

# Supplier Diversity Office

## Federal Application for Certification

Disadvantaged Business Enterprise (DBE)



“Working to build the Commonwealth’s economic strength through the development of disadvantaged businesses enterprises. Fulfilling the promise of Access and Opportunity”

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04/06/12 TH

**INSTRUCTIONS FOR COMPLETING THE DISADVANTAGED BUSINESS ENTERPRISE (DBE)**

**PROGRAM**

**UNIFORM CERTIFICATION APPLICATION**

**NOTE:** If you require additional space for any question in this application, please attach additional sheets or copies as needed, taking care to indicate on each attached sheet/copy the section and number of this application to which it refers.

**Section 1: CERTIFICATION INFORMATION**

**A. Prior/Other Certifications**

Check the appropriate box indicating for which program your firm is currently certified. If you are already certified as a DBE, indicate in the appropriate box the name of the certifying agency that has previously certified your firm, and also indicate whether your firm has undergone an onsite visit. If your firm has already undergone an onsite visit/review, indicate the most recent date of that review and the state UCP that conducted the review.

**NOTE:** If your firm is currently certified under the SBA's 8(a) and/or SDB programs, you may not have to complete this application. You should contact your state UCP to find out about a streamlined application process for firms that are already certified under the 8(a) and SDB programs.

**B. Prior/Other Applications and Privileges**

Indicate whether your firm or any of the persons listed has ever withdrawn an application for a DBE program or an SBA 8(a) or SDB program, or whether any have ever been denied certification, decertified, debarred, suspended, or had bidding privileges denied or restricted by any state or local agency or Federal entity. If your answer is yes, indicate the date of such action, identify the name of the agency, and explain briefly the nature of the action in the space provided.

**Section 2: GENERAL INFORMATION**

**A. Contact Information**

- (1) State the name and title of the person who will serve as your firm's primary contact under this application.
- (2) State the legal name of your firm, as indicated in your firm's Articles of Incorporation.
- (3) Indicate the primary phone number of your firm.
- (4) Indicate a secondary phone number, if any.
- (5) Indicate your firm's fax number, if any.
- (6) Indicate your firm's or your contact person's email address.
- (7) Indicate your firm's website address, if any.
- (8) State the street address of your firm (i.e. the physical location of its offices -- not a post office box address).
- (9) State the mailing address of your firm, if it is different from your firm's street address.

**B. Business Profile**

- (1) In the box provided, briefly describe the primary business and professional activities in which your firm engages.

- (2) Give the Federal Tax ID number of your firm as provided on your firm's filed tax returns, if you have one. This could also be the Social Security number of the owner of your firm.
- (3) Give the date on which your firm was officially established, as stated in your firm's Articles of Incorporation.
- (4) Give the date on which you and/or each other owner took ownership of the firm.
- (5) Check the appropriate box that describes the manner in which you and each other owner acquired ownership of your firm. If you checked "Other," explain in the space provided.
- (6) Check the appropriate box that indicates whether your firm is "for profit."

**NOTE:** If you checked "No," then you do NOT qualify for the DBE program and therefore do not need to complete the rest of this application. The DBE program requires all participating firms be for-profit enterprises.

- (7) Check the appropriate box that describes the legal form of ownership of your firm, as indicated in your firm's Articles of Incorporation. If you checked "Other," briefly explain in the space provided.
- (8) Check the appropriate box that indicates whether your firm has ever existed under different ownership, a different type of ownership, or a different name. If you checked "Yes," specify which and briefly explain the circumstances in the space provided.
- (9) Indicate in the spaces provided how many employees your firm has, specifying the number of employees who work on a full-time and part-time basis.
- (10) Specify the total gross receipts of your firm for each of the past three years, as declared in your firm's filed tax returns.

**C. Relationships with Other Businesses**

- (1) Check the appropriate box that indicates whether your firm is co-located at any of its business locations, or whether your firm shares a telephone number(s), a post office box, any office space, a yard, warehouse, other facilities, any equipment, or any office staff with any other business, organization, or entity of any kind. If you answered "Yes," then specify the name of the other firm(s) and briefly explain the nature of the shared facilities or other items in the space provided.

- (2) Check the appropriate box that indicates whether at present, or at any time in the past:
  - (a) your firm has been a subsidiary of any other firm;
  - (b) your firm consisted of a partnership in which one or more of the partners are other firms;
  - (c) your firm has owned any percentage of any other firm; and
  - (d) your firm has had any subsidiaries of its own.
- (3) Check the appropriate box that indicates whether any other firm has ever had an ownership interest in your firm.
- (4) If you answered "Yes" to any of the questions in (2)(a)-(d) or (3), identify the name, address and type of business for each.

**D. Immediate Family Member Businesses**

Check the appropriate box that indicates whether any of your immediate family members own or manage another company. An "immediate family member" is any person who is your father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law. If you answered "Yes," provide the name of each relative, your relationship to them, the name of the company they own or manage, the type of business, and whether they own or manage the company.

**Section 3: OWNERSHIP**

**Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (if your firm has more than one owner, provide completed copies of this section for each additional owner):**

**A. Background Information**

- (1) Give the name of the owner.
- (2) State his/her title or position within your firm.
- (3) Give his/her home phone number.
- (4) State his/her home (street) address.
- (5) Check the appropriate box that indicates this owner's gender.
- (6) Check the appropriate box that indicates this owner's ethnicity (check all that apply). If you checked "Other," specify this owner's ethnic group/identity not otherwise listed.
- (7) Check the appropriate box to indicate whether this owner is a U.S. citizen.
- (8) If this owner is not a U.S. citizen, check the appropriate box that indicates whether this owner is a lawfully admitted permanent resident. If this owner is neither a U.S. citizen nor a lawfully admitted permanent resident of the U.S., then this owner is NOT eligible for certification as a DBE owner. This, however, does not necessarily disqualify your firm altogether from the DBE program if another owner is a U.S. citizen or

lawfully admitted permanent resident and meets the program's other qualifying requirements.

**B. Ownership Interest**

- (1) State the number of years during which this owner has been an owner of your firm.
- (2) Indicate the dollar value of this owner's initial investment to acquire an ownership interest in your firm, broken down by cash, real estate, equipment, and/or other investment.
- (3) State the percentage of total ownership control of your firm that this owner possesses.
- (4) State the familial relationship of this owner to each other owner of your firm.
- (5) Indicate the number, percentage of the total, class, date acquired, and method by which this owner acquired his/her shares of stock in your firm.
- (6) Check the appropriate box that indicates whether this owner performs a management or supervisory function for any other business. If you checked "Yes," state the name of the other business and this owner's title or function held in that business.
- (7) Check the appropriate box that indicates whether this owner owns or works for any other firm(s) that has any relationship with your firm. If you checked "Yes," identify the name of the other business and this owner's title or function held in that business. Briefly describe the nature of the business relationship in the space provided.

**C. Disadvantaged Status**

**NOTE: You only need to complete this section for each owner that is applying for DBE qualification (i.e. for each owner who is claiming to be "socially and economically disadvantaged" and whose ownership interest is to be counted toward the control and 51% ownership requirements of the DBE program)**

- (1) Indicate in the space provided the total Personal Net Worth (PNW) of each owner who is applying for DBE qualification. Use the PNW calculator form at the end of this application to compute each owner's PNW.
- (2) Check the appropriate box that indicates whether any trust has ever been created for the benefit of this disadvantaged owner. If you answered "Yes," briefly explain the nature, history, purpose, and current value of the trust(s).

**Section 4: CONTROL**

**A. Identify your firm's Officers and Board of Directors:**

- (1) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each officer of your firm.
- (2) In the space provided, state the name, title, date of appointment, ethnicity, and gender of each individual serving on your firm's Board of Directors.

- (3) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above perform a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.
- (4) Check the appropriate box that indicates whether any of your firm's officers and/or directors listed above own or work for any other firm(s) that has a relationship with your firm. If you answered "Yes," identify the name of the firm, the officer or director, and the nature of his/her business relationship with that other firm.

**B. Identify your firm's management personnel (by name, title, ethnicity, and gender) who control your firm in the following areas:**

- (1) Making of financial decisions on your firm's behalf, including the acquisition of lines of credit, surety bonds, supplies, etc.;
- (2) Estimating and bidding, including calculation of cost estimates, bid preparation and submission;
- (3) Negotiating and contract execution, including participation in any of your firm's negotiations and executing contracts on your firm's behalf;
- (4) Hiring and/or firing of management personnel, including interviewing and conducting performance evaluations;
- (5) Field/Production operations supervision, including site supervision, scheduling, project management services, etc.;
- (6) Office management;
- (7) Marketing and sales;
- (8) Purchasing of major equipment;
- (9) Signing company checks (for any purpose); and
- (10) Conducting any other financial transactions on your firm's behalf not otherwise listed.
- (11) Check the appropriate box that indicates whether any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business. If you answered "Yes," identify each person by name, his/her title, the name of the other business in which s/he is involved, and his/her function performed in that other business.
- (12) Check the appropriate box that indicates whether any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with your firm. If you answered "Yes," identify the name of the firm, the name of the person, and the nature of his/her business relationship with that other firm.

**C. Indicate your firm's inventory in the following categories:**

**(1) Equipment**

State the type, make and model, and current dollar value of each piece of equipment held and/or used by your firm. Indicate whether each piece is either owned or leased by your firm.

**(2) Vehicles**

State the type, make and model, and current dollar value of each motor vehicle held and/or used by your firm. Indicate whether each vehicle is either owned or leased by your firm.

**(3) Office Space**

State the street address of each office space held and/or used by your firm. Indicate whether your firm owns or leases the office space and the current dollar value of that property or its lease.

**(4) Storage Space**

State the street address of each storage space held and/or used by your firm. Indicate whether your firm owns or leases the storage space and the current dollar value of that property or its lease.

**D. Does your firm rely on any other firm for management functions or employee payroll?**

Check the appropriate box that indicates whether your firm relies on any other firm for management functions or for employee payroll. If you answered "Yes," briefly explain the nature of that reliance and the extent to which the other firm carries out such functions.

**E. Financial Information**

**(1) Banking Information**

- (a) State the name of your firm's bank.
- (b) Give the main phone number of your firm's bank branch.
- (c) Give the address of your firm's bank branch.

**(2) Bonding Information**

- (a) State your firm's Binder Number.
- (b) State the name of your firm's bond agent and/or broker.
- (c) Give your agent's/broker's phone number.
- (d) Give your agent's/broker's address.
- (e) State your firm's bonding limits (in dollars), specifying both the Aggregate and Project Limits.

**F. Identify all sources, amounts, and purposes of money loaned to your firm, including the names of persons or firms securing the loan, if other than the listed owner:**

State the name and address of each source, the original dollar amount and the current balance of each loan, and the purpose for which each loan was made to your firm.

**G. List all contributions or transfers of assets to/from your firm and to/from any of its owners over the past two years:**

Indicate in the spaces provided, the type of contribution or asset that was transferred, its current dollar value, the person or firm from whom it was transferred, the person or firm to whom it was transferred, the relationship between the two persons and/or firms, and the date of the transfer.

**H. List current licenses/permits held by any owner or employee of your firm.**

List the name of each person in your firm who holds a professional license or permit, the type of permit or license, the expiration date of the permit or license,

and the license/permit number and issuing State of the license or permit.

**I. List the three largest contracts completed by your firm in the past three years, if any.**

List the name of each owner or contractor for each contract, the name and location of the projects under each contract, the type of work performed on each contract, and the dollar value of each contract.

**J. List the three largest active jobs on which your firm is currently working.**

For each active job listed, state the name of the prime contractor and the project number, the location, the type of work performed, the project start date, the anticipated completion date, and the dollar value of the contract.

**AFFIDAVIT & SIGNATURE**

Carefully read the attached affidavit in its entirety. Fill in the required information for each blank space, and sign and date the affidavit in the presence of a Notary Public, who must then notarize the form.

