of the Certification and Contract Specialist to effectuate a smooth integration of the (AC)DBE construction program goals with MAC's overall operating philosophy and standard procurement procedures. The Certification and Contract Specialist will be actively involved in all phases of the contracting process, while being sensitive to the objectives of MAC as well as the desires of the (AC)DBE community.

The Certification and Contract Specialist will facilitate the involvement of (AC)DBEs in the total contracting process. The Specialist will serve as a communication link among the various functional units of MAC that have purchasing and contracting responsibilities. The Specialist will assist in the administration of the (AC)DBE Programs with all applicable departments. The Specialist will keep abreast of all purchasing and contracting needs of MAC. In addition, they will inform the (AC)DBE community in a timely manner of potential contract opportunities and provide assistance in understanding MAC's bidding process and contracting requirements.

6.2 Bid/Proposal Review

The initiating department which has major responsibility for federal contracting for goods or services will notify the Office of Diversity, Equity, and Inclusion of its intent to solicit proposals.

Once the Request for Proposals (RFP) is prepared, a copy is forwarded to the Office of Diversity, Equity, and Inclusion for review and comment as to the appropriateness of the (AC)DBE language including (AC)DBE participation goal and assurance of non-exclusionary requirements that would have a negative impact on (AC)DBE's ability to compete for contract opportunity. In addition to the bid specifications or the RFP, the initiating department will

provide the Office of Diversity, Equity, and Inclusion with sufficient information in regard to a breakout of work items in the contract scope of work. Bid specifications will be reviewed at the beginning of each New Year and will remain standard language throughout the year unless a periodic review indicates a need for a change.

At a minimum, the following information is required of all bidders/proposers and submissions will be evaluated by the Certification and Contract Specialist for content and compliance:

1. Certificate of Compliance from the Minnesota Department of Human Rights. The certificate must be up-to-date with the submission of a bid or prior to Commission approval.
2. Disadvantaged Business Enterprise Participation. This item includes a list of the (AC)DBE subcontractors' work type and subcontract/purchase amount that the bidder/proposer intends to subcontract with for the duration of the contract within five days.

In addition to requiring the submittal of the above-mentioned material, applicable federal, state and local rules and regulations will be brought to the attention of all prospective bidder/proposers, by including them in the specification's documents.

6.3 Contract Assurance

The Metropolitan Airports Commission will ensure that the following clause is included in each contract it signs with a contractor and each subcontract the prime contractor signs with a subcontractor:

The contractor, subrecipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract.

The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy at the Metropolitan Airports Commission deems appropriate, which may include, but is not limited to: (1) withholding monthly progress payments; (2) assessing sanction; (3) liquidated damages; and/or (4) disqualifying the contractor from future bidding as non-responsible.

6.4 Advertisement for Requests for Bids/Proposal

All requests for bids/proposals will be advertised on MAC's website.

6.5 Pre-Bid Proposal Conference

Pre-bid conferences allow prospective bidders/proposers the opportunity to receive a clear explanation of the project requirements and to answer questions regarding the project or bidding process.

The Certification and Contract Specialist or representative will be available for this meeting to explain Equal Employment Opportunities, Affirmative Action and (AC)DBE Program requirements and to answer any questions from bidders/proposers regarding these requirements. It is important to inform bidders/proposers that all (AC)DBEs to be utilized must be certified by the MnUCP. The website to the (AC)DBE Directory is included in the specifications that accompany all bids.

All questions regarding the technical and general specifications will be directed to appropriate departmental representatives at the conference. Questions that impact bid requirements will be addressed in writing to all prospective bidders prior to the bid date.

6.6 Bid/Proposal Evaluation

Upon receipt of bids/proposals, all appropriate MAC representatives will have the opportunity to review all bid/proposal submittals. The Certification and Contract Specialist will be involved in this review process to evaluate a bidder/proposer's submission for the purpose of assessing the quality and quantity of (AC)DBE participation, compliance and (AC)DBE requirements.

The Certification and Contract Specialist will review the good faith effort of the bidder's including listing of (AC)DBE subcontractors which reflects commitment to meet the (AC)DBE participation goals. This submission requires naming (AC)DBE subcontractors, type of work and dollar value of subcontracts. If this review reveals the (AC)DBE goal or good faith effort requirements have not been met by any bidder/proposer, the Certification and Contract Specialist may recommend the bidder/proposer is in noncompliance based on non-responsiveness and recommend removal from further consideration for the award. If the Certification and Contract Specialist find a minor deficiency, the Office of Diversity, Equity, and Inclusion will advise the bidder of acceptable steps to be taken to meet compliance and thus approval.

6.7 Award Recommendation

After a review and evaluation of all bids/proposals, the firm that is the lowest responsible bidder and meets all requirements is recommended for contract award. The Office of Diversity, Equity, and Inclusion will be involved in this process to ensure compliance with (AC)DBE requirements. Final award recommendations must receive approval for award by the Commission.

6.8 Preconstruction Conference

Once the Commission has authorized award of the contract, the contractor is notified by letter of his required attendance at the pre-construction conference. At the pre-construction conference, all matters material to successful contract performance are discussed, and the contractor is afforded the opportunity to ask questions and make statements regarding his/her intent to comply with all contractual obligations.

DBE PLAN

The Certification and Contract Specialist or designee will be available for the preconstruction meeting to ensure that the contractor is made aware of and understands his responsibility for reporting and the monitoring process utilized by MAC.

The contractor is advised in writing of project start-up reporting requirements. Sanctions can be imposed should noncompliance be determined are also explained to the contractor.

7. Construction – Monitoring

7.1 Overview

The most effective means to ensure real and full participation by (AC)DBEs is to actively monitor contracts and contracting activities. Monitoring is a process of verifying that (AC)DBEs are actually performing work identified in the bid documents and are being paid for work performed. Monitoring takes place after contract award and should continue until contract completion and close-out.

