

FTA

FEDERAL TRANSIT ADMINISTRATION

Los Angeles County Metropolitan Transportation Authority (LACMTA) Unified Certification Program (UCP) Compliance Review

Final Report
March 2021



U.S. Department of Transportation
Federal Transit Administration

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Executive Summary

Objective and Methodology: This report details the results of a compliance review of Los Angeles County Metropolitan Transportation Authority's (LACMTA) Disadvantaged Business Enterprise (DBE) certification practices and procedures. The compliance review examined LACMTA's DBE certification procedures, management structures, actions, and documentation. Documents and information were collected from the Federal Transit Administration (FTA) and LACMTA. In addition, the following entities were interviewed as part of this review: LACMTA officials, LACMTA certification staff, DBE certified firms, and other stakeholders. The on-site review included interviews, assessments of data collection systems, and review of program and relevant documents.

LACMTA's Certification Program has the following positive program elements:

Positive Program Elements

- LACMTA demonstrated that it has an internal process to review and process applications within the required timeframe.
- LACMTA demonstrated that it provides up-to-date and accurate information in the UCP directory.
- LACMTA consistently conducted and documented the performance of on-site visits during the application process.

LACMTA's Certification Program has the following administrative deficiencies:

Administrative Deficiencies

- LACMTA uses a supplement to the standard certification application that includes a requirement entitled *Documentation of Group Membership*, where LACMTA requires additional proof of group membership from each applicant.
- LACMTA does not consistently document that an applicant made a real, substantial, and continuing contribution of capital or expertise to acquire ownership interest in the applicant firm.
- LACMTA requires interstate applicants to submit personal taxes and an updated PNW form in addition to the original home-state application.
- Prior to the site visit, LACMTA had not entered removals into USDOT's Ineligibility Database.
- LACMTA requires certified firms to submit personal taxes, in addition to business taxes, during its annual update.
- LACMTA does not consistently offer an informal hearing and/or USDOT appeal information when it removes an existing certified firm.
- LACMTA does not routinely maintain documentation of the complete application package for firms that are no longer certified.

LACMTA's Certification Program has the following substantive deficiencies:

Substantive Deficiencies

- LACMTA does not appear to initiate a higher standard of proof required by the regulation when firms are previously owned by a non-disadvantaged owner.
- LACMTA made adjustments to Personal Net Worth Forms without explanation or confirmation by the applicant.

LACMTA receives an average of 233 DBE certification applications each fiscal year. In 2017, 2018, and 2019, LACMTA received 188, 243, and 267 certification applications respectively. From October 1, 2016 through December 11, 2019, LACMTA received 811 certification applications.

LACMTA has an internal process to review and process all applications timely. LACMTA is able to successfully adhere to this timeframe and is in compliance with the regulations. LACMTA is able to timely review applications by assigning applications to a specific reviewer and tracking the application process through the online application platform B2Gnow.

I. General Information

This chapter provides basic information concerning this compliance review of Los Angeles County Metropolitan Transportation Authority. Information on LACMTA, the review team, and the dates of the review are presented below.

Recipient:	Los Angeles County Metropolitan Transportation Authority
City/State:	Los Angeles, CA
Recipient ID:	5566
Executive Official:	Phillip Washington, Chief Executive Officer
On-site Liaison:	Dr. Irma Licea
Report Prepared By:	Milligan & Company, LLC 105 N. 22nd Street, 2nd Floor Philadelphia, PA 19103 (215) 496-9100
Dates of On-site Visit:	February 25 – 27, 2020
Review Team Members:	Denise Bailey, Lead Reviewer Habibatu Atta, Reviewer Francisco Morales, Reviewer

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2. Jurisdiction and Authorities

The Federal Transit Administration (FTA) Office of Civil Rights is authorized by the Secretary of the U.S. Department of Transportation (USDOT) to conduct Civil Rights compliance reviews. The reviews are undertaken to ensure compliance by applicants, recipients, and subrecipients with FTA's Master Agreement and 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs."

As direct or indirect recipients of FTA funding assistance, the UCP and its members (i.e., USDOT recipients within the state) must comply with the DBE regulations at 49 CFR Part 26 as a condition associated with the use of these funds. The DBE regulations formed the basis for this compliance review; those regulations define the certification eligibility requirements that must be addressed and incorporated in LACMTA's agreement.

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3. Purpose and Objectives

3.1 Purpose

The FTA Office of Civil Rights periodically conducts discretionary reviews of recipients and subrecipients to determine whether they are honoring their commitment, as represented by certification to FTA, to comply with 49 CFR Part 26. FTA has determined that a compliance review of LACMTA is necessary.

The DBE regulations require USDOT recipients to participate in a Unified Certification Program—as evidenced by a signed UCP agreement. The UCP provides “one-stop shopping” to applicants for DBE certification. An applicant is required to apply once for DBE certification, which will be honored by all recipients in the state.

The primary purpose of the compliance review is to determine the extent LACMTA has met its goals and objectives as represented to USDOT in its UCP agreement. This compliance review is intended to be a fact-finding process to (1) examine LACMTA and its certification practices and procedures, (2) make recommendations regarding corrective actions deemed necessary and appropriate, and (3) provide technical assistance.

This compliance review is not to directly investigate whether there has been discrimination against disadvantaged businesses by the grant recipient or its subrecipients, nor to adjudicate these issues on behalf of any party.

3.2 Objectives

The objectives of Unified Certification Programs, as specified in 49 CFR Part 26, are to:

- Adhere to the certification procedures and standards and the nondiscrimination requirements of 49 CFR Part 26.
- Cooperate fully with all oversight, review, and monitoring activities of USDOT and its operating administrations.
- Implement USDOT directives and guidance on DBE certification matters.
- Make all certification and decertification decisions on behalf of all UCP members with respect to participation in the USDOT DBE Program. Certification decisions by the UCP must be binding on all UCP members.
- Provide a single DBE certification that will be honored by all UCP members.
- Maintain a unified and current DBE directory containing at least the following information for each firm listed: address, phone number, and the types of work the firm has been certified to perform.
- Ensure the UCP agreement commits recipients to verify that the UCP has sufficient resources and expertise to carry out the requirements of 49 CFR Parts 26 and 23.

The objectives of this compliance review are to:

- Determine whether LACMTA is honoring the UCP agreement submitted to the Secretary of Transportation.
- Examine whether LACMTA is implementing the required certification procedures and standards of the regulations and official USDOT guidance, and to document the compliance status of each component.
- Gather information and data regarding the operation of LACMTA through interviews and certification file review.

4. Background Information

The purpose of this section is to provide an understanding of LACMTA's operations and scale. This section highlights LACMTA's services, budget, and the history of its DBE program.

4.1 Introduction to LACMTA and Organizational Structure

Formed in 1993 out of the merger of the Los Angeles County Transportation Commission and the Southern California Regional Transit District, the LACMTA serves as transportation planner, coordinator, designer, builder, and public transportation provider for Los Angeles County, California. Approximately 10 million people live in Los Angeles County. Of those, over 8.6 million people live within LACMTA's 1,513-square mile service area.

LACMTA is governed by a Board of Directors consisting of 13 voting members and one non-voting member as follows:

- One non-voting member appointed by the Governor
- Five members of the Los Angeles County Board of Supervisors
- Mayor of the City of Los Angeles
- Two public members and one member of the City Council of the City of Los Angeles appointed by the mayor of the City of Los Angeles
- Four members, either a mayor or member of a city council, appointed by the City of Los Angeles
- County City Selection Committee member

The Office of Diversity & Economic Opportunity (ODEO) is responsible for LACMTA's DBE program. For staff dedicated to the California Unified Certification Program (CUCP), responsibilities include:

- Director
- Manager, Certification
- Principal Certification Officer
- Certification Officer
- Assistant Certification Officer

The Director of ODEO currently serves as the Vice Chair of the CUCP's Executive Committee. This committee is composed of 10 certifying agencies and meets quarterly and annually to discuss CUCP issues, training needs, committee updates, upcoming events, and certification removal and denial decisions. As of this review, the last committee meeting was held on March 18, 2020.