**DISADVANTAGED BUSINESS ENTERPRISE PROGRAM  
49 C.F.R. PART 26**

***UNIFORM CERTIFICATION APPLICATION***

**ROADMAP FOR APPLICANTS**

**① Should I apply?**

- Is your firm at least 51%-owned by a socially and economically disadvantaged individual(s) who also controls the firm?
- Is the disadvantaged owner a U.S. citizen or lawfully admitted permanent resident of the U.S.?
- Is your firm a small business that meets the Small Business Administration's (SBA's) size standard and does not exceed \$17.42 million in gross annual receipts?
- Is your firm organized as a for-profit business?

⇒ If you answered "Yes" to all of the questions above, you may be eligible to participate in the U.S. DOT DBE program.

**② Is there an easier way to apply?**

If you are currently certified by the SBA as an 8(a) and/or SDB firm, you may be eligible for a streamlined certification application process. Under this process, the certifying agency to which you are applying will accept your current SBA application package in lieu of requiring you to fill out and submit this form.

**NOTE: You must still meet the requirements for the DBE program, including undergoing an on-site review.**

**③ Be sure to attach all of the required documents listed in the Documents Check List at the end of this form with your completed application.**

**④ Where can I find more information?**

- U.S. DOT – <http://osdbuweb.dot.gov/business/dbe/index.html> (this site provides useful links to the rules and regulations governing the DBE program, questions and answers, and other pertinent information)
- SBA – <http://www.ntis.gov/naics> (provides a listing of NAICS codes) and <http://www.sba.gov/size/indextableofsize.html> (provides a listing of SIC codes)
- 49 CFR Part 26 (the rules and regulations governing the DBE program)

Under Sec. 26.107 of 49 CFR Part 26, dated February 2, 1999, if at any time, the Department or a recipient has reason to believe that any person or firm has willfully and knowingly provided incorrect information or made false statements, the Department may initiate suspension or debarment proceedings against the person or firm under 49 CFR Part 29, take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, and/or refer the matter to the Department of Justice for criminal prosecution under 18 U.S.C. 1001, which prohibits false statements in Federal programs.

**Section 1: CERTIFICATION INFORMATION**

**A. Prior/Other Certifications**

Is your firm currently certified for any of the following programs? <i>(If Yes, check appropriate box(es))</i>	<input type="checkbox"/> DBE	Name of certifying agency:
		Has your firm's state UCP conducted an on-site visit?
		<input type="checkbox"/> Yes, on ___ / ___ / ___ State: _____ <input type="checkbox"/> No
	<input type="checkbox"/> 8(a) <input type="checkbox"/> SDB	<input checked="" type="checkbox"/> <b>STOP!</b> If you checked either the 8(a) or SDB box, you <u>may not</u> have to complete this application. Ask your state UCP about the streamlined application process under the SBA-DOT MOU.

**B. Prior/Other Applications and Privileges**

Has your firm (under any name) or any of its owners, Board of Directors, officers or management personnel, ever withdrawn an application for any of the programs listed above, or ever been denied certification, decertified, or debarred or suspended or otherwise had bidding privileges denied or restricted by any state or local agency, or Federal entity?

Yes, on \_\_\_ / \_\_\_ / \_\_\_  No

If Yes, identify State and name of state, local, or Federal agency and explain the nature of the action:

**Section 2: GENERAL INFORMATION**

**A. Contact Information**

(1) Contact person and Title:		(2) Legal name of firm:			
(3) Phone #:	(4) Other Phone #:	(5) Fax #:			
(6) E-mail:		(7) Website <i>(if have one)</i> :			
(8) Street address of firm <i>(No P.O. Box)</i> :		City:	County/Parish:	State:	Zip:
(9) Mailing address of firm <i>(if different)</i> :		City:	County/Parish:	State:	Zip:

**B. Business Profile**

(1) Describe the primary activities of your firm:		(2) Federal Tax ID (if any):
(3) This firm was established on ___ / ___ / ___		(4) I/We have owned this firm since: ___ / ___ / ___
(5) Method of acquisition <i>(check all that apply)</i> : <input type="checkbox"/> Started new business <input type="checkbox"/> Bought existing business <input type="checkbox"/> Inherited business <input type="checkbox"/> Secured concession <input type="checkbox"/> Merger or consolidation <input type="checkbox"/> Other <i>(explain)</i> _____		
(6) Is your firm "for profit"? <input type="checkbox"/> Yes <input type="checkbox"/> No		<input checked="" type="checkbox"/> <b>STOP!</b> If your firm is NOT for-profit, then you do NOT qualify for this program and do NOT need to fill out this application.

(7) Type of firm (check all that apply):

Sole Proprietorship

Partnership

Corporation

Limited Liability Partnership

Limited Liability Corporation

Joint Venture

Other, Describe: \_\_\_\_\_

(8) Has your firm ever existed under different ownership, a different type of ownership, or a different name?

Yes  No

If Yes, explain: \_\_\_\_\_

(9) Number of employees: Full-time \_\_\_\_\_ Part-time \_\_\_\_\_ Total \_\_\_\_\_

(10) Specify the gross receipts of the firm for the last 3 years: Year \_\_\_\_\_ Total receipts \$ \_\_\_\_\_

Year \_\_\_\_\_ Total receipts \$ \_\_\_\_\_

Year \_\_\_\_\_ Total receipts \$ \_\_\_\_\_

**C. Relationships with Other Businesses**

(1) Is your firm co-located at any of its business locations, or does it share a telephone number, P.O. Box, office space, yard, warehouse, facilities, equipment, or office staff, with any other business, organization, or entity?

Yes  No

If Yes, identify: Other Firm's name: \_\_\_\_\_

Explain nature of shared facilities: \_\_\_\_\_

(2) At present, or at any time in the past, has your firm:	(a) been a subsidiary of any other firm? <input type="checkbox"/> Yes <input type="checkbox"/> No
	(b) consisted of a partnership in which one or more of the partners are other firms? <input type="checkbox"/> Yes <input type="checkbox"/> No
	(c) owned any percentage of any other firm? <input type="checkbox"/> Yes <input type="checkbox"/> No
	(d) had any subsidiaries? <input type="checkbox"/> Yes <input type="checkbox"/> No

(3) Has any other firm had an ownership interest in your firm at present or at any time in the past?  Yes  No

(4) If you answered "Yes" to any of the questions in (2)(a)-(d) and/or (3), identify the following for each (attach extra sheets, if needed):

	<u>Name</u>	<u>Address</u>	<u>Type of Business</u>
1.			
2.			
3.			

**D. Immediate Family Member Businesses**

Do any of your immediate family members own or manage another company?  Yes  No  
 If Yes, then list (attach extra sheets, if needed):

<u>Name</u>	<u>Relationship</u>	<u>Company</u>	<u>Type of Business</u>	<u>Own or Manage?</u>
1.				
2.				

**Section 3: OWNERSHIP**

**Identify all individuals or holding companies with any ownership interest in your firm, providing the information requested below (If more than one owner, attach separate sheets for each additional owner):**

**A. Background Information**

(1) Name:	(2) Title:	(3) Home Phone #:
(4) Home Address (street and number):		City: State: Zip:
(5) Gender: <input type="checkbox"/> Male <input type="checkbox"/> Female	(6) Ethnic group membership (Check all that apply):	
(7) U.S. Citizen: <input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> Black <input type="checkbox"/> Hispanic <input type="checkbox"/> Native American <input type="checkbox"/> Asian Pacific <input type="checkbox"/> Subcontinent Asian <input type="checkbox"/> Other (specify) _____	
(8) Lawfully Admitted Permanent Resident: <input type="checkbox"/> Yes <input type="checkbox"/> No		

**B. Ownership Interest**

(1) Number of years as owner:	(2) Initial investment to acquire ownership interest in firm:	<u>Type</u>	<u>Dollar Value</u>		
(3) Percentage owned:		Cash	\$		
(4) Familial relationship to other owners:		Real Estate	\$		
		Equipment	\$		
	Other	\$			
(5) Shares of Stock:	<u>Number</u>	<u>Percentage</u>	<u>Class</u>	<u>Date acquired</u>	<u>Method Acquired</u>
(6) Does this owner perform a management or supervisory function for any other business? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, identify: Name of Business: _____ Function/Title: _____					
(7) Does this owner own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)? <input type="checkbox"/> Yes <input type="checkbox"/> No If Yes, identify: Name of Business: _____ Function/Title: _____ Nature of Business Relationship: _____					

**C. Disadvantaged Status – NOTE: Complete this section only for each owner applying for DBE qualification (i.e. for each owner claiming to be socially and economically disadvantaged)**

(1) What is the Personal Net Worth (PNW) of the owner(s) applying for DBE qualification? *(Use and attach the Personal Financial Statement form at the end of this application; attach additional sheets if more than one owner is applying)*

**Section 4: CONTROL**

**A. Identify your firm’s Officers & Board of Directors** *(If additional space is required, attach a separate sheet):*

	Name	Title	Date Appointed	Ethnicity	Gender
<b>(1) Officers of the Company</b>	(a)				
	(b)				
	(c)				
	(d)				
	(e)				
<b>(2) Board of Directors</b>	(a)				
	(b)				
	(c)				
	(d)				
	(e)				

(3) Do any of the persons listed in (1) and/or (2) above perform a management or supervisory function for any other business?  Yes  No

If Yes, identify for each: Person: \_\_\_\_\_ Title: \_\_\_\_\_  
 Business: \_\_\_\_\_ Function: \_\_\_\_\_

(4) Do any of the persons listed (1) and/or (2) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)?  Yes  No

If Yes, identify for each: Firm Name: \_\_\_\_\_ Person: \_\_\_\_\_  
 Nature of Business Relationship: \_\_\_\_\_

**B. Identify your firm’s management personnel who control your firm in the following areas** *(If more than two persons, attach a separate sheet):*

	Name	Title	Ethnicity	Gender
<b>(1) Financial Decisions</b> <i>(responsibility for acquisition of lines of credit, surety bonding, supplies, etc.)</i>	a.			
	b.			
<b>(2) Estimating and bidding</b>	a.			
	b.			
<b>(3) Negotiating and Contract Execution</b>	a.			
	b.			
<b>(4) Hiring/firing of management personnel</b>	a.			
	b.			
<b>(5) Field/Production Operations</b>	a.			

Supervisor	b.			
(6) Office management	a.			
	b.			
(7) Marketing/Sales	a.			
	b.			
(8) Purchasing of major equipment	a.			
	b.			
(9) Authorized to Sign Company Checks (for any purpose)	a.			
	b.			
(10) Authorized to make Financial Transactions	a.			
	b.			

(11) Do any of the persons listed in (1) through (10) above perform a management or supervisory function for any other business?  Yes  No  
If Yes, identify for each: Person: \_\_\_\_\_ Title: \_\_\_\_\_  
Business: \_\_\_\_\_ Function: \_\_\_\_\_

(12) Do any of the persons listed in (1) through (10) above own or work for any other firm(s) that has a relationship with this firm (e.g., ownership interest, shared office space, financial investments, equipment, leases, personnel sharing, etc.)?  
 Yes  No

If Yes, identify for each: Firm Name: \_\_\_\_\_ Person: \_\_\_\_\_  
Nature of Business Relationship: \_\_\_\_\_

**C. Indicate your firm's inventory in the following categories (attach additional sheets if needed):**

**(1) Equipment**

Type of Equipment	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			

**(2) Vehicles**

Type of Vehicle	Make/Model	Current Value	Owned or Leased?
(a)			
(b)			
(c)			

**(3) Office Space**

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)		
(b)		

**(4) Storage Space**

Street Address	Owned or Leased?	Current Value of Property or Lease
(a)		
(b)		

**D. Does your firm rely on any other firm for management functions or employee payroll?**  Yes  No

If Yes, explain:

**E. Financial Information**

**(1) Banking Information:**

(a) Name of bank: \_\_\_\_\_ (b) Phone No: ( ) \_\_\_\_\_  
(c) Address of bank: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

**(2) Bonding Information:** If you have bonding capacity, identify: (a) Binder No: \_\_\_\_\_  
(b) Name of agent/broker \_\_\_\_\_ (c) Phone No: ( ) \_\_\_\_\_  
(d) Address of agent/broker: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
(e) Bonding limit: Aggregate limit \$ \_\_\_\_\_ Project limit \$ \_\_\_\_\_

**F. Identify all sources, amounts, and purposes of money loaned to your firm, including the names of any persons or firms securing the loan, if other than the listed owner:**

Name of Source	Address of Source	Name of Person Securing the Loan	Original Amount	Current Balance	Purpose of Loan
1.					
2.					
3.					