During the contract performance period, the MAC will assure that contractors are in fact abiding by the terms and conditions of their contract in regard to (AC)DBE participation. The Office of Diversity, Equity, and Inclusion in conjunction with Airport Development is responsible for monitoring a contractor's compliance with the (AC)DBE Program's requirements established by MAC.

Contractors shall be advised by MAC in bid/proposal documents of (AC)DBE participation requirements. The successful bidder will be advised that failure to carry out its commitment to MAC policies regarding (AC)DBE participation may result in termination of the contract, or such other remedy as deemed appropriate by the MAC. Contractors with MAC are therefore obligated to take positive actions to ensure that Equal Employment Opportunities and (AC)DBE participation requirements are met.

The aim of MAC's compliance monitoring system is to ensure that contractors are complying with their contract provisions, including achievement of (AC)DBE participation levels as well as assessing overall performance of the (AC)DBE Programs.

Contract compliance monitoring is a serious undertaking. A successful monitoring system requires timely and consistent interfacing with contractors during the performance of the contract. A determination of compliance or non-compliance will be supported by records which document the final decision.

(AC)DBE Program's performance must be reported to assure program accountability. The success of the (AC)DBE Programs will be measured by the reported results of (AC)DBE involvement and participation on specific contracts. Reports will also provide an early warning system to identify problems and thereby allow MAC to take corrective measures to ensure accomplishment of (AC)DBE goals and program objectives. The Office of Diversity, Equity, and Inclusion working with Airport Development and Project Consultants will monitor contractor's (AC)DBE compliance through the use of desk audits and when appropriate, projects site visits.

7.2 The Process

The Certification and Contract Specialist will have the overall responsibility for tracking (AC)DBE participation on all construction projects and ensuring prompt payments. This requires communication and cooperation with the contract initiating department as well as Project Consultants.

The Certification and Contract Specialist must ensure that the contractors have been advised of reporting responsibility during the performance of the contract, have received the reporting package, and understands the reporting requirements. The reporting package shall include information and forms that are to be submitted with each payment request.

The Certification and Contract Specialist must make sure that the contractor for a specific project has submitted the appropriate compliance reports to be made a part of the project file maintained by the Project Consultants.

If there is a need for an extensive compliance review (as part of a desk audit or on-site review), additional documentation may be requested such as:

1. New contract(s) between prime and all (AC)DBEs;
2. Monthly confirmations of income by (AC)DBEs or evidence of payment to (AC)DBEs; and/or
3. Evidence of special assistance to (AC)DBEs such as: prorated delivery and payment schedules, management assistance, technical assistance, bonding assistance.

Compliance reviews may be conducted throughout the performance of a contract to determine a contractor's efforts in meeting (AC)DBE goals and Equal Employment Opportunities requirements and ensuring prompt payments. A desk audit is in the first step in the compliance review process and it will be conducted by the Certification and Contract Specialist. A desk audit may be followed by an on-site visit of the contractor's office or a project site visit as appropriate. The Certification and Contract Specialist will work with Project Consultants to employ compliance review procedures for on-site and visits.

MAC has reciprocity with the Minnesota Department of Transportation's Small Business Development program which provides training and technical assistance, along with access to business and financial resources to help small businesses compete more effectively on federally-funded projects and/or contracts.

7.3 Desk Audit

A desk audit is a review of payment request reports submitted by a prime contractor to document efforts in meeting (AC)DBE contract obligations and track payments to (AC)DBEs. The Certification and Contract Specialist conducts an initial review of the (AC)DBE utilization on the project.

If the desk audit reveals inconsistencies in the (AC)DBE utilization on projects, issues with payments to (AC)DBEs, or suggests that (AC)DBE participation could fall below contracted (AC)DBE participation levels, the prime contractor is notified of this problem in writing and is required to clarify the inconsistencies or as appropriate offer resolution of the issues. If an on-site visit is the best means of facilitating resolution, then the prime contractor is notified.

If (AC)DBE information is necessary to verify or corroborate information submitted by the prime, then the (AC)DBE is notified of the compliance desk audit. The (AC)DBE is requested to supply the necessary information or agree to a scheduled on-site visit in an effort to resolve the contractual issues.

If the information collected indicates that the prime contractor is in non-compliance with (AC)DBE requirements, the Certification and Contract Specialist notifies the contractor in writing of its noncompliance status. Sanctions may be determined to be appropriate including but limited to:

1. Withholding of payment to the contractor under the contract until he complies;
2. Cancellation, termination, or suspension of the contract in whole or in part; and
3. Any other available legal remedy.

If the desk audit reveals that the prime is in compliance with (AC)DBE requirements, the prime contractors will be notified in writing of the results.

The following compliance reports are used as tools to evaluate the compliance or noncompliance status of a contractor during a desk audit.

7.4 (AC)DBE Utilization Information

The Certification and Contract Specialist is charged with monitoring prime contractors' (AC)DBE utilization performance. Pay Requests submitted by the prime contractor will be reviewed monthly. Pay Request documents serve as a tool to assess the utilization of (AC)DBEs and the dollar volume of work completed and billed to MAC. The (AC)DBE utilization information is compared to contract commitments. Utilization information is verified by the (AC)DBE subcontractor. If the desk audit of the (AC)DBE utilization information yields inconsistencies in the information submitted, then an on-site visit may be warranted. In addition, if there is any reason to believe that the prime contractor is in noncompliance, i.e., complaints from subcontractors, particularly from the (AC)DBE subcontractor or unacceptable performance in the field, then an on-site visit is necessary and should be scheduled.