Establishment of the California Unified Certification Program (CUCP)

The U.S. Department of Transportation approved California's Unified Certification Program on March 13, 2002. The CUCP has subsequently revised its Memorandum of Agreement (MOA) over the years on March 24, 2003, November 16, 2004, March 21, 2006, and February 12, 2020. The vision for the CUCP is to share the common goal of creating a level playing field on which DBE firms can compete fairly for USDOT-assisted contracts awarded by the respective

agencies, while enhancing the administration of the DBE Programs through the exchange of information and coordination of activities.

In February 2016, there were 154 USDOT recipients participating in the CUCP. Currently, the 10 certifying agencies are: California Department of Transportation, City of Los Angeles, City of Fresno, Los Angeles County Metropolitan Transit Authority, San Diego County Regional Airport Authority, San Francisco Bay Area Rapid Transit District, San Francisco International Airport, San Francisco Municipal Transportation Agency, San Mateo County Transit District, and Santa Clara Valley Transportation Authority.

4.2 Budget and FTA-Assisted Projects

LACMTA's budget is comprised of federal, state, and local grant funds. In FY 2020, LACMTA's budget was as follows:

Grant Funding Source	Funding Amount	
Federal – FTA	Total:	\$3,249,650,831
Federal – FHWA		\$15,838,000
State:		\$3,080,698,180
Local:		\$344,983,917
	Grand Total:	\$6,691,170,928

5. Scope and Methodology

5.1 Scope

The overall scope of this review is to determine whether LACMTA is (1) ensuring that only firms certified as eligible DBEs under 49 CFR §26.83 participate as DBEs on federally-assisted projects, (2) implementing DBE certification standards and procedures, and (3) maintaining proper certification records and reporting as required to FTA and USDOT in accordance with the DBE program regulation. Specific program elements reviewed include:

DBE Eligibility (Certification Standards):

1. The rebuttable presumption that members of the designated groups identified in §§26.5 and 26.67 are socially and economically disadvantaged (49 CFR §26.61).
2. Collecting additional evidence of group membership when there is a well-founded reason to question the individual's claim of membership in a group (49 CFR §26.63).
3. Determining whether the applicant firm and existing DBEs are considered "small businesses" as defined by (a) current Small Business Administration (SBA) business size standards found in 13 CFR Part 121 appropriate to the type(s) of work the firm seeks to perform in DOT-assisted contracts, and (b) the Department's statutory gross receipts cap of \$23.98 million. All size determinations are made by assessing firms' gross receipts averaged over a 3-year period (49 CFR §26.65).
4. Requiring applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged (49 CFR §26.67).
5. Excluding commercially-useful function issues from certification decisions unless the firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program (49 CFR §26.73).
6. Evaluating the eligibility of a firm on the basis of present circumstances, and assessing a firm's ownership and control (49 CFR §26.73, all sections of §§26.69 and 26.71).

Certification Procedures

Before a firm is initially certified, the UCP must conduct an on-site visit to the firm's principal place of business and to job sites if there are any sites on which the firm is currently working at the time of the eligibility investigation. [49 CFR §26.83(c)(1)]. The on-site interview must include an interview of the firm's principal officers, and a review of their resumes and/or work histories.

1. Properly applying interstate certification requirements, timelines, and denial procedures (including stating good cause reason(s), and offering an opportunity for the firm to respond) (49 CFR §26.85).
2. Issuing denial letters, notices of intent to decertify, and final decisions that clearly explain the reasons for the action, including specific references to evidence in the record that supports each reason for the decision. In denial and decertification actions, the correspondence must inform the firm of the consequences of the decision and the availability of an appeal to USDOT (49 CFR §§26.86–26.89).
3. Maintaining proper records (i.e., application package for each certified firm, signed, notarized certification of social and economic disadvantage (49 CFR §26.67), affidavits of no-change and documentation supporting firm size and gross receipts (e.g. submission of Federal tax returns), change notices, and on-site reviews) according to the recipient's financial assistance agreement (49 CFR § §26.11, 26.83(j)).

General Reporting Requirements

1. Participation as a certifying or non-certifying UCP member—as evidenced by signing the UCP agreement (49 CFR 26.81 and 26.31). Agreements reflect and reference current certification practices and procedures, and amendments were approved by USDOT.
2. Maintaining a DBE directory of firms eligible to participate as DBEs in the UCP program. In the listing of each firm, the directory must include its address, phone number, and the types of work the firm has been certified to perform as a DBE. The UCP must list each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work (49 CFR 26.31).
3. Submitting to USDOT's Departmental Office of Civil Rights the percentage and location in the State of certified DBE firms in the UCP Directory controlled by the following: (1) women; (2) socially and economically disadvantaged individuals (other than women); and (3) individuals who are women and are otherwise socially and economically disadvantaged individuals (49 CFR §26.11).
4. Entering certification denials and decertification data in USDOT's Departmental Office of Civil Rights ineligibility database (49 CFR §26.85(f)(1)).

5.2 Methodology

The initial step of this compliance review consisted of consultation with the FTA Office of Civil Rights and a review of available information from the LACMTA website and other sources. After reviewing this information, potential dates for the site visit were coordinated.

The FTA Office of Civil Rights sent a notification letter dated November 25, 2019 to LACMTA that informed it of the upcoming visit, requested necessary review documents, and explained the areas that would be covered during the on-site visit. The letter also informed LACMTA of staff and other parties that would potentially be interviewed.

Before conducting the on-site visit, LACMTA was asked to provide the following documents:

1. Current Unified Certification Program Agreement.
2. Current Memorandum of Understanding, or similar documents forming the LACMTA's Unified Certification Program, signed by all members of the UCP.
3. The certification criteria/guidelines used in determining DBE eligibility.
4. Standard Operating Procedures or similar documents that explain the DBE certification process, including copies of the application used during certification, annual affidavits/updates, and personal net worth (PNW), etc.
5. A list of all firms certified, denied, and decertified or removed by the UCP from federal fiscal year 2017 to present. The list must include:
 - a. the firm's city and state
 - b. the firm's ethnicity
 - c. the firm's gender
 - d. the date of site visit
 - e. the reason for denial and/or decertification (e.g., size, PNW, control, etc.)
 - f. whether the denial decision was appealed to the UCP or USDOT
 - g. the result of the appeal
6. A description of LACMTA UCP appeals process(es). List the individuals involved in the appeals process and how they are selected.
7. Any third-party complaints regarding DBE firms certified by the LACMTA and actions taken to resolve the matter in the past three (3) years.
8. Any Freedom of Information or similar request for certification information in the past three (3) years.
9. Any enforcement action against a DBE firm (e.g., suspension, debarment, etc.) regarding certification in the past three (3) years.
10. Other pertinent information determined by LACMTA's staff to illustrate its UCP operations and procedures.