**G. List all contributions or transfers of assets to/from your firm and to/from any of its owners over the past two years (attach additional sheets if needed):**

Contribution/Asset	Dollar Value	From Whom Transferred	To Whom Transferred	Relationship	Date of Transfer
1.					
2.					
3.					

**H. List current licenses/permits held by any owner and/or employee of your firm (e.g. contractor, engineer, architect, etc.)(attach additional sheets if needed):**

Name of License/Permit Holder	Type of License/Permit	Expiration Date	License Number and State
1.			
2.			
3.			

**I. List the three largest contracts completed by your firm in the past three years, if any:**

<b>Name of Owner/Contractor</b>	<b>Name/Location of Project</b>	<b>Type of Work Performed</b>	<b>Dollar Value of Contract</b>
1.			
2.			
3.			

**J. List the three largest active jobs on which your firm is currently working:**

<b>Name of Prime Contractor and Project Number</b>	<b>Location of Project</b>	<b>Type of Work</b>	<b>Project Start Date</b>	<b>Anticipated Completion Date</b>	<b>Dollar Value of Contract</b>
1.					
2.					
3.					

**AFFIDAVIT OF CERTIFICATION**

*This form must be signed and notarized for each owner upon which disadvantaged status is relied.*

**A MATERIAL OR FALSE STATEMENT OR OMISSION MADE IN CONNECTION WITH THIS APPLICATION IS SUFFICIENT CAUSE FOR DENIAL OF CERTIFICATION, REVOCATION OF A PRIOR APPROVAL, INITIATION OF SUSPENSION OR DEBARMENT PROCEEDINGS, AND MAY SUBJECT THE PERSON AND/OR ENTITY MAKING THE FALSE STATEMENT TO ANY AND ALL CIVIL AND CRIMINAL PEALTIES AVAILABLE PURSUANT TO APPLICABLE FEDERAL AND STATE LAW.**

I \_\_\_\_\_ (full name printed), swear or affirm under penalty of law that I am \_\_\_\_\_ (title) of applicant firm \_\_\_\_\_ (firm name) and that I have read and understood all of the questions in this application and that all of the foregoing information and statements submitted in this application and its attachments and supporting documents are true and correct to the best of my knowledge, and that all responses to the questions are full and complete, omitting no material information. The responses include all material information necessary to fully and accurately identify and explain the operations, capabilities and pertinent history of the named firm as well as the ownership, control, and affiliations thereof.

I recognize that the information submitted in this application is for the purpose of inducing certification approval by a government agency. I understand that a government agency may, by means it deems appropriate, determine the accuracy and truth of the statements in the application, and I authorize such agency to contact any entity named in the application, and the named firm's bonding companies, banking institutions, credit agencies, contractors, clients, and other certifying agencies for the purpose of verifying the information supplied and determining the named firm's eligibility.

I agree to submit to government audit, examination and review of books, records, documents and files, in whatever form they exist, of the named firm and its affiliates, inspection of its places(s) of business and equipment, and to permit interviews of its principals, agents, and employees. I understand that refusal to permit such inquiries shall be grounds for denial of certification.

If awarded a contract or subcontract, I agree to promptly and directly provide the prime contractor, if any, and the Department, recipient agency, or federal funding agency on an ongoing basis, current, complete and accurate information regarding (1) work performed on the project; (2) payments; and (3) proposed changes, if any, to the foregoing arrangements.

I agree to provide written notice to the recipient agency or Unified Certification Program (UCP) of any material change in the information contained in the original application within 30 calendar days of such change (e.g., ownership, address, telephone number, etc.).

I acknowledge and agree that any misrepresentations in this application or in records pertaining to a contract or subcontract will be grounds for terminating any contract or subcontract which may be awarded; denial or revocation of certification; suspension and debarment; and for initiating action under federal and/or state law concerning false statement, fraud or other applicable offenses.

I certify that I am a socially and economically disadvantaged individual who is an owner of the above-referenced firm seeking certification as a Disadvantaged Business Enterprise (DBE). In support of my application, I certify that I am a member of one or more of the following groups, and that I have held myself out as a member of the group(s) (circle all that apply):

- Female
- Black American
- Hispanic American
- Native American
- Asian- Pacific American
- Subcontinent Asian American
- Other (specify) \_\_\_\_\_

I certify that I am socially disadvantaged because I have been subjected to racial or ethnic prejudice or cultural bias, or have suffered the effects of discrimination, because of my identity as a member of one or more of the groups identified above, without regard to my individual qualities.

I further certify that my personal net worth does not exceed \$1.32 million, and that I am economically disadvantaged because my ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially and economically disadvantaged.

I declare under penalty of perjury that the information provided in this application and supporting documents is true and correct.

Executed on \_\_\_\_\_ (Date)

Signature \_\_\_\_\_  
(DBE Applicant)

**NOTARY CERTIFICATE**

**DBE UNIFORM CERTIFICATION APPLICATION SUPPORTING DOCUMENTS CHECKLIST**  
**In order to complete your application for DBE certification, you must attach copies of all of the following documents as they apply to you and your firm.**

**All Applicants**

- Work experience resumes (that include places of ownership/employment with corresponding dates), for all owners and officers of your firm
- Personal Financial Statement (form available with this application)
- Personal tax returns for the past three years, if applicable, for each owner claiming disadvantaged status
- Your firm's tax returns (gross receipts) and all related schedules for the past three years
- Documented proof of contributions used to acquire ownership for each owner (*e.g. both sides of cancelled checks*)
- Your firm's signed loan agreements, security agreements, and bonding forms
- Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
- List of equipment leased and signed lease agreements
- List of construction equipment and/or vehicles owned and titles/proof of ownership
- Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past two years
- Year-end balance sheets and income statements for the past three years (*or life of firm, if less than three years*); a new business must provide a current balance sheet
- All relevant licenses, license renewal forms, permits, and haul authority forms
- DBE and SBA 8(a) or SDB certifications, denials, and/or decertifications, if applicable
- Bank authorization and signatory cards
- Schedule of salaries (or other compensation or remuneration) paid to all officers, managers, owners, and/or directors of the firm
- Trust agreements held by any owner claiming disadvantaged status, if any

**Partnership or Joint Venture**

- Original and any amended Partnership or Joint Venture Agreements

**Corporation or LLC**

- Official Articles of Incorporation (*signed by the state official*)
- Both sides of all corporate stock certificates and your firm's stock transfer ledger
- Shareholders' Agreement
- Minutes of all stockholders and board of directors meetings
- Corporate by-laws and any amendments
- Corporate bank resolution and bank signature cards
- Official Certificate of Formation and Operating Agreement with any amendments (for LLCs)

**Trucking Company**

- Documented proof of ownership of the company
- Insurance agreements for each truck owned or operated by your firm
- Title(s) and registration certificate(s) for each truck owned or operated by your firm
- List of U.S. DOT numbers for each truck owned or operated by your firm

**Regular Dealer**

- Proof of warehouse ownership or lease
- List of product lines carried
- List of distribution equipment owned and/or leased

**NOTE: The specific state UCP to which you are applying may have additional required documents that you must also supply with your application. Contact the appropriate certifying agency to which you are applying to find out if more is required**

# Personal Financial Statement

Disadvantaged Business Enterprise (DBE)



“Working to build the Commonwealth’s economic strength through the development of disadvantaged businesses enterprises. Fulfilling the promise of Access and Opportunity”

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**PERSONAL FINANCIAL STATEMENT**

**U.S. SMALL BUSINESS ADMINISTRATION**

As of \_\_\_\_\_

Complete this form for: (1) each proprietor, or (2) each limited partner who owns 20% or more interest and each general partner, or (3) each stockholder owning 20% or more of voting stock, or (4) any person or entity providing a guaranty on the loan.

Name \_\_\_\_\_ Business Phone \_\_\_\_\_

Residence Address \_\_\_\_\_ Residence Phone \_\_\_\_\_

City, State, & Zip Code \_\_\_\_\_

Business Name of Applicant/Borrower \_\_\_\_\_

ASSETS		(Omit Cents)	LIABILITIES		(Omit Cents)
Cash on hand & in Banks .....	\$	_____	Accounts Payable .....	\$	_____
Savings Accounts .....	\$	_____	Notes Payable to Banks and Others .....	\$	_____
IRA or Other Retirement Account .....	\$	_____	(Describe in Section 2)		
Accounts & Notes Receivable .....	\$	_____	Installment Account (Auto) .....	\$	_____
Life Insurance-Cash Surrender Value Only .....	\$	_____	Mo. Payments	\$	_____
(Complete Section 8)			Installment Account (Other) .....	\$	_____
Stocks and Bonds .....	\$	_____	Mo. Payments	\$	_____
(Describe in Section 3)			Loan on Life Insurance .....	\$	_____
Real Estate .....	\$	_____	Mortgages on Real Estate .....	\$	_____
(Describe in Section 4)			(Describe in Section 4)		
Automobile-Present Value .....	\$	_____	Unpaid Taxes .....	\$	_____
Other Personal Property .....	\$	_____	(Describe in Section 6)		
(Describe in Section 5)			Other Liabilities .....	\$	_____
Other Assets .....	\$	_____	(Describe in Section 7)		
(Describe in Section 5)			Total Liabilities .....	\$	_____
<b>Total</b>			Net Worth .....	\$	_____
	\$	_____	<b>Total</b>	\$	_____

Section 1. Source of Income		Contingent Liabilities			
Salary .....	\$	_____	As Endorser or Co-Maker .....	\$	_____
Net Investment Income .....	\$	_____	Legal Claims & Judgments .....	\$	_____
Real Estate Income .....	\$	_____	Provision for Federal Income Tax .....	\$	_____
Other Income (Describe below)* .....	\$	_____	Other Special Debt .....	\$	_____

Description of Other Income in Section 1:  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

\*Alimony or child support payments need not be disclosed in "Other Income" unless it is desired to have such payments counted toward total income.

**Section 2. Notes Payable to Banks and Others.** (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed.)

Name and Address of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Endorsed Type of Collateral

<b>Section 3. Stocks and Bonds. (Use attachments if necessary. Each attachment must be identified as a part of this statement and signed).</b>					
Number of Shares	Name of Securities	Cost	Market Value	Date of	Total Value
			Quotation/Exchange	Quotation/Exchange	

**Section 4. Real Estate Owned.** (List each parcel separately. Use attachment if necessary. Each attachment must be identified as a part

of this statement and signed.)			
	Property A	Property B	Property C
Type of Property			
Address			
Date Purchased			
Original Cost			
Present Market Value			
Name & Address of Mortgage Holder			
Mortgage Account Number			
Mortgage Balance			
Amount of Payment per Month/Year			
Status of Mortgage			

**Section 5. Other Personal Property and Other Assets.** (Describe, and if any is pledged as security, state name and address of lien holder, amount of lien, terms of payment and if delinquent, describe delinquency)

**Section 6. Unpaid Taxes.** (Describe in detail, as to type, to whom payable, when due, amount, and to what property, if any, a tax lien attaches.)