If it is found that the amount of (AC)DBE work reported by the prime contractor is not consistent with contract requirements, it is advisable to confirm the nature and percentage of work performed by (AC)DBEs. If it is determined that no further review is necessary, then the contractor does not need to be monitored until the next submitted utilization report.

7.5 Project Site Visit

The Certification and Contract Specialist conduct a project site visit in conjunction with the project consultant or staff engineer when there is a complaint by the (AC)DBE subcontractor or an employee grievance. Otherwise, on-site project monitoring is conducted randomly as deemed appropriate by the Certification and Contract Specialist to confirm compliance with federal standards.

The prime contractor and the (AC)DBE, if necessary, are notified of an impending project site visit. The site visit may focus on but not necessarily be limited to subcontractor work performance. Prime and subcontractors may be interviewed regarding a complaint.

Employee interviews will be coordinated with the work schedule. The interviewer makes sure that wage classifications are posted by the contractor at the work site in a place easily accessible to the workers.

This information must be posted for the duration of the project. If the project covers a large area, this information may be posted at several locations.

The interview is to be conducted during working hours and at the jobsite, providing that the interview can be privately and properly conducted on the premises. In case of alleged falsification of records or complaints of intimidation by the contractor, the interview may be conducted elsewhere.

The basic function of the employee interviews is to establish the degree of accuracy of the physical records and the nature and extent of violations, if any.

After the data has been collected from the project site interview, the Certification and Contract Specialist is responsible for the review and assessment for determination of compliance or non-compliance. The prime contractor will be notified in writing of the findings.

If the information indicates that the prime contractor is in noncompliance, the prime contractor shall be notified in writing. A meeting shall be set up between the Airport Development Project Consultant, the Certification and Contract Specialist who conducted the on-site review, the prime contractor, and, if necessary, the (AC)DBE. The prime is notified of violations and given a timeframe for resolution of the problem.

It is the policy of the MAC that all subcontracting work on DOT-assisted contracts shall be promptly paid for work performed pursuant to their agreements, in accordance with all relevant federal, state, and local requirements.

MAC is obliged by §26.29 to establish a contract clause implementing this policy that requires prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment MAC makes to the prime contractor. A subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by MAC. When MAC has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

When at least 95% of the project work has been completed to the satisfaction of the RPR, the RPR shall, at MAC's discretion and with the consent of the surety, prepare estimates of both the contract value and the cost of the remaining work to be done.

MAC declines to hold retainage from prime contractors and prohibits prime contractors from holding retainage from subcontractors. To implement this measure, each DOT-assisted prime contract will include the following clause:

Retainage will not be withheld on this project. No retainage will be withheld by the Owner from progress payments due the prime Contractor. Retainage by the prime or subcontractors is prohibited, and no retainage will be held by the prime from progress due subcontractors.

7.5a Prompt Payment Complaints and Resolution

Upon receipt of a complaint or based on reviews of pay requests records, the **Certification and Contract Specialist** will do as follows:

1. Document the complaint by obtaining details regarding the complaint and any relevant documentation;
2. Request that the (AC)DBE attempt to address the complaint directly with the prime contractor;
3. If the (AC)DBE is uncomfortable contacting the prime contractor, the Certification and Contractor Specialist will contact the Airport Development Project Consultant and prime contractor to address the complaint and attempt to resolve the matter;
4. If the matter is not resolved, the (AC)DBE may contact the responsible Operating Administration.

All complaints related to prompt payment will be reported to the FAA, including the nature and origin of the complaint and resolution.

7.6 Contract Clearance and Final Payments

To ensure that all (AC)DBE obligations under contracts awarded are met, MAC shall review the contractor's (AC)DBE involvement efforts during the performance of the contract. The prime contractor shall bring to the attention of the MAC any situation that could affect progress payments to (AC)DBE subcontractors.

Prior to final payment by MAC on a contract, the prime contractor shall submit a final payment affidavit on all (AC)DBE subcontractors utilized indicating that they have been paid for all work performed to date and the amount of any remaining payments to be made to (AC)DBE. If there is a dispute about work performed or amount of money owed to the (AC)DBE, the prime contractor will attach a letter explaining the differences.

The prime contractor shall maintain for three years following completion of the contract such subcontracts, purchase orders and other records as MAC may deem necessary to determine compliance by the contractor of its (AC)DBE obligations.

In addition, the contractor shall furnish any other reports or information reasonably required by MAC to substantiate achievement of the (AC)DBE goal.

7.7 Sanctions

The Certification and Contract Specialist and Airport Development staff make prompt determinations on findings of compliance, partial compliance or noncompliance. Partial compliance must be documented with specifics regarding the degree of compliance or the failure to comply. In the case of wilful and deliberate noncompliance, appropriate legal steps should be taken and sanctions imposed consistent with applicable contract law.

The appropriate penalties for noncompliance will be addressed at meetings with the contractor. The seriousness of the offense and the willingness of the contractor to remedy the alleged violation should be taken into consideration when determining which sanctions are appropriate. The sanctions enforced must be consistent with the original contract. Sanctions that may apply in cases of noncompliance include the following:

1. Withholding of payment to the contractor under the contract until compliance is achieved.
2. Cancellation, termination, or supervision of the contract in whole or in part.
3. Any other available legal remedy.

7.8 Compliance Review Hearings

In any situation in which a contract goal has been established, bidders/proposers are required to use good faith efforts in meeting the goal. Time to time, MAC will be required to defend finding of noncompliance in meeting goals and/or good faith efforts by making fair and reasonable judgment as to whether a bidder/proposer made adequate good faith efforts.

If it has been determined that the apparent successful bidder/proposer failed to meet the requirements, MAC, prior to awarding the contract, must provide the bidder/proposer an opportunity for administrative reconsideration in the form of a written document or argument concerning the issue of whether the goal was met or an adequate good faith effort to do so was made.