An opening conference was conducted at the beginning of the compliance review with FTA representatives, LACMTA staff, and the review team. The following people attended the meeting:

Federal Transit Administration (FTA)	
John Day	Program Manager – (by telephone)
Scott Pichon	Equal Opportunity Specialist – (by telephone)
Guljed Birce	Equal Opportunity Specialist – (by telephone)
Charlene Lee Lorenzo	Director, FTA, Region IX - Los Angeles Metropolitan Office
Nicholas Sun	Acting Regional Civil Rights Officer – (by telephone)

Los Angeles County Metropolitan Transit Authority (LACMTA)	
Dr. Irma Licea	Director, Certification & Economic Development
Debra Avila	Chief, Vendor / Contract Management Officer, Vendor / Contract Management
Miguel Cabral	Executive Officer, Diversity & Economic Opportunity
Ramon Ortiz	Manager, Certification & Economic Development
Milligan & Company, LLC	
Sandra Swiacki	Project Director – (by telephone)
Denise Bailey	Lead Reviewer
Habibatu Atta	Reviewer
Francisco Morales	Reviewer

The review team examined LACMTA certification and other documents that it submitted and conducted interviews with LACMTA staff regarding UCP administration, organizational structure, certification procedures, record keeping, monitoring, and enforcement. The following DBE applications and certification decisions were selected and reviewed:

Status	Firm Name
New Certifications <1 Year	
	A. Preciado Designs, LLC
	Sabu, LLC
Existing Certifications >1 Year	
	G2B Consulting
	SocialQuest, Inc.
Interstate <1 Year	
	MDG Consulting Services, LLC
Interstate >1 Year	
	Coda Group, Inc.
Removals	
	Brooks + Scarpa Architects, Inc.
	Civilian, Inc.
	Deco Pave, Inc.
Denials	
	Cutting Edge Concrete Services, Inc.
	McNicoll Construction, Inc.
Suspensions	
	Rocket Services, Inc.
	YBI Management Services, LLC

Additional interviews with DBE certified firms were also conducted.

At the end of the review, FTA representatives, Los Angeles County Metropolitan Transportation Authority staff, and the review team convened for the final exit conference to review initial findings and corrective actions. The following people attended the meeting:

Federal Transit Administration (FTA)	
John Day	Program Manager – (by telephone)
Scott Pichon	Equal Opportunity Specialist – (by telephone)
Guljed Birce	Equal Opportunity Specialist – (by telephone)
Nicholas Sun	Acting Regional Civil Rights Officer – (by telephone)
Los Angeles County Metropolitan Transit Authority (LACMTA)	
Dr. Irma Licea	Director, Certification & Economic Development
Miguel Cabral	Executive Officer, Diversity & Economic Opportunity
Ramon Ortiz	Manager, Certification & Economic Development
Milligan & Company, LLC	
Denise Bailey	Lead Reviewer
Habibatu Atta	Reviewer
Francisco Morales	Reviewer

FTA provided LACMTA with a draft copy of the report for review and response. LACMTA's response is incorporated as Attachment B.

5.3 Stakeholder Interviews

Prior to the on-site visit, the review team contacted the following agencies regarding their interaction with LACMTA.

DBE Firms

Eight certified DBE firms were contacted for an interview to gain insight into how LACMTA works with the small, minority, and women-owned business communities and to learn about their experiences with the certification process. The firms contacted were:

- 2Tigers LLC
- 5th Avenue Energy
- ACME Contracting, LLC
- Advance Management, Inc.
- ARS Construction Services, Inc.
- LA Uniforms & Tailoring
- Sam Scully Staffing, Inc.

- Veterans Supplier Inc.

Four firms responded to the interview request.

The interview questions included:

1. Is your firm currently certified in the State UCP?
2. How did you learn about the UCP?
3. To which UCP certifying entity was your firm's certification application?
4. Did the UCP acknowledge receipt of your application?
5. Did the UCP communicate the status of your firm's certification application review?
6. Was an on-site visit conducted with your firm?
7. Approximately how long did your firm's certification review and approval process take?
8. Have you visited the UCP DBE Directory website to verify the accuracy of your firm's profile and the types of work your firm has been certified to perform?
9. Are you familiar with the requirements for continued certification eligibility (such as annual updates, notification of change, personal net worth statements, current tax returns, etc.)?
10. Do you have any concern(s) about the UCP or the certification process?

Two of the firms learned about the certification process through interactions with LACMTA, while the other two learned about the program from business contacts. All four firms applied to the CUCP through LACMTA. Three of the four firms recalled that LACMTA acknowledged receipt of its application and communicated the status of the application review. All of the firms applied using the B2Gnow system and the firms recalled receiving multiple communications through the B2Gnow system. Three of the four firms remembered that LACMTA conducted a site visit, but could not recall the substance of the visit. Two of the firms indicated that the certification process took under eight weeks, while the other two firms did not recall the length of time it took to get certified.

One of the firms indicated that it had visited the CUCP DBE Directory to ensure its accuracy. Three of the four firms indicated that they are aware of the requirements for continued certification eligibility, including annual updates, notification of change, and tax returns. One of the firms indicated that LACMTA notifies it of the requirements during the process and requests information when it is needed. None of the firms indicated that it had any concerns, or knew of any concerns, related to the UCP certification process.

Stakeholder Groups

Six stakeholder organizations were contacted for an interview to gain insight into how LACMTA works with external organizations and the small, minority, and women-owned business communities. The organizations contacted were:

- National Association of Minority Contractors
- Black Business Association of Los Angeles
- Latin Business Association
- The Minority Business Development Agency
- National Association of Women Business Owners

- Southern California Minority Supplier Development Council

One organization responded to the interview request.

The interview questions included:

1. Is your organization and membership familiar with the Unified Certification Program (UCP) and the certifying authorities?
2. Are any of your members currently certified in the UCP?
3. Are any of your members currently applying for SBE or ACDBE certification with the UCP?
4. Has your organization ever contacted the state certifying authorities regarding DBE/ACDBE certification requirements?
5. Has your organization referred firms interested in DBE certification to the UCP?
6. Does your organization include UCP information in its membership outreach literature?
7. Has your organization participated in any outreach activities organized by the UCP?
8. Has the UCP participated in any outreach activities organized by your organization?
9. What is your organization members' view of the UCP?
10. Have members of your organization seen an increase in work as a result of becoming certified?
11. What is your agency's view of the effectiveness of the UCP?
12. Are you aware of any concern(s) about the UCP certification process?

The representative stated that its organization is familiar with the CUCP and that most of its approximately 60 members are currently certified by the CUCP. The representative indicated that it regularly meets with LACMTA to discuss all of its programs, including the CUCP. The representative's organization has referred firms interested in DBE certification to LACMTA.

The representative added that LACMTA provides sample information to the public about its ongoing programs, including the UCP program, through in-person public outreach activities and media outreach. The representative was also aware of LACMTA's participation in other organization's outreach activities. The representative believes it is beneficial to be certified by the CUCP, but did not have information about whether firms have seen an increase in work as a result of becoming certified. The representative is not aware of any concerns about the UCP certification process. When asked about any suggestions to improve the CUCP, the representative stated that there are a lot of different certifications in California and that it could be helpful to consolidate the certification processes to reduce the burden on applicant firms.

6. Findings and Advisory Comments

This chapter details the findings for each area pertinent to the DBE regulations (49 CFR Part 26) outlined in the Scope and Methodology section above. For each area, an overview of the relevant regulations and a discussion of the regulations as they apply to LACMTA is provided below. Corrective actions and a timetable to correct deficiencies for each of the requirements and sub-requirements are also presented below.

For the purposes of this section, the term “UCP” refers to the certifying members and/or other certification committees/entities associated with the California Unified Certification Program.

Findings are expressed in terms of “deficiency” or “no deficiency.” Findings of deficiency denote policies or practices that are contrary to the DBE regulations or matters for which FTA requires additional reporting to determine whether DBE compliance issues exist.

Findings of deficiency always require corrective action and/or additional reporting, and will always be expressed as:

- A statement concerning the policy or practice in question at the time of the review.
- A statement concerning the DBE requirements being violated or potentially being violated.
- A statement concerning the required corrective action to resolve the issue.