**Section 7. Other Liabilities.** (Describe in detail.)

**Section 8. Life Insurance Held.** (Give face amount and cash surrender value of policies - name of insurance company and beneficiaries)

I authorize SBA/Lender to make inquiries as necessary to verify the accuracy of the statements made and to determine my creditworthiness. I certify the above and the statements contained in the attachments are true and accurate as of the stated date(s). These statements are made for the purpose of either obtaining a loan or guaranteeing a loan. I understand FALSE statements may result in forfeiture of benefits and possible prosecution by the U.S. Attorney General (Reference 18 U.S.C. 1001).

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

Signature: \_\_\_\_\_ Date: \_\_\_\_\_ Social Security Number: \_\_\_\_\_

PLEASE NOTE: The estimated average burden hours for the completion of this form is 1.5 hours per response. If you have questions or comments concerning this estimate or any other aspect of this information, please contact Chief, Administrative Branch, U.S. Small Business Administration, Washington, D.C. 20416, and Clearance Officer, Paper Reduction Project (3245-0188), Office of Management and Budget, Washington, D.C. 20503. **PLEASE DO NOT SEND FORMS TO OMB.**

**PERSONAL FINANCIAL STATEMENT  
(49 CFR PART 26)**

**NOTARY ACKNOWLEDGEMENT**

**STATE OF** \_\_\_\_\_

**COUNTY OF** \_\_\_\_\_

On \_\_\_\_\_, before me, \_\_\_\_\_  
(Date) (Insert name and title of the notary public)

personally appeared \_\_\_\_\_, who proved to me on the  
(Insert name of the DBE applicant)

basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the person or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of \_\_\_\_\_ that the foregoing paragraph is true and correct.

WITNESS my hand and Official Seal

Signature: \_\_\_\_\_ (Seal)

**CONFIDENTIALITY STATEMENT**

I hereby understand that the information contained in the Application for Certification as a Disadvantaged Business Enterprise will remain confidential and shall only be released to federal and state agencies, including, but not limited to, the United States Department of Transportation and the Massachusetts Supplier Diversity Office (SDO), in order to determine my eligibility for the above-referenced program. I further understand that this document, and any other documents relating to my participation in this program, may be subject to disclosure pursuant to state and federal public records laws. I further understand that while the SDO will take all necessary measures to protect these documents from disclosure, including consulting with Massachusetts Attorney General's Office, the SDO may nonetheless be required to disclose said documents pursuant to state and federal public records laws.

This \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Name: \_\_\_\_\_ (SEAL)  
Title:  
Firm:  
DBE Program Applicant

\_\_\_\_\_  
NOTARY PUBLIC (SEAL)  
\_\_\_\_\_  
County, State  
My Commission Expires on

\_\_\_\_\_ , \_\_\_\_\_.

## Instructions to Assist in Completing the Personal Financial Statement (SBA Form 413) For the Massachusetts Unified Certification Program

Please **do not** make adjustments to your figures pursuant to U.S. Department of Transportation (U.S. DOT) regulations 49 CFR Part 26. The Supplier Diversity Office (SDO) will use the information provided on your completed Personal Financial Statement to determine your *Personal Net Worth According to 49 CFR Part 26*. An individual's *Personal Net Worth According to 49 CFR Part 26* **includes** only his or her own share of assets held jointly or as community property with the individual's spouse and **excludes** the following:

- Individual's ownership interest in the applicant firm;
- Individual's equity in his or her primary residence;
  - **The above exclusions should be reflected on an individual's personal financial statement (SBA Form 413), and they will be excluded internally to adjust an individual's personal net worth.**
- Tax and interest penalties that would accrue if retirement savings or investments (e.g. pension plans, individual retirement accounts, 401(K) accounts, were distributed at the present time.

If your *Personal Net Worth According to 49 CFR Part 26* **exceeds \$1,320,000** cap and you, individually, or you and other individuals are the majority owners of an applicant firm is not eligible for DBE certification. If the *Personal Net Worth According to 49 CFR Part 26* of the majority owner(s) **exceeds \$1,320,000** cap at any time after your firm is certified, the firm is no longer eligible for certification. Should that occur, it is your responsibility to contact SDO in writing to advise the firm no longer qualifies.

### General Instructions

- You must fill out all line items on the Personal Financial Statement (SBA Form 413) to the best of your ability.
- On the form, above the *Personal Financial Statement* heading, please indicate if financial information is for a "married couple" or "single individual".
- On a separate sheet, please identify all property that is **not** held jointly or as community property, and include values and ownership.
- If necessary, please use additional sheet(s) of paper to report all information and details.
- If you have any questions about completing this form, please contact SDO at (617)502-8831.

### Specific Instructions

#### **Date and Contact Information**

Be sure to include the date and your contact information on the upper right corner of the first page.

### **ASSETS**

All assets must be reported at their current fair market values as of the date of your statement. Assessor's assessed value for real estate, for example, is not acceptable. Assets held in a trust generally should be included.

**Cash on hand & in Banks:** Enter the total amount of cash on hand and in bank accounts other than savings.

**Savings Accounts:** Enter the total amount in all savings accounts.

**IRA or Other Retirement Account:** Enter the total present value of all IRAs and other retirement accounts, including any deferred compensation and pension plans.

**Accounts & Notes Receivables:** Enter the total value of all monies owed to you personally, if any. This should include shareholder loans to the applicant firm, if any.

**Life Insurance-Cash Surrender Value Only:** Enter the value of any life insurance policies. This amount should be cash surrender value only, not the amount a beneficiary would receive upon your death, also known as face value. A complete description is required in Section 8.

**Stocks and Bonds:** Enter the current market value of your stocks and bonds. A complete listing and description is required in Section 3.

**Real Estate:** Enter the current fair market value of all real estate owned. A complete listing and description of all real estate owned is required in Section 4. The amount must correspond with the total "Present Market Value" amounts listed in Section 4.

**Automobile-Present Value:** Enter the current fair market value of all automobiles owned.

**Other Personal Property:** Enter the current fair market value of all other personal property owned, but not included in the previous entries. A complete description of these assets is required in Section 5.

**Other Assets:** Enter the current fair market value of all other assets owned, but not included in the previous entries. A complete description of these assets is required in Section 5.

### **LIABILITIES**

**Accounts Payable:** Enter the total value of all unpaid accounts payable that is your responsibility.

**Notes Payable to Banks and Others:** Enter the total amount due on all notes payable to banks and others. This should not, however, include any mortgage balances. A complete description of all notes payable to banks and others is required in Section 2.

**Installment Account (Auto):** Enter amount of the present balance of the debt that you owe for auto installment account. Please be sure to indicate the total monthly payment in the space provided.

**Installment Account (Other):** Enter amount of the present balance of the debt that owe for other installment accounts. Please be sure to indicate the total monthly payment in the space provided. For example, include the balances of all credit card debts in this line.

**Loans on Life Insurance:** Enter the total value of all loans due to life insurance policies.

**Mortgages on Real Estate:** Enter the total balance on all mortgages payable on real estate. A complete breakdown of all mortgages on real estate is required in Section 4. The amount must correspond with the total of the mortgage balances amounts listed in Section 4.

**Unpaid Taxes:** Enter the total amount of all taxes that are currently due but are unpaid. Contingent tax liabilities or anticipated taxes for current year should not be included. A complete description is required in Section 6.

**Other Liabilities:** Enter the total value due on all other liabilities not classified in the previous entries. A complete description is required in Section 7.

**Net Worth:** To complete Net Worth, add all liabilities and put that figure in the Total Liabilities line. Then subtract Total Liabilities from Total Assets to get your Net Worth. To check your figures, add Total Liabilities and Net Worth and the sum must equal to Total Assets. *If your figures do not match, your form will be returned to you to correct and complete again.*

## SECTION 1 SOURCE OF INCOME

**Salary:** Enter the amount of your total annual salary. This includes any salary from the applicant firm and if applicable, any salary from outside employment.

**Net Investment Income:** Enter the total amount of all investment income (i.e. dividends, interest, etc.)

**Real Estate Income:** Enter the total amount of all real estate income received from the sale, rental, lease, etc. of real estate held.

**Other Income:** Enter the total amount of all other income received (i.e. alimony, social security, pension, etc.). Please be sure to describe the source of the other income in the space provided below in this section.

## CONTINGENT LIABILITIES

Contingent liabilities are liabilities that belong to you only if an event(s) should occur. For example, if you have co-signed on a relative's loan, but you are not responsible for the debt until your relative defaults, this is a contingent liability. Contingent liabilities do not count toward your net worth until they become actual liabilities.

**As Endorser or Co-Maker:** Enter the total potential liabilities due as a result of being a co-signer for a loan or other commitments.

**Legal Claims and Judgments:** Enter the potential liabilities due as a result of legal claims from judgments, lawsuits, etc.

**Provisions for Federal Income Tax:** Enter the total amount of all Federal taxes for which you are potentially liable due to an anticipated gain on the pending sale of an asset or other circumstances, such as pending disputes or litigation which could possibly result in a personal tax liability.

**Other Special Debt:** Enter the total amount due on all remaining potential debts not accounted for.

## SECTION 2 NOTES PAYABLE TO BANKS AND OTHERS

Enter the name and address of note holder(s), original balance, current balance, payment amount, frequency, and how secured for each note payable as entered in the "Liabilities" column. Do ***not*** include loans for your business or mortgages for your properties.

## SECTION 3 STOCKS AND BONDS

Enter the number of shares, names of securities, cost, fair market value, and the date of fair market value for all shares of stock and bonds held. You may attach recent copies of your stock account listings. Do ***not*** include stock in your business.

## SECTION 4 REAL ESTATE OWNED

**Starting with your primary residence (be sure to identify it as your primary residence),** enter the type of property, address, date of purchase, original cost, present fair market value, name and address of mortgage holder, mortgage account number, mortgage balance, amount of payment, and status of mortgage for all real estate held. Please ensure that this section contains all real estate owned, including rental properties, vacation properties, commercial properties, etc. **Your ownership % in each property listed should be labeled next to the type of property.**

**Total "Present Market Value" amounts time ownership % should correspond with the "Real Estate" amount listed in the "Assets" column. Additionally, total "Mortgage Balance" amounts time ownership % should correspond with the "Mortgages on Real Estate" amount listed in the "Liabilities" column.** Attach additional sheet(s) if needed.

## SECTION 5 OTHER PERSONAL PROPERTY AND OTHER ASSETS

Itemize and describe in detail other personal property and other assets owned as listed in the "Assets" column. For other personal property, include boats, trailers, jewelry, furniture, household goods, collectibles, clothing, etc. **For other assets, include equity interest in the applicant firm, other businesses, trusts, investments, etc.**

## SECTION 6 UNPAID TAXES

Describe in detail as to the type, to whom payable, when due, amount, and to what property, if any, the tax lien attaches. Please refer to the unpaid taxes listed in the "Liabilities" column. If none, state "None." This section should not include the contingent tax liabilities or anticipated taxes owed for the current year. For any unusually large amounts, you must include documentation, such as tax liens, to support the amounts.

## SECTION 7 OTHER LIABILITIES

Describe in detail any other liabilities as referenced by the value listed in the "Liabilities" column. If none, state "None." For any unusually large amounts, you must include documentation, such as tax liens, to support the amounts.

## SECTION 8 LIFE INSURANCE HELD

Describe all life insurance policies held. Please be sure to include the face amount(s) of the policy, name of insurance company and beneficiaries ***and*** cash surrender values of the policy. Total cash surrender values should correspond with the "Life Insurance-Cash Surrender Value Only" amount listed in "Assets" column.

## EXECUTION OF STATEMENT

Be sure to sign, date, and include your social security number at the end of the statement.