Reconsiderations must be made by an official who did not take part in the original determination allowing the bidder/proposer the opportunity to meet in person to discuss the issue. A written decision on reconsideration explaining the basis for findings of not meeting the goal and/or adequate good faith efforts to do so must be send to the bidder/proposer.

7.9 Reporting and Record Keeping

In order to monitor the progress of the MAC's (AC)DBE Programs, a recordkeeping system has been established to identify and assess (AC)DBE contract awards, prime contractor's progress in achieving (AC)DBE subcontract goals, and other Affirmative Action efforts.

The following information concerning (AC)DBEs is collected and retained on file by the Office of Diversity, Equity, and Inclusion.

1. The number of awards made to (AC)DBEs on each federally assisted construction contract. These awards shall be measured against projected (AC)DBE awards and/or (AC)DBE goals.
2. The number and identity of (AC)DBEs contacted and invited to bid for specific contracts (as either prime or subcontractors).
3. The pay requests from prime contractors will report their progress in meeting contractual (AC)DBE obligations.
4. Minutes of workshops, seminars and number and identity of (AC)DBEs in attendance.
5. Correspondence and other documents relating to communication and contact with (AC)DBE economic development organizations, (AC)DBE community organizations and trade associations, etc.

Additionally, the Office of Diversity, Equity, and Inclusion shall submit annual reports to the Finance and Administration Committee.

These reports will include at a minimum:

1. Total number of contracts awarded during the period;

2. Number of contracts awarded during the period;
3. Number of contracts or subcontracts awarded to (AC)DBEs;
4. Description of the general categories of contracts or subcontracts awarded to (AC)DBEs;
5. Dollar value of all contracts or subcontracts awarded to (AC)DBEs;
6. Percentage of the dollar value of all contracts awarded during this period which were awarded to (AC)DBEs;
7. Progress of MAC in meeting (AC)DBE goals established for the fiscal year.

8. Concessions

This Plan for concessions applies to the Minneapolis/St. Paul International Airport (MSP) as well as any privately-owned terminals built on MAC owned land. In the pages that follow, MAC outlines the policies and procedures for (AC)DBE participation in concession activities.

8.1 Overview

There are several types of business arrangements to achieve the airport (AC)DBE concession goal. MAC's intent is to ensure that the substance of a business arrangement is as the written agreement appears and that the stated arrangement fosters participation, growth and development of ACDBE participants. The test of whether ACDBE participation is real, substantial and continuing is measured by the degree of ownership, management and control an ACDBE exerts in the concession operation. A review of concession structure will focus on the relationship between the parties, the level of ACDBE involvement and the potential for success.

The assessment of a business arrangement's potential success will include a review of four components:

1. Support Structure
2. Capital Investment
3. Contract Terms
4. Business structure – prime lessee, joint venture, sublease

8.2 Support Structure

Whether the type of business arrangement with an ACDBE is a joint venture or sublease, MAC will inquire as to the type of management, operational or financial support system the majority business partner is willing to provide. Such services may include, but are not limited to, basic management assistance, facility design, purchasing source, accounting or training. These and similar services are designed to lessen the high start-up costs that may deter potential ACDBE proposers and are acceptable and encouraged by MAC.

8.3 Capital Investment

It is expected that an ACDBE will make a capital contribution to the concession in proportion to its percentage of ownership. MAC encourages ACDBEs to diligently seek an independent source of financing for its share of the capital investment in the business. MAC will strictly scrutinize any financial arrangements between a prime and sub concessionaire. One hundred percent (100%) financing by a prime to an ACDBE is unacceptable

8.4 Contract Terms

Understanding of and adherence to contract terms and conditions are vitally important to the success and survival of an airport concession.

MAC will review with the successful proposer, the specific terms of the contract such as fees/rents, lease rights, prohibited uses, premises, operation, and performance standards to which the ACDBE, or any other business, must adhere in order for the conditions of the contract to be met.

8.5 Business Arrangements

Potential concession arrangement(s) involving ACDBEs may include the following:

1. Prime/Direct Lease would yield the greatest level of ACDBE participation because it gives the ACDBE 100% ownership, management and control of a concession. This would be a direct lease with MAC. MAC will encourage prime leases.
2. Joint Venture/Partnership involves the combined interest of a majority firm and an ACDBE for a single concession lease. Each partner is expected to contribute capital in relationship to his/her interest in the business. A joint venture arrangement may be complex and requires a closer level of scrutiny to determine and ensure real and meaningful ACDBE participation. MAC supports the use of a joint venture arrangement as a desirable means to foster ACDBE business development and allow for a transfer of industry knowledge, skills and abilities. The long-term objective of the joint venture approach is to increase ACDBE management skills to a level which will allow ACDBEs to compete as prime concessionaires.
3. Sublease is the most common form of business arrangement in achieving (AC)DBE participation. It offers some of the advantages and risks of a direct lease while working under a prime concessionaire. When properly structured subleases can offer a mentoring type arrangement where the prime concessionaire provides support services and training to assist an ACDBE in development of its business and management skills.
4. Goods and services supplier.
5. In reviewing the form of participation, MAC will analyse the substance of the agreement and not rely solely on the form of arrangement. If a proposed "joint venture" provides no more than an opportunity to invest financially, it will be considered nothing more than a "limited partnership" which is not allowed under subpart F of 49 CFR §23. Similarly, if a partnership affords no control over any aspect of the operation or meaningful input in the business, the arrangement will not be counted toward an ACDBE goal. Arrangement in which proposed ACDBE participation is to perform work ordinarily performed by employees or where there is no evidence that ACDBEs are involved in the operation and management of the business does not meet the requirements of the regulations. MAC will analyse each arrangement individually.