Advisory comments are statements detailing recommended changes to existing policies or practices. The recommendations are designed to ensure effective DBE programmatic practices or otherwise assist the entity in achieving or maintaining compliance.

6.1 Group Membership

(A) Burden of Proof

Basic Requirement (49 CFR §26.61(b))

The applicant firm bears the burden of proving, by a preponderance of the evidence, i.e., more likely than not, that it meets all DBE program certification requirements including group membership, disadvantage, ownership, control, and business size. A certifier is not required to prove that a firm is ineligible. A certifier can properly deny certification on the basis that an applicant did not submit sufficient evidence that it meets eligibility criteria.

The more stringent evidentiary standard of clear and convincing evidence applies in situations addressed by §26.69(h) (transfer of ownership from non-socially and economically disadvantaged (non-SED) individual to socially and economically disadvantaged (SED) individual) and §26.71(l) (transfer of control from non-SED individual to SED individual).

Discussion

During this review, no deficiencies were found with this requirement.

The California Unified Certification Program (CUCP) Memorandum of Agreement (MOA), approved by the U.S. Department of Transportation on March 13, 2002, and Amended March 21, 2006, indicates the CUCP and its members will follow all certification procedures and standards of 49 CFR Part 26, Subparts D and E to determine the eligibility of firms to participate as DBEs in USDOT- assisted contracts.

Additionally, LACMTA's DBE Program Plan states that to be certified as a DBE, a firm must demonstrate by a preponderance of the evidence, that it meets the DBE eligibility requirements of 49 CFR Part 26 concerning group membership or individual disadvantage, business size, ownership, and control.

The certification files examined during the compliance review confirmed that the DBE certification application contains a signed, notarized statement that the presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.

(B) Additional Evidence of Group Membership**Basic Requirement (49 CFR §26.63)**

If a UCP has a "well-founded reason" to question the individual's claim of membership in that group, it must require the individual to present additional evidence that he or she is a member of the group. The UCP must provide the individual with a *written explanation* of its reasons for questioning his or her group membership. The UCP must take special care to ensure that it does not impose a disproportionate burden on members of any particular designated group.

Discussion

During this review, deficiencies were found with this requirement.

In addition to submitting a signed, notarized statement that the applicant is a member of a presumptively socially and economically disadvantaged group, the application in LACMTA's DBE Program Plan includes a supplemental document checklist that requires all applicants to submit the following evidence of group membership:

"1. For each owner seeking disadvantaged status on the basis of Ethnic membership, please provide a document (e.g., birth certificate, U.S. Passport, Green Card, parents' birth certificate, etc.) evidencing Ethnic heritage or similar document evidence Ethnic community affiliation.

2. For each owner seeking social disadvantaged status on the basis of Gender, please provide a document evidencing gender (e.g., birth certificate, driver's license, etc.).

3. For each owner seeking an individual showing of social disadvantage, please provide documents you deem appropriate for consideration."

The certification files reviewed for the new applicants: A. Preciado Designs, LLC (A. Preciado), Sabu, LLC. (Sabu), G2B Consulting (G2B), SocialQuest, Inc. (SocialQuest), and YBI Management Services, LLC (YBI) all included the requirement to submit one of the items listed above to evidence group membership. This is a routine practice performed by LACMTA and not based on a “well-founded reason” to question the applicant’s claim of membership in a group.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, LACMTA must submit to the FTA Office of Civil Rights a procedure to ensure that requests for proof of group membership are initiated only as required in accordance with 49 CFR §26.63, on a case-by-case basis.

6.2 Business Size

Basic Requirement (49 CFR §26.65)

A UCP must apply current SBA business size standards found in 13 CFR Part 121 appropriate to the type(s) of work the firm seeks to perform in USDOT-assisted contracts. In addition, a firm is not an eligible DBE in any Federal fiscal year if the firm (including its affiliates) has had average annual gross receipts over the firm’s previous three fiscal years in excess of \$23.98 million. (*Dollar amount subject to change.*)

Discussion

During this review, no deficiencies were found with this requirement.

LACMTA’s DBE Program Plan references the Small Business Administration size standards under 13 CFR Part 121 and states that applicant DBE firms must demonstrate that their business (including affiliates) has an average over three years annualized gross receipts of less than \$23.98 million.

A review of the certification files demonstrated that LACMTA collects the relevant business tax information from applicant firms and the certification files reviewed demonstrated that the firms met the requirements under 49 CFR §26.65.

6.3 Social and Economic Disadvantage

(A) Presumption of Disadvantage

Basic Requirements (49 CFR §26.5, 26.61 and 26.67(a)(1))

There is a rebuttable presumption 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 (SED) individuals. The UCP must require applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, SED. Individuals who are not presumed to be a member of these groups, and individuals for whom the presumption has been rebutted,

have the burden of proving by a preponderance of the evidence that they are SED. The UCP must ensure that its review process comports with this standard.

Discussion

During this review, no deficiencies were found with this requirement.

LACMTA's DBE Program Plan states:

"You must rebuttably presume that citizens of the United States (or lawfully admitted permanent residents) who are Women, Black Americans, Hispanic Americans, Asian/Pacific Americans, Subcontinent Asian Americans and Native Americans are rebuttably presumed to meet the requirement of individual social and economic disadvantage. 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 these groups."

All certification files reviewed included a signed and notarized statement that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.

(B) Personal Net Worth

Basic Requirement (49 CFR § 26.67(a)(2))

A UCP 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 (PNW) that does not exceed \$1.32 million. All applicants must use the USDOT PNW form in Appendix G without change or revision. In determining an individual's net worth, a UCP must observe the following requirements:

1. Exclude the individual's ownership interest in the applicant firm;
2. 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). The equity is the market value of the residence less any mortgages and home equity loan balances. Recipients must ensure that home equity loan balances are included in the equity calculation and not as a separate liability on the individual's PNW form. Exclusions for net worth purposes are not exclusions for asset valuation or access to capital and credit purposes.
3. Do not use a contingent liability to reduce an individual's net worth.
4. 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.

Discussion

During this review, deficiencies were found with this requirement.

LACMTA's DBE Program Plan states:

"Metro requires a signed and notarized Personal Net Worth (PNW) Statement from the "Qualifying Owners," those persons who, together or individually, claim to hold more than or equal to 51% ... The PNW Statement must include appropriate supporting documentation (i.e. tax returns or other relevant documents)."

All of the certification applications reviewed included a signed and notarized PNW and appropriate supporting documentation from only individuals upon whom the certification relies, except Deco Pave, Inc. (Deco Pave) where the PNW for both the disadvantage and non-disadvantaged owners were requested without explanation.

Brooks + Scarpa Architects, Inc. (Brooks + Scarpa): The applicant's original PNW, dated November 12, 2012, showed a net worth of \$1.8 million, however the certifier adjusted the PNW to \$266,126. There was no evidence in the file to substantiate the basis for the adjustment or that staff communicated with the applicant to confirm the information.

Civilian, Inc. (Civilian): The applicant's original PNW, dated October 12, 2015, showed a net worth of \$420,900. LACMTA adjusted information in the PNW related to investment accounts, real estate and liabilities; however, there was no evidence in the file to substantiate the basis for the adjustment or that staff communicated with the applicant to confirm the information.

Deco Pave: The applicant's original PNW showed a net worth of \$1.8 million, however the certifier adjusted the PNW to \$314,045. There was no evidence in the file to substantiate the basis for the adjustment or that staff communicated with the applicant to confirm the information.

It was also noted that LACMTA deducted the equity (\$20,000) in the applicant firm, but did not deduct the remaining note (\$61,343.49) for the purchase of the majority share in the applicant firm. The applicant's personal taxes for 2016 and 2017 noted dividend income but the PNW did not list stocks. Personal taxes submitted with the application, dated June 24, 2014, were not provided and it could not be determined whether dividends were noted.