# Supplier Diversity Office

## Federal Certification Regulations

Disadvantaged Business Enterprise (DBE)



“Working to build the Commonwealth’s economic strength through the development of disadvantaged business enterprises. Fulfilling the promise of Access and Opportunity”

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10/20/11 TH

## **Subpart D—Certification Standards**

### **§26.61 How are burdens of proof allocated in the certification process?**

(a) In determining whether to certify a firm as eligible to participate as a DBE, you must apply the standards of this subpart.

(b) The firm seeking certification has the burden of demonstrating to you, by a preponderance of the evidence, that it meets the requirements of this subpart concerning group membership or individual disadvantage, business size, ownership, and control.

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

(d) Individuals who are not presumed to be socially and economically disadvantaged, and individuals concerning whom the presumption of disadvantage has been rebutted, have the burden of proving to you, by a preponderance of the evidence, that they are socially and economically disadvantaged. (See Appendix E of this part)

(e) You must make determinations concerning whether individuals and firms have met their burden of demonstrating group membership, ownership, control, and social and economic disadvantage (where disadvantage must be demonstrated on an individual basis) by considering all the facts in the record, viewed as a whole.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35554, June 16, 2003]

### **§26.63 What rules govern group membership determinations?**

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

(2) You must provide the individual a written explanation of your reasons for questioning his or her group membership and a written request for additional evidence as outlined in paragraph (b) of this section.

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

(b) In making such a determination, you must consider whether the person has held himself out to be a member of the group over a long period of time prior to application for certification and whether the person is regarded as a member of the group by the relevant community. You may require the applicant to produce appropriate documentation of group membership.

(1) If you determine that an individual claiming to be a member of a group presumed to be disadvantaged is not a member of a designated disadvantaged group, the individual must demonstrate social and economic disadvantage on an individual basis.

(2) Your decisions concerning membership in a designated group are subject to the certification appeals procedure of §26.89.

### **§26.65 What rules govern business size determinations?**

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

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

(c) The Department adjusts the number in paragraph (b) of this section annually using the Department of Commerce price deflators for purchases by State and local governments as the basis for this adjustment.

[74 FR 15224, Apr. 3, 2009]

### **§26.67 What rules determine social and economic disadvantage?**

(a) *Presumption of disadvantage.* (1) You must rebuttably presume that citizens of the United States (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA, are socially and economically disadvantaged individuals. You must require applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.

(2)(i) You must require each individual owner of a firm applying to participate as a DBE, whose ownership and control are relied upon for DBE certification to certify that he or she has a personal net worth that does not exceed \$1.32 million.

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

(iii) In determining an individual's net worth, you must observe the following requirements:

(A) Exclude an individual's ownership interest in the applicant firm;

(B) Exclude the individual's equity in his or her primary residence (except any portion of such equity that is attributable to excessive withdrawals from the applicant firm).

(C) Do not use a contingent liability to reduce an individual's net worth.

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

(iv) Notwithstanding any provision of Federal or state law, you must not release an individual's personal net worth statement nor any documents pertaining to it to any third party without the written consent of the submitter. Provided, that you must transmit this information to DOT in any certification appeal proceeding under section 26.89 of this part or to any other state to which the individual's firm has applied for certification under §26.85 of this part.

(b) *Rebuttal of presumption of disadvantage.* (1) If the statement of personal net worth that an individual submits under paragraph (a)(2) of this section shows that the individual's personal net worth exceeds \$1.32 million, the individual's presumption of economic disadvantage is rebutted. You are not required to have a proceeding under paragraph (b)(2) of this section in order to rebut the presumption of economic disadvantage in this case.

(2) If you have a reasonable basis to believe that an individual who is a member of one of the designated groups is not, in fact, socially and/or economically disadvantaged you may, at any time, start a proceeding to determine whether the presumption should be regarded as rebutted with respect to that individual. Your proceeding must follow the procedures of §26.87.

(3) In such a proceeding, you have the burden of demonstrating, by a preponderance of the evidence, that the individual is not socially and economically disadvantaged. You may require the individual to produce information relevant to the determination of his or her disadvantage.

(4) When an individual's presumption of social and/or economic disadvantage has been rebutted, his or her ownership and control of the firm in question cannot be used for purposes of DBE eligibility under this subpart unless and until he or she makes an individual showing of social and/or economic disadvantage. If the basis for rebutting the presumption is a determination that the individual's personal net worth exceeds \$1.32 million, the individual is no longer eligible for participation in the program and cannot regain eligibility by making an individual showing of disadvantage.

(c) [Reserved]

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

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 68 FR 35554, June 16, 2003; 76 FR 5099, Jan. 28, 2011]

### **§26.69 What rules govern determinations of ownership?**

(a) In determining whether the socially and economically disadvantaged participants in a firm own the firm, you must consider all the facts in the record, viewed as a whole.

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

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

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

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

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

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

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

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

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

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

(1) The owner's expertise must be—

(i) In a specialized field;

(ii) Of outstanding quality;

(iii) In areas critical to the firm's operations;

(iv) Indispensable to the firm's potential success;

(v) Specific to the type of work the firm performs; and

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

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

(g) You must always deem as held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual—

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

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

(h)(1) You must presume as not being held by a socially and economically disadvantaged individual, for purposes of determining ownership, all interests in a business or other assets obtained by the individual as the result of a gift, or transfer without adequate consideration, from any non-disadvantaged individual or non-DBE firm who is—

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

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

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

(2) To overcome this presumption and permit the interests or assets to be counted, the disadvantaged individual must demonstrate to you, by clear and convincing evidence, that—

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

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

(i) You must apply the following rules in situations in which marital assets form a basis for ownership of a firm:

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

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

(j) You may consider the following factors in determining the ownership of a firm. However, you must not regard a contribution of capital as failing to be real and substantial, or find a firm ineligible, solely because—

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

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

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

#### **§26.71 What rules govern determinations concerning control?**

(a) In determining whether socially and economically disadvantaged owners control a firm, you must consider all the facts in the record, viewed as a whole.

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

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

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

(3) You must examine the firm's relationships with prime contractors to determine whether a pattern of exclusive or primary dealings with a prime contractor compromises the independence of the potential DBE firm.

(4) In considering factors related to the independence of a potential DBE firm, you must consider the consistency of relationships between the potential DBE and non-DBE firms with normal industry practice.

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

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

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

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

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

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

(f) The socially and economically disadvantaged owners of the firm may delegate various areas of the management, policymaking, or daily operations of the firm to other participants in the firm, regardless of whether these participants are socially and economically disadvantaged individuals. Such delegations of authority must be revocable, and the socially and economically disadvantaged owners must retain the power to hire and fire any person to whom such authority is delegated. The managerial role of the socially and economically disadvantaged owners in the firm's overall affairs must be

such that the recipient can reasonably conclude that the socially and economically disadvantaged owners actually exercise control over the firm's operations, management, and policy.

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

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

(i)(1) You may consider differences in remuneration between the socially and economically disadvantaged owners and other participants in the firm in determining whether to certify a firm as a DBE. Such consideration shall be in the context of the duties of the persons involved, normal industry practices, the firm's policy and practice concerning reinvestment of income, and any other explanations for the differences proffered by the firm. You may determine that a firm is controlled by its socially and economically disadvantaged owner although that owner's remuneration is lower than that of some other participants in the firm.

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

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

(k)(1) A socially and economically disadvantaged individual may control a firm even though one or more of the individual's immediate family members (who themselves are not socially and economically disadvantaged individuals) participate in the firm as a manager, employee, owner, or in another capacity. Except as otherwise provided in this paragraph, you must make a judgment about the control the socially and economically disadvantaged owner exercises vis-a-vis other persons involved in the business as you do in other situations, without regard to whether or not the other persons are immediate family members.

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

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

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

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

(m) In determining whether a firm is controlled by its socially and economically disadvantaged owners, you may consider whether the firm owns equipment necessary to perform its work. However, you must not determine that a firm is not

controlled by socially and economically disadvantaged individuals solely because the firm leases, rather than owns, such equipment, where leasing equipment is a normal industry practice and the lease does not involve a relationship with a prime contractor or other party that compromises the independence of the firm.

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

(1) The types of work a firm can perform (whether on initial certification or when a new type of work is added) must be described in terms of the most specific available NAICS code for that type of work. If you choose, you may also, in addition to applying the appropriate NAICS code, apply a descriptor from a classification scheme of equivalent detail and specificity. A correct NAICS code is one that describes, as specifically as possible, the principal goods or services which the firm would provide to DOT recipients. Multiple NAICS codes may be assigned where appropriate. Program participants must rely on, and not depart from, the plain meaning of NAICS code descriptions in determining the scope of a firm's certification. If your Directory does not list types of work for any firm in a manner consistent with this paragraph (a)(1), you must update the Directory entry for that firm to meet the requirements of this paragraph (a)(1) by August 28, 2011.

(2) Firms and recipients must check carefully to make sure that the NAICS codes cited in a certification are kept up-to-date and accurately reflect work which the UCP has determined the firm's owners can control. The firm bears the burden of providing detailed company information the certifying agency needs to make an appropriate NAICS code designation.

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

(4) A certifier is not precluded from changing a certification classification or description if there is a factual basis in the record. However, certifiers must not make after-the-fact statements about the scope of a certification, not supported by evidence in the record of the certification action.

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

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

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

[64 FR 5126, Feb. 2, 1999, as amended at 76 FR 5099, Jan. 28, 2011]

### **§26.73 What are other rules affecting certification?**

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

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

(b)(1) You must evaluate the eligibility of a firm on the basis of present circumstances. You must not refuse to certify a firm based solely on historical information indicating a lack of ownership or control of the firm by socially and economically disadvantaged individuals at some time in the past, if the firm currently meets the ownership and control standards of this part.

(2) You must not refuse to certify a firm solely on the basis that it is a newly formed firm, has not completed projects or contracts at the time of its application, has not yet realized profits from its activities, or has not demonstrated a potential for success. If the firm meets disadvantaged, size, ownership, and control requirements of this Part, the firm is eligible for certification.

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

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

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

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

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

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

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

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

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

*Example 5:* Disadvantaged individuals own 60 percent of the holding company, which in turn owns 51 percent of a subsidiary. In this case, the cumulative ownership of the subsidiary by disadvantaged individuals is about 31 percent. This is less than 51 percent, so you cannot certify the subsidiary.

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

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

(g) You must not require a DBE firm to be prequalified as a condition for certification unless the recipient requires all firms that participate in its contracts and subcontracts to be prequalified.

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

(i) The following special rules apply to the certification of firms related to Alaska Native Corporations (ANCs).

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

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

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

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

(2) As a recipient to whom an ANC-related entity applies for certification, you do not use the DOT uniform application form (see Appendix F of this part). You must obtain from the firm documentation sufficient to demonstrate that entity meets the requirements of paragraph (i)(1) of this section. You must also obtain sufficient information about the firm to allow you to administer your program ( e.g., information that would appear in your DBE Directory).

(3) If an ANC-related firm does not meet all the conditions of paragraph (i)(1) of this section, then it must meet the requirements of paragraph (h) of this section in order to be certified, on the same basis as firms owned by Indian Tribes or Native Hawaiian Organizations.

### **§26.83 What procedures do recipients follow in making certification decisions?**

(a) You must ensure that only firms certified as eligible DBEs under this section participate as DBEs in your program.

(b) You must determine the eligibility of firms as DBEs consistent with the standards of subpart D of this part. When a UCP is formed, the UCP must meet all the requirements of subpart D of this part and this subpart that recipients are required to meet.

(c) You must take all the following steps in determining whether a DBE firm meets the standards of subpart D of this part:

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

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

(3) Analyze the bonding and financial capacity of the firm;

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

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

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

(7) Require potential DBEs to complete and submit an appropriate application form, unless the potential DBE is an SBA certified firm applying pursuant to the DOT/SBA MOU.