9. ACDBE Concession Goal

9.1 Overview

Setting targeted goals is a means to plan for and measure the success of MAC in achieving its objectives for ACDBE participation. The goal setting process requires creative planning which considers all the leasing options available to MAC. The maximum feasible portion of the overall goal by using race-neutral means is required.

Federal guidelines under 49 CFR 23.41 provide for the calculation of the overall ACDBE goal as a percentage of: (1) The estimated gross receipts earned by all concessionaires during the goal period; or (2) the total number of concession agreements at the airport during the goal period.

MAC's goal will cover one year and will be submitted to the FAA for approval as part of the annual (AC)DBE Program update. If goals are not achieved, MAC will demonstrate to the FAA in writing that reasonable efforts were made, including providing the following information on its efforts to:

1. Locate appropriate ACDBEs in the relevant market;
2. Notify ACDBEs of opportunities and encourage them to compete; and
3. Utilize facilitating procurement methods.

9.2 Goal Setting Methodology

In establishing ACDBE goals, MAC will review leasing opportunities that will occur during the goal period through expiration of current leasing agreements as well as the development of new concession opportunities. MAC will assess the potential for involvement of ACDBEs at the time of a request to negotiate or an option to re-negotiate a lease. The methodology considers current and projected leases, estimated gross receipts, the beginning and ending date of a lease (including options) and the potential for ACDBE participation.

MAC will calculate its goals as a percentage of the estimated gross receipts that will be earned by all concessionaires during the goal period. The computation will include all existing leases as well as any new leases projected for the goal period.

Overall (AC)DBE Concession Goal = $\frac{\text{Estimated Gross Receipts from ACDBE Concessions (\$)}}{\text{Estimated Gross Receipts from All Concessions (\$)}}$

The following factors will be reviewed in assessing the potential for (AC)DBE participation:

1. The number and types of leases to be awarded;
2. The availability of ACDBEs in the metro area (i.e., the local community);
3. The availability of ACDBEs that have expressed an interest in or are likely to compete for lease opportunities;
4. The availability of ACDBEs in other areas that have expressed an interest in or are likely to compete for lease opportunities;

5. Past results of MAC's efforts to enter into agreements with ACDBEs and reasons for the results;
6. The range of service or goods that are to be provided;
7. The configuration of the airport and traffic flow; and
8. Space available and feasibility of type concession.

In the event MAC's awards and commitments shown on our Uniform Report of Awards or Commitments and Payments at the end of the reporting year are less than the overall program goal applicable to that reporting year, MAC will analyse in detail the reasons for the differences and write a shortfall letter and submit to the FAA describing corrective action(s) to meeting the program goal.

9.3 Long-Term Exclusive Agreement

Long-term exclusive concession agreements in excess of five years will not be granted except under special local circumstances that make it important to enter such agreement. In order to obtain FAA approval of long-term exclusive concession agreements, MAC must submit the following information to FAA Regional Office of Civil Rights:

1. A description of the special local circumstances that warrant a long-term, exclusive agreement.
2. A copy of the draft and final leasing and subleasing or other agreements. This long-term, exclusive agreement must provide that:
 - a. A number of ACDBEs that reasonably reflects their availability in MAC's market area, in the absence of discrimination, to do the types of work required will participate as concessionaires throughout the term of the agreement and account for at a percentage of the estimated annual gross receipts equivalent to a level set in accordance with §23.47 through 23.49 of this part.
 - b. MAC will review the extent of ACDBE participation before the exercise of each renewal option to consider whether an increase or decrease in ACDBE participation is warranted.
 - c. An ACDBE concessionaire that is unable to perform successfully will be replaced by another ACDBE concessionaire, if the remaining term of the agreement makes this feasible, in the event that such action is not feasible, we will require the concessionaire to make good faith efforts during the remaining term of the agreement to encourage ACDBEs to compete for the purchases and/or leases of goods and services to be made by the concessionaire.
3. Assurances that any ACDBE participant will be in an acceptable form, such as a sublease, joint venture, or partnership.
4. Documentation that ACDBE participants are properly certified.
5. A description of the type of business or businesses to be operated (e.g., location, storage and delivery space, "back-of-the-house- facilities" such as kitchens, window

display space, advertising space, and other amenities that will increase the (AC)DBE's chance to succeed).

6. Information on the investment required on the part of the ACDBE and any unusual management or financial arrangements between the prime concessionaire and ACDBE.
7. Information on the estimated gross receipts and net profit to be earned by the ACDBE.

MAC will assess potential opportunities for ACDBE participation in current long-term lease agreements when contract amendments are proposed for any purpose. In the event that a State or local law, regulation, or policy differs from the requirements, MAC will take such steps as necessary to comply with the requirements.

If the goals are not achieved, MAC will demonstrate to FAA in writing that reasonable efforts were made.

9.4 Evaluating DBE Concession Participation

A lessee may satisfy the ACDBE goals through several forms of participation. They include:

1. Leases;
2. Subleases;
3. Joint Ventures;
4. Goods and Services;
5. Partnerships;
6. Permits;
7. Contracts; and/or
8. Any other arrangement that results in bona fide ownership and control by ACDBEs.

Not all business arrangements are acceptable forms for meeting ACDBE concession goals. The following are unacceptable to MAC in counting toward ACDBE participation:

1. Employment Arrangements;
2. Limited Partnerships; and
3. Other business arrangements that lack operational and managerial control by the ACDBE.