Sabu: The PNW, dated September 9, 2019, was not complete. The form only included the applicant's initial contribution into the applicant firm of \$25,000. Further inquiry into potential assets or additional net worth items was not noted in the file.

Cutting Edge Concrete Services, Inc. (Cutting Edge): The PNW, dated June 16, 2014, did not include stocks and ownership in an affiliated or second business. The applicant's 2016 personal taxes indicated that the applicant received dividends, but no investment accounts were noted on the PNW. Additionally, Cutting Edge Aggregates, Inc., another firm, was listed on

Schedule E of the 2016 personal tax returns, but the company was not included on the PNW. There was no evidence that certifiers communicated with the applicant to validate or make corrections to the PNW.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, LACMTA must submit to the FTA Office of Civil Rights procedures to ensure that:

- PNW forms are thoroughly analyzed for errors and omissions; and
- Additional investigation is conducted into pertinent PNW errors and omissions, and revisions are documented.

(C) Rebutting the Presumption of Economic Disadvantage

Basic Requirement (49 CFR § 26.67(b))

A UCP may rebut the presumption of economic disadvantage in two ways:

1. If the applicant's PNW exceeds \$1.32 million. In this instance, the UCP is not required to conduct a proceeding to rebut the presumption.
2. If the applicant's PNW statement and supporting documentation demonstrate that the applicant is able to accumulate substantial wealth. In this instance, the UCP must conduct a proceeding under §26.67(b)(2). In making this determination, the UCP may consider factors that include, but are not limited to, the following: (1) whether the annual average adjusted gross income of the owner over the most recent three year period exceeds \$350,000; (2) whether the income was unusual and not likely to occur in the future; (3) whether the earnings were offset by losses; (4) whether the income was reinvested in the firm or used to pay taxes arising in the normal course of operations by the firm; (5) other evidence that income is not indicative of lack of economic disadvantage; and (6) whether the total fair market value of the owner's assets exceed \$6 million.

Discussion

During this review, no deficiencies were found with this requirement.

There was one certification file, Brooks + Scarpa, where the owner indicated that they had exceeded the PNW threshold during their annual update on February 6, 2019. The firm was subsequently removed from the program.

None of the other files reviewed demonstrated that the applicant's PNW exceeded the \$1.32 million threshold.

(D) Individual Determinations of Social and Economic Disadvantage

Basic Requirement (49 CFR §26.67(d) and Appendix E)

Firms owned and controlled by individuals who are not presumed to be SED may apply for DBE certification. UCPs must make a case-by-case determination of whether each individual whose ownership and control are relied upon for DBE certification is SED based on the requirements set forth in Appendix E.

Discussion

During this review, no deficiencies were found with this requirement.

LACMTA's DBE Program Plan states:

“Individuals who are not members of the presumptive group may be determined to be Socially and Economically Disadvantaged if they, on a case-by-case basis, so demonstrate by a preponderance of the evidence. Applicants are required to provide sufficient information to permit determination under the guidance found in Appendix E.”

None of the certification files reviewed involved firms owned and controlled by individuals who were not presumed to be socially and economically disadvantaged.

6.4 Ownership

Basic Requirement (49 CFR § 26.69(a-j))

To be an eligible DBE, a firm must demonstrate, by a preponderance of the evidence, that it is at least 51 percent owned by SED individuals. Section 26.69(h) describes when the higher evidentiary standard of clear and convincing evidence applies.

(A) The owners upon whom the firm relies for DBE certification must have made a real, substantial, and continuing contribution of capital or expertise to acquire their ownership; the ownership must not be pro forma in nature. The applicant firm should submit proof of a capital contribution at the time it submits its DBE application; however, the firm is permitted to submit it any time before the UCP makes a final eligibility decision.

(B) When marital assets are used to acquire ownership, the non-disadvantaged spouse must irrevocably transfer and renounce his ownership rights in the firm.

Indicators of compliance: The applicant firm materials should include proof of the transfer and renunciation before the UCP makes a final eligibility decision. UCPs are encouraged to notify the applicant firm that proof of renunciation is missing from the DBE application and allow the firm to provide it within a reasonable timeframe.

Discussion

During this review, deficiencies were found with this requirement.

LACMTA does not consistently document that an applicant made a real, substantial, and continuing contribution of capital or expertise to acquire ownership interest in the applicant firm.

G2B: According to the site visit report dated January 3, 2017, the owner invested \$1,600 into the business using a credit card. There was no evidence in the file to substantiate the investment or a request from the certifier for proof of the contribution.

Brooks + Scarpa: The certification file did not have adequate documentation that the applicant made a real, substantial, and continuing contribution of capital or expertise, to acquire ownership interest in the applicant firm. In 2010, the company changed its name after a majority shareholder left the firm. Under the “*Initial Investment to acquire ownership interest in firm*” section of the certification application dated December 5, 2012, the owner indicated that in January 2012, the majority shares of the company, 51%, were sold to the disadvantaged individual upon whom the certification relies for \$100. In 2011, the firm reported gross receipts in excess of \$2.5 million.

Deco Pave: The file contained a Bill of Sale, dated June 2, 2014, indicating that the disadvantaged owner agreed to pay the previous 100% owner \$81,000 for 51.2% of the stocks. A check was provided for \$20,000, approximately one quarter of the total shares necessary to purchase majority ownership of the firm. There was no evidence in the file to confirm that the disadvantaged owner paid the remaining balance for majority ownership on which certification to the program was relied.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, LACMTA must submit to the FTA Office of Civil Rights procedures for ensuring that all applicants applying for DBE certification submit documented proof of contributions, for each owner claiming disadvantaged status, used to acquire ownership interest in the firm. The procedures should also ensure that proof of transfer of ownership to each individual owner of the firm upon whose ownership and control is relied upon for certification is submitted.

6.5 Control

Basic Requirement (49 CFR § 26.71(a-q))

(A) *Independence*: A DBE firm’s viability must not depend on a relationship(s) with another firm(s); to make the determination, the UCP should consider the four factors in §26.71(b).

(B) *Restrictions*: Formal or informal restrictions, such as a quorum provision in the firm’s bylaws, must not limit the customary discretion of the SED owners (§26.71(c)). A SED owner must hold the highest officer position in the company. In a corporation, SED owners must control the

board of directors. In a partnership, one or more SED owners must serve as general partners, with control over all partnership decisions (§26.71(d)).

(C) *Involvement by non-SED individuals and Delegations*: Individuals who are not SED or immediate family members may be involved in a DBE firm; however, they must not possess or exercise the power to control the firm, or be disproportionately responsible for the operation of the firm. [§26.71(e)]. The SED owners may delegate authority as long as such delegations are revocable, and the SED owners retain the power to hire and fire any person to whom such authority is delegated. UCPs must be able to reasonably conclude that the SED owners actually control all aspects of the firm (§26.71(f)).

(D) *Overall Understanding, Technical, and Managerial Competence*: SED owners must have an overall understanding of the firm's principal business activities. They 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 (§26.71(g)).

(E) *Licensure*: If State or local law does not require owners to have a license or credential to own and/or control a firm, UCPs must not deny certification solely on the ground that the person lacks the license or credential. However, the UCP may consider the absence of the license or credential as *one factor* in determining whether the SED owners actually control the firm (§26.71(h)).

(F) *Remuneration*: Differences in remuneration do not necessarily indicate that SED owners do not control the firm. UCPs should consider the differences in remuneration 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. Remuneration differences between a former non-SED owner and current SED owner is a factor in determining who controls the firm, particularly when the non-SED individual remains involved with the firm and continues to receive greater compensation than the SED individual (§26.71(i)).