(i) You must use the application form provided in Appendix F to this part without change or revision. However, you may provide in your DBE program, with the approval of the concerned operating administration, for supplementing the form by requesting additional information not inconsistent with this part.

(ii) You must make sure 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.

(iii) You must review all information on the form prior to making a decision about the eligibility of the firm.

(d) When another recipient, in connection with its consideration of the eligibility of a firm, makes a written request for certification information you have obtained about that firm (e.g., including application materials or the report of a site visit, if you have made one to the firm), you must promptly make the information available to the other recipient.

(e) [Reserved]

(f) Subject to the approval of the concerned operating administration as part of your DBE program, you may impose a reasonable application fee for certification. Fee waivers shall be made in appropriate cases.

(g) You 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.

(h) Once you have certified a DBE, it shall remain certified until and unless you have removed its certification, in whole or in part, through the procedures of section 26.87. You may not require DBEs to reapply for certification or require "recertification" of currently certified firms. However, you may conduct a certification review of a certified DBE firm, including a new on-site review, three years from the date of the firm's most recent certification, or sooner if appropriate in light of changed circumstances ( e.g., of the kind requiring notice under paragraph (i) of this section), a complaint, or other information concerning the firm's eligibility. If you have grounds to question the firm's eligibility, you may conduct an on-site review on an unannounced basis, at the firm's offices and jobsites.

(i) If you are a DBE, you must inform the recipient or UCP in writing of any change in circumstances affecting your ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material change in the information provided in your application form.

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

(2) You must attach supporting documentation describing in detail the nature of such changes.

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

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

(k) If you are a recipient, you must make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under this part. You may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. You may establish a different time frame in your DBE program, upon a showing that this time frame is not feasible, and subject to the approval of the concerned operating administration. Your failure to make a decision by the applicable deadline under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal to DOT under §26.89.

(l) As a recipient or UCP, you must advise each applicant within 30 days from your receipt of the application whether the application is complete and suitable for evaluation and, if not, what additional information or action is required.

(m) Except as otherwise provided in this paragraph, if an applicant for DBE certification withdraws its application before you have issued a decision on the application, the applicant can resubmit the application at any time. As a recipient or UCP, you may not apply the waiting period provided under §26.86(c) of this part before allowing the applicant to resubmit its application. However, you may place the reapplication at the "end of the line," behind other applications that have been

made since the firm's previous application was withdrawn. You may also apply the waiting period provided under §26.86(c) of this part to a firm that has established a pattern of frequently withdrawing applications before you make a decision.

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35555, June 16, 2003; 76 FR 5100, Jan. 28, 2011]

### **§ 26.83 What procedures do recipients follow in making certification decisions?**

- (a) You must ensure that only firms certified as eligible DBEs under this section participate as DBEs in your program.
- (b) You must determine the eligibility of firms as DBEs consistent with the standards of subpart D of this part. When a UCP is formed, the UCP must meet all the requirements of subpart D of this part and this subpart that recipients are required to meet.
- (c) You must take all the following steps in determining whether a DBE firm meets the standards of subpart D of this part:
  - (1) Perform an on-site visit to the offices of the firm. You must interview the principal officers of the firm and review their résumés and/or work histories. You must also perform an on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation in your jurisdiction or local area. You may rely upon the site visit report of any other recipient with respect to a firm applying for certification;
  - (2) If the firm is a corporation, analyze the ownership of stock in the firm;
  - (3) Analyze the bonding and financial capacity of the firm;
  - (4) Determine the work history of the firm, including contracts it has received and work it has completed;
  - (5) Obtain a statement from the firm of the type of work it prefers to perform as part of the DBE program and its preferred locations for performing the work, if any;
  - (6) Obtain or compile a list of the equipment owned by or available to the firm and the licenses the firm and its key personnel possess to perform the work it seeks to do as part of the DBE program;
  - (7) Require potential DBEs to complete and submit an appropriate application form, unless the potential DBE is an SBA certified firm applying pursuant to the DOT/SBA MOU.
- (i) You must use the application form provided in Appendix F to this part without change or revision. However, you may provide in your DBE program, with the approval of the concerned operating administration, for supplementing the form by requesting additional information not inconsistent with this part.
- (ii) You must make sure 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.
- (iii) You must review all information on the form prior to making a decision about the eligibility of the firm.
- (d) When another recipient, in connection with its consideration of the eligibility of a firm, makes a written request for certification information you have obtained about that firm (e.g., including application materials or the report of a site visit, if you have made one to the firm), you must promptly make the information available to the other recipient.
- (e) [Reserved]
- (f) Subject to the approval of the concerned operating administration as part of your DBE program, you may impose a reasonable application fee for certification. Fee waivers shall be made in appropriate cases.
- (g) You 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.
- (h) Once you have certified a DBE, it shall remain certified until and unless you have removed its certification, in whole or in part, through the procedures of section 26.87. You may not require DBEs to reapply for certification or require "recertification" of currently certified firms. However, you may conduct a certification review of a certified DBE firm, including a new on-site review, three years from the date of the firm's most recent certification, or sooner if appropriate in light of changed circumstances ( e.g., of the kind requiring notice under paragraph (i) of this section), a complaint, or other

information concerning the firm's eligibility. If you have grounds to question the firm's eligibility, you may conduct an on-site review on an unannounced basis, at the firm's offices and jobsites.

(i) If you are a DBE, you must inform the recipient or UCP in writing of any change in circumstances affecting your ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material change in the information provided in your application form.

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

(2) You must attach supporting documentation describing in detail the nature of such changes.

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

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

(k) If you are a recipient, you must make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under this part. You may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. You may establish a different time frame in your DBE program, upon a showing that this time frame is not feasible, and subject to the approval of the concerned operating administration. Your failure to make a decision by the applicable deadline under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal to DOT under §26.89.

(l) As a recipient or UCP, you must advise each applicant within 30 days from your receipt of the application whether the application is complete and suitable for evaluation and, if not, what additional information or action is required.

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

[64 FR 5126, Feb. 2, 1999, as amended at 68 FR 35555, June 16, 2003; 76 FR 5100, Jan. 28, 2011]

#### **§26.85 Interstate certification.**

(a) This section applies with respect to any firm that is currently certified in its home state.

(b) When a firm currently certified in its home state ("State A") applies to another State ("State B") for DBE certification, State B may, at its discretion, accept State A's certification and certify the firm, without further procedures.

(1) To obtain certification in this manner, the firm must provide to State B a copy of its certification notice from State A.

(2) Before certifying the firm, State B must confirm that the firm has a current valid certification from State A. State B can do so by reviewing State A's electronic directory or obtaining written confirmation from State A.

(c) In any situation in which State B chooses not to accept State A's certification of a firm as provided in paragraph (b) of this section, as the applicant firm you must provide the information in paragraphs (c)(1) through (4) of this section to State B.

(1) You must provide to State B a complete copy of the application form, all supporting documents, and any other information you have submitted to State A or any other state related to your firm's certification. This includes affidavits of no change ( see §26.83(j)) and any notices of changes ( see §26.83(i)) that you have submitted to State A, as well as any correspondence you have had with State A's UCP or any other recipient concerning your application or status as a DBE firm.

(2) You must also provide to State B any notices or correspondence from states other than State A relating to your status as an applicant or certified DBE in those states. For example, if you have been denied certification or decertified in State C, or subject to a decertification action there, you must inform State B of this fact and provide all documentation concerning this action to State B.

(3) If you have filed a certification appeal with DOT (see §26.89), you must inform State B of the fact and provide your letter of appeal and DOT's response to State B.

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

(i) This affidavit must affirm that you have submitted all the information required by 49 CFR 26.85(c) and the information is complete and, in the case of the information required by §26.85(c)(1), is an identical copy of the information submitted to State A.

(ii) If the on-site report from State A supporting your certification in State A is more than three years old, as of the date of your application to State B, State B may require that your affidavit also affirm that the facts in the on-site report remain true and correct.

(d) As State B, when you receive from an applicant firm all the information required by paragraph (c) of this section, you must take the following actions:

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

(2) Determine whether there is good cause to believe that State A's certification of the firm is erroneous or should not apply in your State. Reasons for making such a determination may include the following:

(i) Evidence that State A's certification was obtained by fraud;

(ii) New information, not available to State A at the time of its certification, showing that the firm does not meet all eligibility criteria;

(iii) State A's certification was factually erroneous or was inconsistent with the requirements of this part;

(iv) The State law of State B requires a result different from that of the State law of State A.

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

(3) If, as State B, unless you have determined that there is good cause to believe that State A's certification is erroneous or should not apply in your State, you must, no later than 60 days from the date on which you received from the applicant firm all the information required by paragraph (c) of this section, send to the applicant firm a notice that it is certified and place the firm on your directory of certified firms.

(4) If, as State B, you have determined that there is good cause to believe that State A's certification is erroneous or should not apply in your State, you must, no later than 60 days from the date on which you received from the applicant firm all the information required by paragraph (c) of this section, send to the applicant firm a notice stating the reasons for your determination.

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

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

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

(iv) The decision maker for State B must be an individual who is thoroughly familiar with the provisions of this Part concerning certification.

(v) State B must issue a written decision within 30 days of the receipt of the written response from the firm or the meeting with the decision maker, whichever is later.

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

(vii) A decision under this paragraph (d)(4) may be appealed to the Departmental Office of Civil Rights under s§26.89 of this part.

(e) As State B, if you have not received from State A a copy of the site visit review report by a date 14 days after you have made a timely request for it, you may hold action required by paragraphs (d)(2) through (4) of this section in abeyance pending receipt of the site visit review report. In this event, you must, no later than 30 days from the date on which you received from an applicant firm all the information required by paragraph (c) of this section, notify the firm in writing of the delay in the process and the reason for it.

(f)(1) As a UCP, when you deny a firm's application, reject the application of a firm certified in State A or any other State in which the firm is certified, through the procedures of paragraph (d)(4) of this section, or decertify a firm, in whole or in part, you must make an entry in the Department of Transportation Office of Civil Rights' (DOCR's) Ineligibility Determination Online Database. You must enter the following information:

(i) The name of the firm;

(ii) The name(s) of the firm's owner(s);

(iii) The type and date of the action;

(iv) The reason for the action.

(2) As a UCP, you must check the DOCR Web site at least once every month to determine whether any firm that is applying to you for certification or that you have already certified is on the list.

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

(g) You must implement the requirements of this section beginning January 1, 2012.

#### **§26.86 What rules govern recipients' denials of initial requests for certification?**

(a) When you deny a request by a firm, which is not currently certified with you, to be certified as a DBE, you must provide the firm a written explanation of the reasons for the denial, specifically referencing the evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based must be made available to the applicant, on request.

(b) When you deny DBE certification to a firm certified by the SBA, you must notify the SBA in writing. The notification must include the reason for denial.

(c) When a firm is denied certification, you must establish a time period of no more than twelve months that must elapse before the firm may reapply to the recipient for certification. You may provide, in your DBE program, subject to approval by the concerned operating administration, a shorter waiting period for reapplication. The time period for reapplication begins to run on the date the explanation required by paragraph (a) of this section is received by the firm.

(d) When you make an administratively final denial of certification concerning a firm, the firm may appeal the denial to the Department under §26.89.

### **§26.87 What procedures does SDO use to remove a DBE's eligibility?**

(a) *Ineligibility complaints.* (1) Any person may file with you a written complaint alleging that a currently-certified firm is ineligible and specifying the alleged reasons why the firm is ineligible. You are not required to accept a general allegation that a firm is ineligible or an anonymous complaint. The complaint may include any information or arguments supporting the complainant's assertion that the firm is ineligible and should not continue to be certified. Confidentiality of complainants' identities must be protected as provided in §26.109(b).

(2) You must review your records concerning the firm, any material provided by the firm and the complainant, and other available information. You may request additional information from the firm or conduct any other investigation that you deem necessary.