Selection and renewals of concession leases consider factors designed to increase the number and success level of ACDBE operators. These factors will include a careful evaluation of a proposer's:

1. **Level of ACDBE Participation:** This factor will include a review of the percentage as well as the performance level of ACDBEs.
2. **Level of Arrangement:** This factor will review the business arrangement proposed. This may be a prime or direct lease, a joint venture, or a sublease.
3. **Balance of Merchandise/Product:** MAC will utilize every opportunity to assure that ACDBEs are involved in all types of concession opportunities offered. Efforts will be made to encourage prime concessionaires to maintain ACDBEs in a variety of area.

4. **Location:** MAC will evaluate locations designated for ACDBE concessions to ensure that ACDBEs receive a mix of location sites.

10. Concessions – Airport Assessment Assistance

10.1 Overview

MAC is committed to increasing ACDBE participation in its concession operations. MAC will provide information to ACDBEs to help in assessing the viability and feasibility of proposing for concession opportunities in airport operations. Airport assessment assistance to ACDBEs will focus in the following areas:

10.2 Operations Report

To assist ACDBEs in determining the volume of anticipated passenger traffic in its airport, MAC will make available statistical reports, as well as survey information on emplaned and deplaned passenger volume as available. Reports usually detail time frame of data collected, passenger volume by airline and possibly number of airline flights. This information may be used by ACDBEs at their own risk in assessing anticipated volume of business.

10.3 Evaluation of Tenant/Merchandise Mix

MAC has two main reasons for providing concessions in its airports. The first reason is to satisfy the needs of its travelling public and the second is to generate operating revenue for its airports. To accomplish these objectives MAC determines the feasibility of the type of tenants to operate concessions and the type and quality of merchandise to be offered for sale to the public. Tenants and product lines are two major factors in determining passenger satisfaction and volume of revenues to the airports. Therefore, MAC undertakes a deliberate process to determine who will operate airport concessions and what will be sold.

11. Concessions – Review and Selection Process

11.1 Overview

It is MAC's desire to maintain a balance among high quality goods and service to the public at reasonable pricing, a fair return on investment for concessionaires, and revenue generation for MAC. The level and manner of ACDBE involvement in any proposal will be an important factor in any evaluation and award of concession leases.

It is the intent of MAC to maintain and practice an open competitive process for award of concession leases. Therefore, MAC has developed criteria and a process for review of ACDBE participation in award of concession leases. This review process takes into consideration MAC staff responsibilities, solicitation requirements, qualification review, award methods and lease structures. MAC has developed appropriate language to ensure that all businesses that enter into any concession and their responsibility to enhance (AC)DBE involvement.

11.2 Method of Solicitation

MAC reserves the right to determine the method of concession awards. The method utilized will be based on an assessment of how best to create a concession opportunity which will yield satisfaction to the public, fair return on investment to the concessionaire and generate revenue for MAC. Therefore, the method for granting concession rights may differ from concession to concession. ACDBE participation level will be a factor in determining selection of concessionaires.

Depending on the nature of the concession, MAC will utilize one of the following selection methods:

- 1. Competitive Bidding:** This method is a pure bid process wherein the highest bidder meeting bid requirements is deemed the successful bidder to receive the award.
- 2. Competitive Proposals:** This method allows the proposer to offer to MAC a detailed level of service, facility design, and specific rents within certain guidelines provided by MAC.
- 3. Negotiation:** This method allows MAC to freely create as part of the negotiation, all the terms and conditions of the lease with desired concessionaires in consideration of specific desires and requirements of the airport.

The Office of Diversity, Equity, and Inclusion will provide input to ensure the opportunity for inclusion of ACDBEs in the concession opportunity.

11.3 Notice of Bid/Proposal Solicitation

The CMAA Department, which has major responsibility for airport leasing, will notify the Office of Diversity, Equity, and Inclusion of its intent to solicit bids/proposals for concession leases.

The Certification and Contract Specialist will review the Office of Diversity, Equity, and Inclusion ACDBE database and other sources to determine the ACDBEs available to respond to the concession opportunity.

All requests for bids/proposals will be appropriately advertised as in media that reach the ACDBE community. The Certification and Contract Specialist will work with the CMAA Department to identify the appropriate ACDBE publications and trade journals in which to advertise concession opportunities. In addition to the date, time and place of bid receipt, the advertisement will include a statement describing MAC's Equal Employment Opportunities and Affirmative Action and ACDBE guidelines.

11.4 Pre-Bid/Proposal Meeting

The purpose of the pre-bid/proposal meeting is to review and discuss the request for bid/proposal process, to review the requirements, to discuss various operating matters concerning the facility to be leased, to tour the facility and answer any questions from bidders/proposers. The Director of CMAA, with input from the Certification and Contract Specialist, will determine the appropriateness of a pre-bid/proposal meeting. The Certification and Contract Specialist will attend this meeting to explain ACDBE requirements and answer questions regarding the same. Bidders/Proposers not certified will be informed firms must be ACDBE certified upon submittal of the Bid/Proposal. The Certification and Contract Specialist will make available the ACDBE certification application and a list of ACDBEs interested in participating in the concession opportunity.

MAC will encourage prime concessionaires to conduct similar meetings for sub concession lease opportunities.

11.5 Qualification Review/Selection

Once bids/proposals are received by MAC, they will be reviewed and evaluated by a selection committee, where appropriate.

The selection committee will evaluate and score each bid/proposal based on requirements or selection criteria set forth in the request for bid/proposal. The committee may elect to conduct personal interviews to allow for explanation or clarification of proposal or conduct site visits to proposers' existing businesses as necessary. The selection committee will determine the most responsive bidder, or the proposer based on the highest score as measured by the evaluation criteria. The selection committee will make a recommendation to the Commission for approval of the concession award.