(G) *Outside Employment or Business Interests (Time and Attention)*: Having outside employment does not automatically mean that the SED owners do not control the firm. UCPs should consider whether the outside employment or other business interest 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. 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 (§26.71(j)).

(H) *Involvement of Immediate Family Members*: A SED individual may control a firm even though one or more of the individual's immediate family members, even if they are not SED, participate in the firm. If a UCP cannot determine that the SED owners—as distinct from the family as a whole—control the firm, then the SED owners have failed to carry their burden of proof concerning control, even though they may participate significantly in the firm's activities (§26.71(k)).

(I) *The Higher Burden of Proof Standard*: Where a firm was formerly owned and/or controlled by a non-SED individual (whether or not an immediate family member), ownership and/or control were transferred to an SED individual, and the non-SED individual remains involved with the firm in any capacity, there is a rebuttable presumption of control by the non-SED individual unless the SED individual now owning the firm demonstrates, by clear and convincing evidence, that (1) the transfer of ownership and/or control to the SED individual was made for reasons other than obtaining certification as a DBE; and (2) the SED individual controls the firm, notwithstanding the continuing participation of a non-SED individual who formerly owned and/or controlled the firm (§26.71(l)).

(J) *Equipment*: A UCP must not determine that a firm is not controlled by SED individuals solely because the firm leases, rather than owns, 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 firm's independence (§26.71(m)). To become certified in an additional type of work, the firm need demonstrate only that its SED owners are able to control the firm with respect to that type of work (§26.71(n)).

Discussion

During this review, deficiencies were found with these requirements.

LACMTA's DBE Program Plan states:

"In determining whether socially and economically disadvantaged owners control a firm, Metro will consider all the facts in the record, viewed as a whole including the origin of all assets and how and when they were used in obtaining the firm when making Certification eligibility recommendations to the "CUCP Part 26 Cluster"."

Based on the review of the certification files below, it did not appear that LACMTA initiated a higher standard of proof required by regulation when firms are previously owned by a non-SED individual.

Brooks + Scarpa: The firm was previously owned by the disadvantaged owner's husband, a non-SED individual. According to the Minutes of the Annual Meeting of the Shareholders, dated December 20, 2011, Mr. Scarpa testified to the board that there are benefits to becoming a Woman-Owned firm. The board minutes indicated that Mr. Scarpa agreed to transfer shares to Mrs. Scarpa to update the firm's status as a woman-owned small business. Majority ownership was later sold to Mrs. Scarpa on January 1, 2012, while her husband remained involved in the company.

Documents provided in the original application also indicated that there is a difference in remuneration between the disadvantaged and non-disadvantaged owners. The disadvantaged owner receives \$14,000 less than her husband. However, based on information from the application, both her and her husband are equally responsible for the management and operation of the company and both have technical expertise as licensed and practicing architects. There was no evidence in the file that LACMTA discussed the reason for the salary

difference with the owners or considered it 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”.

Deco Pave: This firm was previously owned by a non-SED individual. According to the certification application, the non-SED owner remained involved in the firm with responsibility for bidding, estimating, field operations, marketing, and sales. Although not disclosed on the application where requested, corporate documents indicate that the non-SED individual continues to have the authority to sign checks and contracts. There was no evidence in the file that LACMTA questioned the disadvantaged owner about his ability to control the firm.

It does not appear that the disadvantaged owner has the technical expertise or sufficient time to run a paving business. The certification decision was primarily based on the fact that the owner of the company had 29 years of experience in the construction industry. However, there was no mention that the experience was primarily as a Controller for financial matters within the construction industry. The non-SED owner appears to have the relevant years of paving experience. In addition, at the time of application, the disadvantaged owner was still employed as a Controller with Western Paving Contractors, which is located in the same yard as Deco Pave. There was no evidence in the file that LACMTA questioned the disadvantaged owner about his employment or location of the firm.

According to the certification application, Deco Pave owns one piece of equipment related to paving, a pavement reheater valued at \$5,000. Given the volume of work reported on the application, it appears that other paving equipment would be necessary. The file notes that the non-SED owner also owns an equipment rental business, DHD Equipment Rental. However, there is no information to indicate whether Deco Pave rents their equipment from this firm or evidence in the file that LACMTA questioned Deco Pave’s rental practices or possible involvement with DHD Equipment Rental.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, LACMTA must submit to the FTA Office of Civil Rights a plan to ensure that control determinations are appropriately addressed and documented in the file. The plan should also ensure that a higher standard of proof is applied when a firm was formerly owned by a non-SED individual, majority ownership of the firm is transferred to a disadvantaged individual, and the non-SED individual remains involved with the firm.

6.6 Interstate Certification

Basic Requirement (49 CFR §26.85)

The interstate certification rule applies when any firm that is currently certified in its home State (“State A”) seeks DBE certification in another State (“State B”). The DBE regulations do not permit State B to require the certified DBE to submit a new uniform certification application as if it were seeking certification for the first time. State B should process each application for

interstate certification, on a case-by-case basis, using the two options described in §§26.85(b) or 26.85(c):

Option 1: Proceed under §26.85(b) to confirm current home-state certification and certify the firm. State B may verify by checking State A's directory (preferable) or obtaining State A's written confirmation.

Option 2: Proceed under §26.85(c) and notify the Applicant-DBE that it must provide all of the information required by §26.85(c)(1)-(4). State B may require the applicant-DBE to submit *only* the information described in section §26.85(c). The regulations require the applicant to submit an affidavit that all of the information it submitted to State B is a complete and identical copy of the information submitted to State A. If the on-site report from State A is more than three years old, as of the date of its application to State B, the regulations permit State B to require that the firm's affidavit to affirm that the facts in the on-site report remain true and correct.

Common indicators of noncompliance*:

- State B asked the DBE for information not listed in §26.85(c).
- State B denied the interstate certification application without giving the DBE written notification identifying and describing at least one of the five "good cause" reasons for the denial.
- State B denied the interstate certification application based on a mere interpretive disagreement with State A about a regulatory provision or factual conclusion.
- State B denied the interstate certification application because it thinks State A did not adequately evaluate the DBE's eligibility.
- State B asked the DBE for an updated PNW statement even though the DBE timely submitted to State A an annual affidavit(s) of no-change.
- State B, without new information previously unavailable to State A, re-evaluated a DBE owner's economic disadvantage based on a belief that the owner has the ability to accumulate substantial wealth.
- State B decertified a DBE solely because State A decertified it.
- State B received an interstate certification application from a Native American-owned firm and certified the firm without verifying whether the Federal government or State B recognize the tribe.

**This is not an exhaustive list of indicators of noncompliance. UCPs and reviewers should apply the subsections of §26.85 and also refer to USDOT's official guidance on interstate certification.*

Discussion

During this review, deficiencies were found with this requirement.

LACMTA's DBE Program Plan states that for interstate certifications, 49 CFR §26.85 will be followed. The program is silent as to whether LACMTA will follow Option 1 or Option 2 when processing interstate applications; however, during the site visit, the reviewers identified that

LACMTA follows Option 2 and requires applicants to provide all of the information required by §26.85(c)(1)-(4) that was submitted to its home state.

As a matter of course, LACMTA also requires interstate applicants to submit up-to-date personal taxes and an updated PNW. This practice was observed in the review of the certification files for MDG Consulting Services, Inc. (MDG) and Coda Group, Inc. (Coda Group). LACMTA requires interstate applicants to submit documentation beyond what is required by 49 CFR §26.85(c).

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, LACMTA must submit to the FTA Office of Civil Rights a procedure to ensure that it does not routinely require interstate applicants to submit information beyond what is required by 49 CFR §26.85(c).