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

(b) *Recipient-initiated proceedings.* If, based on notification by the firm of a change in its circumstances or other information that comes to your attention, you determine that there is reasonable cause to believe that a currently certified firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination. The statement of reasons for the finding of reasonable cause must specifically reference the evidence in the record on which each reason is based.

(c) *DOT directive to initiate proceeding.* (1) If the concerned operating administration determines that information in your certification records, or other information available to the concerned operating administration, provides reasonable cause to believe that a firm you certified does not meet the eligibility criteria of this part, the concerned operating administration may direct you to initiate a proceeding to remove the firm's certification.

(2) The concerned operating administration must provide you and the firm a notice setting forth the reasons for the directive, including any relevant documentation or other information.

(3) You must immediately commence and prosecute a proceeding to remove eligibility as provided by paragraph (b) of this section.

(d) *Hearing.* When you notify a firm that there is reasonable cause to remove its eligibility, as provided in paragraph (a), (b), or (c) of this section, you must give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.

(1) In such a proceeding, you bear the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards of this part.

(2) You must maintain a complete record of the hearing, by any means acceptable under state law for the retention of a verbatim record of an administrative hearing. If there is an appeal to DOT under §26.89, you must provide a transcript of the hearing to DOT and, on request, to the firm. You must retain the original record of the hearing. You may charge the firm only for the cost of copying the record.

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

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

(1) Your method of implementing this requirement must be made part of your DBE program.

(2) The decision maker must be an individual who is knowledgeable about the certification requirements of your DBE program and this part.

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

(f) *Grounds for decision.* You must not base a decision to remove eligibility on a reinterpretation or changed opinion of information available to the recipient at the time of its certification of the firm. You may base such a decision only on one or more of the following:

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

(2) Information or evidence not available to you at the time the firm was certified;

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

(4) A change in the certification standards or requirements of the Department since you certified the firm; or

(5) A documented finding that your determination to certify the firm was factually erroneous.

(g) *Notice of decision.* Following your decision, you must provide the firm written notice of the decision and the reasons for it, including specific references to the evidence in the record that supports each reason for the decision. The notice must inform the firm of the consequences of your decision and of the availability of an appeal to the Department of Transportation under §26.89. You must send copies of the notice to the complainant in an ineligibility complaint or the concerned operating administration that had directed you to initiate the proceeding.

(h) [Reserved]

(i) *Status of firm during proceeding.* (1) A firm remains an eligible DBE during the pendency of your proceeding to remove its eligibility.

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

(j) *Effects of removal of eligibility.* When you remove a firm's eligibility, you must take the following action:

(1) When a prime contractor has made a commitment to using the ineligible firm, or you have made a commitment to using a DBE prime contractor, but a subcontract or contract has not been executed before you issue the decertification notice provided for in paragraph (g) of this section, the ineligible firm does not count toward the contract goal or overall goal. You must direct the prime contractor to meet the contract goal with an eligible DBE firm or demonstrate to you that it has made a good faith effort to do so.

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

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

(k) *Availability of appeal.* When you make an administratively final removal of a firm's eligibility under this section, the firm may appeal the removal to the Department under §26.89.

### **§26.89 What is the process for certification appeals to the Department of Transportation?**

(a)(1) If you are a firm that is denied certification or whose eligibility is removed by a recipient, including SBA-certified firms applying pursuant to the DOT/SBA MOU, you may make an administrative appeal to the Department.

(2) If you are a complainant in an ineligibility complaint to a recipient (including the concerned operating administration in the circumstances provided in §26.87(c)), you may appeal to the Department if the recipient does not find reasonable cause to propose removing the firm's eligibility or, following a removal of eligibility proceeding, determines that the firm is eligible.

(3) Send appeals to the following address: Department of Transportation, Office of Civil Rights, 1200 New Jersey Avenue, SE., Washington, DC 20590.

(b) Pending the Department's decision in the matter, the recipient's decision remains in effect. The Department does not stay the effect of the recipient's decision while it is considering an appeal.

(c) If you want to file an appeal, you must send a letter to the Department within 90 days of the date of the recipient's final decision, including information and arguments concerning why the recipient's decision should be reversed. The Department may accept an appeal filed later than 90 days after the date of the decision if the Department determines that there was good cause for the late filing of the appeal.

(1) If you are an appellant who is a firm which has been denied certification, whose certification has been removed, whose owner is determined not to be a member of a designated disadvantaged group, or concerning whose owner the presumption of disadvantage has been rebutted, your letter must state the name and address of any other recipient which currently certifies the firm, which has rejected an application for certification from the firm or removed the firm's eligibility within one year prior to the date of the appeal, or before which an application for certification or a removal of eligibility is pending. Failure to provide this information may be deemed a failure to cooperate under §26.109(c).

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

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

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

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

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

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

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

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

(5) The Department does not uphold your decision based on grounds not specified in your decision.

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

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

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

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

## **Appendix E to Part 26—Individual Determinations of Social and Economic Disadvantage**

The following guidance is adapted, with minor modifications, from SBA regulations concerning social and economic disadvantage determinations (see 13 CFR 124.103(c) and 124.104).

### **Social Disadvantage**

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

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

(B) Personal experiences of substantial and chronic social disadvantage in American society, not in other countries; and

(C) Negative impact on entry into or advancement in the business world because of the disadvantage. Recipients will consider any relevant evidence in assessing this element. In every case, however, recipients will consider education, employment and business history, where applicable, to see if the totality of circumstances shows disadvantage in entering into or advancing in the business world.

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

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

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

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

III. Under the laws concerning social and economic disadvantage, people with disabilities are not a group presumed to be disadvantaged. Nevertheless, recipients should look carefully at individual showings of disadvantage by individuals with disabilities, making a case-by-case judgment about whether such an individual meets the criteria of this appendix. As

public entities subject to Title II of the ADA, recipients must also ensure their DBE programs are accessible to individuals with disabilities. For example, physical barriers or the lack of application and information materials in accessible formats cannot be permitted to thwart the access of potential applicants to the certification process or other services made available to DBEs and applicants.

#### Economic Disadvantage

(A) *General.* Economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged.

(B) *Submission of narrative and financial information.*

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

(2) [Reserved]

(C) *Factors to be considered.* In considering diminished capital and credit opportunities, recipients will examine factors relating to the personal financial condition of any individual claiming disadvantaged status, including personal income for the past two years (including bonuses and the value of company stock given in lieu of cash), personal net worth, and the fair market value of all assets, whether encumbered or not. Recipients will also consider the financial condition of the applicant compared to the financial profiles of small businesses in the same primary industry classification, or, if not available, in similar lines of business, which are not owned and controlled by socially and economically disadvantaged individuals in evaluating the individual's access to credit and capital. The financial profiles that recipients will compare include total assets, net sales, pre-tax profit, sales/working capital ratio, and net worth.

(D) *Transfers within two years.*

(1) Except as set forth in paragraph (D)(2) of this appendix, recipients will attribute to an individual claiming disadvantaged status any assets which that individual has transferred to an immediate family member, or to a trust, a beneficiary of which is an immediate family member, for less than fair market value, within two years prior to a concern's application for participation in the DBE program, unless the individual claiming disadvantaged status can demonstrate that the transfer is to or on behalf of an immediate family member for that individual's education, medical expenses, or some other form of essential support.

(2) Recipients will not attribute to an individual claiming disadvantaged status any assets transferred by that individual to an immediate family member that are consistent with the customary recognition of special occasions, such as birthdays, graduations, anniversaries, and retirements (3) In determining an individual's access to capital and credit, recipients may consider any assets that the individual transferred within such two-year period described by paragraph (D)(1) of this appendix that are not considered in evaluating the individual's assets and net worth (e.g., transfers to charities).

# Appendix One:

## DBE APPLICATION SUPPLEMENTAL DOCUMENT LISTS

### DBE APPLICATION SUPPLEMENTAL DOCUMENT LIST SOLE PROPRIETORSHIP

*Your Certification Investigator and/or the Certification Committee may request additional items on an as needed basis. Failure to meet Agency deadlines will result in deactivation of your firm's file for 180 days.*

#### **REQUIRED DOCUMENTS**

All Applicants must submit the following:

1. \_\_\_\_\_ A signed completed DBE application.
2. \_\_\_\_\_ A signed and notarized Affidavit of Certification for *each* socially and economically disadvantaged owner.
3. \_\_\_\_\_ A signed and notarized personal financial statement. for *each* socially and economically disadvantaged owner.
4. \_\_\_\_\_ Signed personal federal taxes with all schedules (attach latest extension, if available) for the last three years for *each* socially and economically disadvantaged owner.
5. \_\_\_\_\_ Proof of initial capital contribution to the applicant firm (personal checks, credit card receipts) for *each* socially and economically disadvantaged owner. Owners of firms over seven (7) years old may submit a notarized statement describing their initial capital contribution to the firm.
6. \_\_\_\_\_ A copy of a birth certificate, US passport, lawful permanent resident card or tribal registration card (If Native American) for *each* socially and economically disadvantaged owner.
7. \_\_\_\_\_ Current resumes and professional licenses used in the conduct of the business held by: all and economically disadvantaged owners and key employees. Resumes should demonstrate education, training, and prior employment dates and duties.
8. \_\_\_\_\_ Business balance sheet (showing assets and liabilities) for the last three years. If the business is less than three years old, please submit opening balance sheet for those months in business.
9. \_\_\_\_\_ Business income statement for the last three years. If the business is less than three years old, please submit opening balance sheet for those months in business
10. \_\_\_\_\_ Copy of bank signature card OR letter from bank that states who has signatory authority.
- 10-11. \_\_\_\_\_ Original signed and **undated** Commonwealth Terms and Conditions Form and W-9 Form, found at: <http://mass.gov/sdo>.. Request DUNS Number at: <http://fedgov.dnb.com/webform>.
12. \_\_\_\_\_ Copy of Contracts or Invoices from three (3) recent customers or clients showing the scope of your services with a dollar amount. If not applicable or available, please provide marketing materials prepared for the business that show the scope of service(s) performed and dollar amounts.
- 11-13. \_\_\_\_\_ Provide SDO with a total number of employees (including owners) for the last three years (if applicable).

**DBE Application Supplemental Document List 1 of 5: Sole Proprietorships**

**DBE APPLICATION  
SUPPLEMENTAL DOCUMENT LIST  
PARTNERSHIPS**

*Your Certification Investigator and/or the Certification Committee may request additional items on an as needed basis. Failure to meet Agency deadlines will result in deactivation of your firm's file for **180 days**.*

**REQUIRED DOCUMENTS**

All Applicants must submit the following with their application:

1. \_\_\_\_\_ A signed completed DBE application.
2. \_\_\_\_\_ A signed and notarized Affidavit of Certification for *each* socially and economically disadvantaged owner.
3. \_\_\_\_\_ A signed and notarized personal financial statement. for *each* socially and economically \_\_\_\_\_ disadvantaged owner.
4. \_\_\_\_\_ Signed personal federal taxes with all schedules (attach latest extension, if available) for the last three years for *each* socially and economically disadvantaged owner.
5. \_\_\_\_\_ Proof of initial capital contribution to the applicant firm (personal checks, credit card receipts) for *each* socially and economically disadvantaged owner. Owners of firms over seven (7) years old may submit a notarized statement describing their initial capital contribution to the firm.
6. \_\_\_\_\_ A copy of a birth certificate, US passport, lawful permanent resident card or tribal \_\_\_\_\_ registration card (If Native American) for *each* socially and economically disadvantaged owner.
7. \_\_\_\_\_ Current resumes and professional licenses used in the conduct of the business held by: all and \_\_\_\_\_ economically disadvantaged owners and key employees. Resumes should demonstrate education, \_\_\_\_\_ training, and prior employment dates and duties.
8. \_\_\_\_\_ Business balance sheet (showing assets and liabilities) for the last three years. If the business is less \_\_\_\_\_ than three years old, please submit opening balance sheet for those months in business.
9. \_\_\_\_\_ Business income statement for the last three years. If the business is less than three years old, please submit opening balance sheet for those months in business
- ~~9-10.~~ \_\_\_\_\_ Copy of bank signature card OR letter from bank that states who has signatory authority.
- ~~10-11.~~ \_\_\_\_\_ Original signed and **undated** Commonwealth Terms and Conditions Form and W-9 Form, \_\_\_\_\_ found at <http://mass.gov/sdo>. Request DUNS Number at: <http://fedgov.dnb.com/webform>.
- ~~11-12.~~ \_\_\_\_\_ Copy of Contracts or Invoices from three (3) recent customers or clients showing the scope of your services with a dollar amount. If not applicable or available, please provide marketing materials prepared for the business that show the scope of service(s) performed and dollar amounts.
- ~~12-13.~~ \_\_\_\_\_ Copy **signed complete** Form 1065 Federal Tax Return for the last three years including all schedules **or** the **signed** extension (if applicable).
- ~~13-14.~~ \_\_\_\_\_ Signed Partnership agreement.