The selection criteria will include but not be limited to:

1. Quality of Service
2. Financial Return to MAC
3. Experience of bidder/proposer
4. Marketing and Operations Plan
5. Treatment of Space
6. ACDBE Participation Plan
7. Financial Capacity

Detailed information on the qualifications and performance data of each bidder/proposer will be solicited as part of the required submittal in a questionnaire form. Proposers must demonstrate that they have prior business success and expertise, financial strength and stability, and operational abilities necessary to successfully operate an airport concession. This information will be reviewed and scored by the selection committee as part of the evaluation component. MAC will encourage prime concessionaires to conduct similar review and selection procedures for their subleases.

11.6 Structure of Lease Agreements

MAC will determine the structure of concession lease agreements under any direct lease. Concessionaires will be required to sign a lease agreement that states the requirements and restrictions. MAC will also determine the terms of the lease and whether it will be an exclusive or nonexclusive lease. Any lease greater than five years is considered long-term and will need FAA approval. The Director of CMAA will seek the assistance of the Office of Diversity, Equity, and Inclusion in establishing acceptable ACDBE participation for a request to FAA for approval of long-term exclusive leases.

12. Concessions- Monitoring and Reporting

12.1 Overview

Airport concession activities will be monitored to ensure the achievement of ACDBE participation goals. Monitoring is the process of verifying that the actual performance of work by ACDBEs coincides with the work identified in the bid documents and the work for which they are being paid. Monitoring commences upon award and continues throughout the agreement.

The Finance Division will be responsible for generating reports as requested by the Office of Diversity, Equity, and Inclusion that document the volume of ACDBE concession sales as a proportion of total gross concession sales. The Office of Diversity, Equity, and Inclusion will have access to and be provided any reports necessary to assess ACDBE participation.

The Certification and Contract Specialist, in coordination with the CMAA Department, may undertake random visits to ACDBE operations to evaluate performance and to assess operational concerns of ACDBEs. The Office of Diversity, Equity, and Inclusion will make any problems or concerns raised by ACDBEs known to the Director of CMAA and will assist in the resolution of the issues.

12.2 Tracking Concession Renewals

The CMAA Department will be responsible for tracking lease changes. CMAA will timely advise the Office of Diversity, Equity, and Inclusion of lease renewal and assess, in coordination with the Office of Diversity, Equity, and Inclusion, the feasibility of increasing ACDBE participation as part of new lease agreements. The Office of Diversity, Equity, and Inclusion will then determine the availability of ACDBEs to pursue the opportunity, including an assessment of increased ACDBE participation by the incumbent concessionaire as well as additional participation by additional new ACDBEs.

12.3 Federal Aviation Administration Reporting

As a grant recipient, the FAA requires that MAC report, on an annual basis, the level of ACDBE participation in its concession activities. This includes the achievement level of MAC in meeting its ACDBE participation goal, the reasons for non-achievement of the goal and projections for ACDBE participation in MAC's concession activities for the next five years. The Certification and Contract Specialist will be responsible for assessing ACDBE participation levels in MAC's concessions and reporting performance levels to the FAA. The Certification and Contract Specialist will be assisted in this responsibility by the appropriate MAC departments.

13. Glossary

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| Affiliation | <p>Affiliation has the same meaning the term has in regulations of the Small Business Administration 13 CFR §121. Except as each other when, either directly or indirectly</p> <ol style="list-style-type: none">One who controls or has the power to control the other;A third party or parties has the power to control both; orAn “identity of interest” between or among parties exists such that affiliation may be found. <p>In determining whether affiliation exists consideration shall be given to appropriate factors, including common ownership, common management and contractual relationship.</p> |
| Affirmative Action | <p>A plan, or specific measurable steps taken by an agency, business, or individual to assure non-discrimination and equal opportunity in the performance of work, contracts, or any elements of a project administered by the MAC or its agents.</p> |
| Bidder/ Participant | <p>Any person, firm, partnership, corporation, association or joint venture seeking award of a public contract or subcontract with the MAC or its agents. Private consulting firms of the MAC performing services including feasibility studies, planning, design, testing and construction administration or management services.</p> |
| Certification Application Committee (CAC) | <p>Specialists from certifying agencies that meet bi-weekly who certify, deny, or remove (AC)DBE firms by majority decision.</p> |
| Certifying Agency | <p>An agency that participates in making all certification decisions on behalf of all Recipients in the state with respect to participation in the DOT (AC)DBE program. Certifying Agency certifies (AC)(AC)DBE’s under CFR 46 Part 26 or 23 as applicable to airport concessions and/or Part 26 and received DOT funding in excess of \$250,000. MAC, MnDOT, City of Minneapolis and the Metropolitan Council are Certifying Agencies.</p> |
| Compliance | <p>The condition existing when MAC or its contractor has met and implement the requirements of 49 CFR §23 and 26.</p> |
| Concession | <p>A for-profit business enterprise located on an airport that is engaged in the sale of consumer goods or services to the public under an agreement with the sponsor (airport), another concessionaire or the owner of a terminal, if other than the sponsor. (49 CFR §23.31)</p> <p>Businesses which conduct an aeronautical activity are not considered concessionaires for the purposes of this subpart.</p> |

Aeronautical activities included: schedule 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 and sky-diving parachute-jumping, flying guide services and helicopter or other air tours.

Examples of entities that do not meet the definition of a concession include suppliers, flight kitchens and in-flight caterers servicing air carriers, government agencies, industrial plants, farm leases, individual leasing hanger space, custodial and security contracts, individual taxis with permits, telephone and electric utilities, skycap services under contract with an air carrier and management contracts.

Concessions may be operated under the following types of agreements:

1. Leases
2. Subleases
3. Goods and Services
4. Permits
5. Contracts
6. Other instrument or arrangements.

Concessionaire One who operates a concession.

Contract A mutually binding legal relationship or any modifications thereof obligating the seller to furnish supplies or services, including construction, and the buyer to pay for them. For purposes of this Plan, a lease is a contract.