6.7 Other Rules Affecting Certification

Basic Requirement (49 CFR §26.73)

UCPs must not consider commercially-useful function issues in any way in making decisions about whether to certify a firm as a DBE. However, the UCP may consider 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. DBE firms and firms seeking DBE certification must cooperate fully with UCP requests for information relevant to the certification process.

Discussion

During this review, no deficiencies were found with this requirement.

In the files reviewed, there was no documentation relating to commercially useful function issues, or a firm exhibiting a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program. In addition, it was found that the DBE applicants cooperated fully with the LACMTA's request for additional information relevant to the certification process.

6.8 UCP Requirements

(A) UCP Agreement

Basic Requirement (49 CFR §26.81)

All USDOT recipients in a state must participate in a UCP. Recipients must sign an agreement establishing the UCP for the state and submit the agreement to the Secretary for approval.

Discussion

During this review, no deficiencies were found with this requirement.

The USDOT approved the CUCP MOA on March 13, 2002. Subsequent to the approval, the CUCP revised the Agreement March 24, 2003, November 16, 2004, and March 21, 2006. During the UCP review of Caltrans in 2019, reviewers noted that the amended MOA did not reflect the current list of participating USDOT recipients with signatures or the current list of certifying agencies for the state and issued a deficiency as a result. At the time of the site visit, the CUCP was still in the process of updating the 2006 MOA to address the corrective action due in March 2020.

(B) UCP Directory

Basic Requirement (49 CFR §§23.31, 26.31, and 26.81(g))

UCPs must maintain a unified DBE directory containing, for all firms certified by the UCP, the information required by §26.31. The directory must include if the firm is an ACDBE, a DBE, or both. The listing must include for each firm its address, phone number, and types of work the firm has been certified to perform as a DBE. The UCP must update the electronic version of the directory by including additions, deletions, and other changes as soon as they are made.

Discussion

During this review, no deficiencies were found with this requirement.

The DBE Program Plan states:

“Metro is a member of the California Unified Certification Program (CUCP), which maintains the DBE directory pursuant to 49 CFR Part 26.81... The CUCP directory lists the firm’s name, address, phone number, fax number, on-site visit date, North American Industry Classification System (NAICS) code, ethnicity and gender of ownership, and the type of work the firm has been certified to perform as a DBE under which the firm has been certified to perform as a DBE.”

The CUCP Memorandum of Agreement states that certifying members are responsible for maintaining the UCP DBE directory. Each certifying member is given a unique code that allows them to input certification information for newly certified DBEs and update profiles of DBEs that they have certified as soon as they occur.

The directory identifies all firms eligible to participate as DBEs. The directory lists the firm’s name, contact person, address, phone number, fax number, email, certification type (DBE/ACDBE), NAICS code, and description of work the firm is certified to perform. The directory is available electronically to the public, and searchable in HTML, PDF, and Excel report formats at: <http://www.dot.ca.gov/hq/bep>. (Click on Programs/Civil Rights/DBE Search).

6.9 Entering Information into USDOT's Ineligibility Database

Basic Requirement (49 CFR §26.85(f))

If the UCP denies a firm's application, rejects the application of a firm certified in State A or any other State in which the firm is certified, or decertifies a firm, in whole or in part, you must make an entry in USDOT's Ineligibility Determination Online Database. The UCP must enter the following information:

- The name of the firm.
- The name(s) of the firm's owner(s).
- The type and date of the action.
- The reason for the action.

UCPs must check the DOCR website at least once every month to determine whether any firm that is applying to the UCP for certification, or that the UCP has already certified, is on the list.

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

Discussion

During this review, deficiencies were found with this requirement.

LACMTA has entered denials into USDOT's Ineligibility Database, including the name of the firm; the names of the firm's owners; the type and date of the action; and the reason for the action. However, LACMTA has not entered all decertifications into the database. The following firms decertified by LACMTA were not located on the USDOT's Ineligibility Database at the time of the site visit:

- Civilian: Decertified on March 6, 2019
- Brooks + Scarpa: Decertified on December 6, 2019
- Deco Pave: Decertified on November 1, 2019
- YBI: Decertified on December 14, 2018

After the site visit, LACMTA entered the required information into USDOT's Ineligibility Database for the decertified firms listed above, except YBI.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, LACMTA must submit to the FTA Office of Civil Rights:

- Evidence that it has entered the required information for firms it has decertified into USDOT'S Ineligibility Database
- A procedure to ensure that future decertifications are entered into USDOT's Ineligibility Database

6.10 UCP Procedures

(A) Uniform Certification Application

Basic Requirement (49 CFR §26.83(c)(2))

UCPs must use the Uniform Certification Application (UCA) in Appendix F of 49 CFR Part 26 without change or revision. However, a UCP may, *with the approval of the concerned operating administration*, supplement the form by requesting additional information not inconsistent with the DBE regulations.

Discussion

During this review, no deficiencies were found with the requirement for Uniform Certification Application.

LACMTA's DBE Program Plan includes the Uniform Certification Application (UCA) in Appendix F of 49 CFR Part 26 as an attachment. A review of the certification files demonstrated that LACMTA has implemented the use of the required UCA.

(B) On-Site Visits

Basic Requirement (49 CFR §26.83(c)(1))

UCPs must perform an on-site visit to the principal office location of the applicant firm. The UCP must interview the principal officers of the firm and review their resumes and/or work histories. The UCP must also visit a job site, if there is one, at which the firm is working at the time of the eligibility evaluation in the UCP's jurisdiction or local area.

Discussion

During this review, no deficiencies were found with this requirement.

LACMTA's DBE Program Plan states that after the desk audit is completed, an on-site interview shall be conducted with the qualifying owners and key personnel from the applicant firm to further evidence satisfaction of the certification eligibility criteria. LACMTA uses a Site Visit Questionnaire form provided by the CUCP to evidence the site visits.

A review of the certification files contained evidence of the required on-site visits, including the completion of the Site Visit Questionnaire.

(C) 30-Day Notification**Basic Requirement (49 CFR §26.83(l))**

The UCP must advise each applicant firm within 30 days of receiving the UCA and accompanying documents whether the application package is complete and suitable for evaluation and, if not, what additional information or action is required.

Discussion

During this review, no deficiencies were found with this requirement.

LACMTA's DBE Program Plan states that LACMTA will send an "Acknowledgement of Receipt" letter to an applicant within 30 days.

A review of the certification files demonstrated that LACMTA met the 30-day notification requirement. LACMTA uses B2Gnow, an online system to collect and process applications. Applicants are notified by B2Gnow when their applications are received. LACMTA staff then contacts applicants via email or using the messaging feature in B2Gnow to communicate if the application is complete or to describe what additional information or action is required from the applicant. Evidence of the communication within 30 days was noted in B2Gnow or evidenced by documentation provided by LACMTA.

(D) 90-Day Determinations**Basic Requirement (49 CFR §26.83)**

The UCP must make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under the DBE regulations. The UCP 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.

Discussion

During this review, no deficiencies were found with the requirement for 90-Day Determinations.

As stated above, LACMTA uses B2Gnow, an online system to collect and process applications. Applicants are notified by B2Gnow when their application is approved or denied. LACMTA staff also contact applicants via email, mail, or using the B2Gnow messaging feature. Evidence of the notification of the determination within 90 days was noted in B2Gnow or by documentation provided by LACMTA.