**DBE APPLICATION  
SUPPLEMENTAL DOCUMENT LIST  
LLC/LLP**

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**REQUIRED DOCUMENTS**

All Applicants must submit the following:

1. \_\_\_\_\_ A signed completed DBE application.
2. \_\_\_\_\_ A signed and notarized Affidavit of Certification for *each* socially and economically disadvantaged owner.
3. \_\_\_\_\_ A signed and notarized personal financial statement. for *each* socially and economically disadvantaged owner.
4. \_\_\_\_\_ Signed personal federal taxes with all schedules (attach latest extension, if available) for the last three years for *each* socially and economically disadvantaged owner.
5. \_\_\_\_\_ Proof of initial capital contribution to the applicant firm (personal checks, credit card receipts) for *each* socially and economically disadvantaged owner. Owners of firms over seven (7) years old may submit a notarized statement describing their initial capital contribution to the firm.
6. \_\_\_\_\_ A copy of a birth certificate, US passport, lawful permanent resident card or tribal registration card (If Native American) for *each* socially and economically disadvantaged owner.
7. \_\_\_\_\_ Current resumes and professional licenses used in the conduct of the business held by: all and economically disadvantaged owners and key employees. Resumes should demonstrate education, training, and prior employment dates and duties.
8. \_\_\_\_\_ Business balance sheet (showing assets and liabilities) for the last three years. If the business is less than three years old, please submit opening balance sheet for those months in business.
9. \_\_\_\_\_ Business income statement for the last three years. If the business is less than three years old, please submit opening balance sheet for those months in business
10. \_\_\_\_\_ Copy of bank signature card OR letter from bank that states who has signatory authority.
11. \_\_\_\_\_ Original signed and **undated** Commonwealth Terms and Conditions Form and W-9 Form, found at: <http://mass.gov/sdo>.. Request DUNS Number at: <http://fedgov.dnb.com/webform>.
12. \_\_\_\_\_ Copy of Contracts or Invoices from three (3) recent customers or clients showing the scope of your services with a dollar amount. If not applicable or available, please provide marketing materials prepared for the business that show the scope of service(s) performed and dollar amounts.
13. \_\_\_\_\_ Copy of most recent **signed complete** Business Federal Tax Return including all schedules **or** the **signed** extension (if applicable) for the last three years.
12. \_\_\_\_\_ Provide SDO with a total number of employees (including owners) for the last three years
- 13:14. \_\_\_\_\_ (if applicable).
- 44:15. \_\_\_\_\_ LLC/LLP Certificate of Formation.
- 45:16. \_\_\_\_\_ Signed LLC/LLP Operating Agreement.
- 46:17. \_\_\_\_\_ Current LLC/LLP Annual Report.

**DBE APPLICATION  
SUPPLEMENTAL DOCUMENT LIST  
CORPORATIONS**

*Your Certification Investigator and/or the Certification Committee may request additional items on an as needed basis. Failure to meet Agency deadlines will result in deactivation of your firm's file for **180 days**.*

**REQUIRED DOCUMENTS**

All Applicants must submit the following:

1. \_\_\_\_\_ A signed completed DBE application.
2. \_\_\_\_\_ A signed and notarized Affidavit of Certification for *each* socially and economically disadvantaged  
~~\_\_\_\_\_ disadvantaged~~ owner.
3. \_\_\_\_\_ A signed and notarized personal financial statement. for *each* socially and economically  
~~\_\_\_\_\_~~ disadvantaged owner.
4. \_\_\_\_\_ Signed personal federal taxes with all schedules (attach latest extension, if available) for the last  
~~\_\_\_\_\_~~ three years for *each* socially and economically disadvantaged owner.
5. \_\_\_\_\_ Proof of initial capital contribution to the applicant firm (personal checks, credit card receipts) for each  
~~\_\_\_\_\_ for each~~ socially and economically disadvantaged owner. Owners of firms over seven (7) years old  
may submit a  
~~\_\_\_\_\_ may submit a~~ notarized statement describing their initial capital contribution to the firm.
- 5-6. \_\_\_\_\_ A copy of a birth certificate, US passport, lawful permanent resident card or tribal registration card  
~~\_\_\_\_\_ registration card~~ (If Native American) for *each* socially and economically disadvantaged owner.
- 6-7. \_\_\_\_\_ Current resumes and professional licenses used in the conduct of the business held by: all and  
~~\_\_\_\_\_~~ economically disadvantaged owners and key employees. Resumes should demonstrate education,  
~~\_\_\_\_\_~~ training, and prior employment dates and duties.
- 7-8. \_\_\_\_\_ Business balance sheet (showing assets and liabilities) for the last three years. If the business is less  
~~\_\_\_\_\_~~ than three years old, please submit opening balance sheet for those months in business.
- 8-9. \_\_\_\_\_ Business income statement for the last three years. If the business is less than three years old,  
~~\_\_\_\_\_ three years old,~~ please submit opening balance sheet for those months in business
- 9-10. \_\_\_\_\_ Copy of bank signature card OR letter from bank that states who has signatory authority.
11. \_\_\_\_\_ Original signed and **undated** Commonwealth Terms and Conditions Form and W-9 Form,  
~~\_\_\_\_\_~~ found at: <http://mass.gov/sdo>.. Request DUNS Number at: <http://fedgov.dnb.com/webform>.

- | ~~40.~~12. \_\_\_\_\_ Copy of Contracts or Invoices from three (3) recent customers or clients showing the scope of your services with a dollar amount. If not applicable or available, please provide marketing materials prepared for the business that show the scope of service(s) performed and dollar amounts.
- | ~~41.~~13. \_\_\_\_\_ Copy of most recent **signed complete** Business Federal Form 1120 or 1120S Tax Return including all schedules **or** the **signed** extension (if applicable) for the last three years.
- | ~~42.~~14. \_\_\_\_\_ Articles of organization, incorporation or association, with all amendments.
- | ~~43.~~15. \_\_\_\_\_ By-laws with all amendments showing any changes in officers, ownership or business structure.
- | ~~44.~~16. \_\_\_\_\_ Copies of the front and back of all issued and cancelled stock certificates, and copy of stock transfer ledger.
- | ~~45.~~17. \_\_\_\_\_ Massachusetts Annual Report (most recent year).

**DBE Application Supplemental Document List 4 of 5: Corporations**

**DBE APPLICATION  
SUPPLEMENTAL DOCUMENT LIST  
ALL OUT OF STATE FIRMS**

Your Certification Investigator and/or the Certification Committee may request additional items on an as needed basis. Failure to meet Agency deadlines will result in deactivation of your firm's file for **180 days**.

**REQUIRED DOCUMENTS**

All Applicants must submit the following with their application:

1. \_\_\_\_\_ A signed completed DBE application.
2. \_\_\_\_\_ A signed and notarized Affidavit of Certification for *each* socially and economically disadvantaged  
~~\_\_\_\_\_ disadvantaged~~ owner.
3. \_\_\_\_\_ A signed and notarized personal financial statement. for *each* socially and economically  
~~\_\_\_\_\_ disadvantaged~~ owner.
4. \_\_\_\_\_ Signed personal federal taxes with all schedules (attach latest extension, if available) for the  
~~\_\_\_\_\_ last~~  
~~\_\_\_\_\_~~ three years for *each* socially and economically disadvantaged owner.
5. \_\_\_\_\_ Proof of initial capital contribution to the applicant firm (personal checks, credit card receipts)  
~~\_\_\_\_\_~~ for *each* socially and economically disadvantaged owner. Owners of firms over seven (7) years old  
~~\_\_\_\_\_~~ may submit a notarized statement describing their initial capital contribution to the firm.
- 4-6. \_\_\_\_\_ A copy of a birth certificate, US passport, lawful permanent resident card or tribal registration card  
(If Native American) for *each* socially and economically disadvantaged owner.
- 5-7. \_\_\_\_\_ Current resumes and professional licenses used in the conduct of the business held by: all and  
~~\_\_\_\_\_~~ economically disadvantaged owners and key employees. Resumes should demonstrate education,  
~~\_\_\_\_\_~~ training, and prior employment dates and duties.
- 6-8. \_\_\_\_\_ Business balance sheet (showing assets and liabilities) for the last three years. If the business is less  
~~\_\_\_\_\_~~ than three years old, please submit opening balance sheet for those months in business.
- 7-9. \_\_\_\_\_ Business income statement for the last three years. If the business is less than three years old,  
~~\_\_\_\_\_ three years old,~~ please submit opening balance sheet for those months in business
- 8-10. \_\_\_\_\_ Copy of bank signature card OR letter from bank that states who has signatory authority.
- 9-11. \_\_\_\_\_ Original signed and **undated** Commonwealth Terms and Conditions Form and W-9 Form,  
~~\_\_\_\_\_~~ found at: <http://mass.gov/sdo>.. Request DUNS Number at: <http://fedgov.dnb.com/webform>.
- 10-12. \_\_\_\_\_ Copy of Contracts or Invoices from three (3) recent customers or clients showing the scope of your services  
with a dollar amount. If not applicable or available, please provide marketing materials prepared for the business  
that show the scope of service(s) performed and dollar amounts.
- 11-13. \_\_\_\_\_ Copy **signed complete** Federal Business Tax Return for the last three years including all schedules **or** the  
**signed** extension (if applicable).
- 12-14. \_\_\_\_\_ Home State Certificate of Good Standing (most recent year, if applicable).
- 13-15. \_\_\_\_\_ Home State Certification Letter (for all out of state firms).

| 44.16. \_\_\_\_\_ Home State Site Visit Report (for all out of state firms): Please enclose a copy of your most recent site visit report with your application. If your home state will not release it to you, then provide the SDO with the agency name, address, phone and fax numbers and contact person of a home state US Department of Transportation (US DOT) office in your state so that we may attempt to obtain it on your behalf. If the SDO cannot obtain a current home state site visit report, **we will not be able to process your file.**

| ~~45.17.~~ \_\_\_\_\_ Depending on your business structure, please provide the required documents listed in the ownership sections of your briefing sheets.

**DBE Application Supplemental Document List 5 of 5: All Out-of-State Firms**

**Appendix Two:**  
**Commonwealth Terms and Conditions Forms and**  
**Request for Taxpayer Identification Number and Certification Form –**  
**Massachusetts Substitute W-9 Form (“W-9 Form”)**

These forms will be used to establish a vendor profile for your firm. Please sign these items in ink and do not date them. Return these signed original forms with your application. Please make sure to list your firm’s DUNS number on the W-9 Form.

To find these forms, please visit <http://www.mass.gov/osd>

For DUNS number, go to: <http://fedgov.dnb.com/webform>