Contractor Any person, firm, partnership, corporation, association, or joint venture awarded a contract/purchase order or service agreement at any level with MAC.

Disadvantaged Business Enterprise ((AC)DBE) A small business concern as defined pursuant to Section 3 of the Small Business Act and implementing regulations, which is at least 51% owned by one or more socially and economically disadvantaged individuals, and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Those individuals who are citizens of the United States for lawfully admitted permanent residents and who are:

1. Black Americans
2. Hispanic Americans
3. Native Americans
4. Asian Indian Americans
5. Sub-Continent Asian Americans
6. Members of other groups or individuals found to be economically and socially disadvantaged as determined by the Small Business

DISADVANTAGED BUSINESS ENTERPRISE PLAN FOR CONSTRUCTION AND CONCESSIONS

Administration under Section 8(a) of the Small Business Act (15 U.S.C. 637(a)).

7. Women

Concession (AC)DBE shall have the same meaning as set forth in 49 CFR §23.61 of subpart D, except it shall be a small business concerns as defined in subpart F, not as defined in 49 CFR §23.61.

Discrimination To differentiate, distinguish, separate or segregate a person, group or business entity (either intentionally or unintentionally) solely based on age, race, religion, color, national origin, disability, gender, or veteran’s status. The term also includes the failure to remedy the effects of past discrimination.

Exclusive Agreements The Long-Term Exclusive guidance can be found at https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program/.

“Exclusive”

For purposes of this guidance and in accord with 49 C.F.R. §23.75, the term “exclusive” is defined as a type of business activity that is conducted solely by a single business entity on the entire airport. In the context of this guidance, the concept of “exclusive” includes the absence of any ACDBE participation. This is consistent with previous DOT guidance on Long-Term Exclusive agreements. MAC’s use of the word “exclusive” in describing the rights of an agreement under the ACDBE program rule.

“Long-Term Agreement”

For purposes of this guidance and in reference to §23.75, a “long-term agreement” is defined as any agreement between a sponsor and a single concessionaire or multiple consecutive concessionaires that has a term of more than five years in duration. “More than five years” includes any combination of base term and options (e.g., options to extend the term of the lease agreement, or to expand the scope of the agreement to a new section or terminal, or to enter into a new contract etc.) if the effect is a lease period of more than five years.

Goal An objective, expressed numerically to evaluate the type and amount of public contract awards and performance of (AC)(AC)DBEs.

Good Faith Effort All activity performed by bidders to assure the participation of (AC)DBEs in contracts owned by the MAC.

Joint Venture A business relationship formed by two or more individuals or separately owned firms for the purpose of carrying out a single business activity for profit. The performance of any contract awarded as a joint venture requires combined financing, technical

expertise, assets, equipment, and labor. Joint ventures which include a (AC)DBE as one entity of the bidding group may calculate the percent of the contribution of that (AC)DBE only in determining (AC)DBE participation.

Material Amendment Substantial change to the basic rights or obligations of the parties to a concession agreement. Examples of material amendments include an extension to the term not provided for in the original agreement or a substantial increase in the scope of the concession privilege. Examples of nonmaterial amendments include a change in the name of the concessionaire or a change to the payment due dates.

Mentor An experienced company or individual business owner that provides assistance and training to a protégé firm ((AC)DBE).

Minnesota Unified Certification Program (MnUCP) Policy Committee consisting of Certifying Agencies.

Noncompliance The condition existing when a MAC contractor has failed to implement the requirements of this plan or any other requirements.

Primary Airport Commercial service airport which is determined by the Secretary to have more than 10,000 passengers enplaned annually.

Protégé A newly formed (AC)DBE or an existing (AC)DBE that needs technical assistance and is chosen by a mentor for the Minnesota Unified Certification Mentor/Protégé program.

Small Business Concern A firm including all its domestic and foreign affiliates that qualifies under the applicable size standard. In making a size determination, all affiliates regardless of whether organized for profit, must be included.

A firm qualifying under this definition that exceeds the size standard after entering a concession agreement, but otherwise remains eligible, may continue to be counted as (AC)DBE participation until the current agreement, including the exercise of options, expires. The Secretary may periodically adjust the size standard due to inflation.

Socially and Economically Disadvantaged (SED) Individuals Shall have the same meaning as set forth in 49 CFR §26.67.

Sponsor The recipient of a Federal Aviation Administration grant (MAC).

MAC recognizes that concessions serve the travelling public and provide a vital revenue source for airport operations. In the selection of airport concessionaires, MAC

will consider its responsibilities to the public to provide good customer services, attractive facilities, quality merchandise and reasonable pricing that produce a profitable revenue level for MAC and the concessionaire. These responsibilities are balanced against the requirements of federal regulations, revenue requirements and MAC's commitment to ensure equal access and opportunity to participate in MAC concessions to (AC)DBEs. MAC is committed to taking affirmative steps to ensure the involvement of (AC)DBEs in its concession opportunities.

This (AC)Plan for concessions addresses the strategy MAC will employ to impact (AC)DBE participation, as leases are renewed, and new concession opportunities become available.

Many concession opportunities are governed by long-term leases with existing operators.

Subcontractors Any persons named by a general contractor and approved by the MAC to perform work or provide services for a public contract.

14. Appendix A – (AC)DBE Application

15. Appendix B – Interstate Certification Application

16. Appendix C – (AC)DBE Personal Net Worth Statement

17. Appendix D – (AC)DBE Joint Venture Information

18. Appendix E – No Change Affidavit / (AC)DBE Eligibility Form

19. Appendix F – DBE Certification Letter

20. Appendix G – ACDBE Certification Letter

21. Appendix H – (AC)DBE Utilization Information

22. Appendix I – (AC)DBE Payment Affidavit