(E) Annual Updates

Basic Requirement (49 CFR §26.83(h)-(j))

Once the UCP has certified a DBE, it must remain certified until and unless the UCP removes its certification. The UCP may not require DBEs to reapply for certification or undergo a recertification process. The certified DBE must provide to the UCP, every year on the anniversary of the date of its certification, an affidavit sworn to by the firm's owners before a person who is authorized by state law to administer oaths. If the certified firm fails to comply with the annual submission requirement, it will be deemed to have failed to cooperate under §26.109(c). Failure or refusal to cooperate is grounds for removing a firm's certification under §26.87.

Discussion

During this review, deficiencies were found with the requirement for Annual Updates.

LACMTA's DBE Program Plan states:

"The U.S. DOT also requires all owners of DBEs certified under the CUCP to submit to their Home Agency, on the anniversary date of their certification, an Annual Update Affidavit that meets the requirements of 49 CFR Part 26, Section 26.83(j). The Annual Update Affidavit is included in Attachment 6 Certification Application Forms. Metro requires DBEs to submit with this affidavit, documentation of the firm's size and gross receipts (e.g. submission of Federal tax returns). If a firm fails to submit this affidavit in a timely manner, it will be deemed to have failed to cooperate under 49 CFR Part 26, Section 26.109(c)."

A review of the certification files demonstrated that LACMTA requires firms to submit personal taxes in addition to the Annual Update Affidavit. The requirement applies to all firms providing an annual update. This practice was observed in the review of the certification files for SocialQuest, Civilian, and G2B. The standard request for personal taxes to be provided during an annual update goes beyond the requirements of 49 CFR §26.83(h)-(j).

In addition, LACMTA performs a five-year review of every certified firm where it requires the submittal of personal taxes and a signed, notarized PNW from "qualifying owners". A site visit is also performed during the five-year review. This practice is consistent with the CUCP and was observed in the review of the certification files for Civilian and Deco Pave.

Firms that do not complete an annual update or five-year review by 30 calendar days past their anniversary date will have their DBE certification removed as a result of being non-responsive. Non-response to this five-year review was cited as the reason for the removal of Deco Pave with no opportunity for an informal hearing. Firms removed for not being responsive must wait 12 months from the date of removal before reapplying for certification.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, LACMTA must submit to the FTA Office of Civil Rights a procedure to ensure that:

- Personal tax returns are no longer required to be submitted during an Annual Update.
- Firms removed for non-response to the annual and or five-year review are provided an opportunity for an informal hearing in accordance with §26.87.

6.11 Denials of Applications for Certification

(A) Initial Request Denials

Basic Requirement (49 CFR §26.86(a))

When a UCP denies a request by a firm that is not currently certified with it, to be certified as a DBE, the UCP 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. When a firm is denied certification, the UCP must establish a timeframe of no more than 12 months before the firm may reapply for certification.

Discussion

During this review, no deficiencies were found with this requirement.

LACMTA's DBE Program Plan states that when a firm is denied, it will send a letter to the firm advising it is not eligible for certification and stating the reasons for denial and communicate that the vendor cannot reapply for 12 months.

Two files were reviewed for the denial requirements: Cutting Edge and McNicoll Construction, Inc. (McNicoll). In both cases, the denial letter explained the reasons for the denial, and advised the business owner of the USDOT appeal rights. The denial letters also informed the business owner that the firm could reapply to the program in 12 months.

(B) Removing Existing Certification (Decertification)

Basic Requirement (49 CFR § 26.87)

If a UCP determines that there is reasonable cause to believe that the firm is ineligible, the UCP must provide written notice to the firm that the UCP proposes to find the firm ineligible, setting forth the reasons for the proposed determination. When the UCP notifies the firm that there is reasonable cause to remove its certification, the UCP must offer the firm an opportunity for an informal hearing or to submit additional information to rebut the UCP's findings. In a proceeding to remove a firm's certification under §26.87, the UCP must prove, by a preponderance of the evidence, that the firm no longer meets certification standards. Following the final decision, the UCP must provide written notice of the final decision and the reasons for that decision and reference specific evidence in the record to support each reason.

Discussion

During this review, deficiencies were found with the requirement for Removing Existing Certification.

LACMTA's DBE Program Plan states:

"In the event of a certification denial or Removal action, Metro will notify a firm in writing of its right to due process. When Metro issues its administratively final decision to decertify certification or, after appeal, to remove a firm, Metro will notify the firm of its right to appeal the decision to U.S. DOT.

Before Metro Small Business Certification unit removes a firm's eligibility for any reason, except graduation from the program based on PNW, the Small Business Certification unit will issue a notice, in the form of a letter, proposing to find a firm ineligible. The firm will be notified of its right to appeal the determination to Metro's Reconsideration Official.

A firm may appeal a notice proposing to find the firm ineligible to Metro by: 1) submitting a written appeal within 30 days from the date of the notice proposing to find the firm ineligible; or 2) requesting an Informal Hearing within 30 days from the date of the notice proposing to find the firm ineligible."

Once LACMTA receives a request for an informal hearing, LACMTA's Reconsideration Official will set up and conduct the hearing. After the hearing, LACMTA notifies the appealing firm of its decision within 60 days.

The following decertification files were reviewed for compliance: Brooks + Scarpa, Civilian, Deco Pave, G2B, and YBI. In all cases, the written notices to the firms included that the UCP proposed to find the firms ineligible and set forth the reasons for the proposed determination. A letter of intent to remove was not sent to Brooks + Scarpa. After the owner indicated that they exceeded the PNW threshold, LACMTA sent a final determination letter, dated December 6, 2019. The notice to Civilian and YBI expressing the intent to decertify the firm included the right to request an informal hearing; however, the right to request an informal hearing was not communicated in the notices to Brooks + Scarpa, G2B, and Deco Pave. The written notices for Brooks + Scarpa, Civilian, Deco Pave, and G2B also did not notify the firms of the availability of an appeal to USDOT.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, LACMTA must submit to the FTA Office of Civil Rights a procedure to ensure that:

- The right to an informal hearing is consistently communicated to firms that it seeks to decertify; and
- The availability of a USDOT appeal is included consistently in removal letters.

(C) Mandatory Summary Suspension**Basic Requirement** (49 CFR §26.88(a))

The UCP must immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) when an individual owner whose ownership and control of the firm are necessary to the firm's certification dies or is incarcerated.

Discussion

During this review, no deficiencies were found with this requirement.

LACMTA's DBE Program Plan states that it shall suspend a firm's DBE certification in the event an owner, whose ownership and control are necessary for the form's certification, dies or is incarcerated. LACMTA did not perform a Mandatory Summary Suspension during the review period.

(D) Optional Summary Suspension**Basic Requirement** (49 CFR §26.88(b))

The UCP may immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) when there is adequate evidence to believe that there has been a material change in circumstances that may affect the eligibility of the DBE firm to remain certified, or when the DBE fails to notify the recipient or UCP in writing of any material change in circumstances that may affect the eligibility of the DBE firm to remain certified as required by §26.83(i) or fails to timely file an affidavit of no change under §26.83(j).

Discussion

During this review, no deficiencies were found with this requirement.

LACMTA's DBE Program Plan states that it may suspend a firm without a hearing when there is adequate evidence to believe a material change has occurred that may affect eligibility, or the DBE fails to notify it of any material changes in circumstances, or fails to timely file an affidavit of no change. LACMTA did not perform an Optional Summary Suspension during the review period.

(E) Appeals to USDOT**Basic Requirement** (49 CFR §26.89)

When DOCR receives an appeal and requests a copy of the administrative record, the UCP must provide the administrative record, including a hearing transcript, within 20 days of the request.

Discussion

During this review, no deficiencies were found with this requirement.

An appeal was not filed with the DOCR against LACMTA.

6.12 Compliance and Enforcement**(A) DBE Enforcement Actions****Basic Requirement (49 CFR §26.107)**

If a firm does not meet the eligibility criteria of subpart D and attempts to participate in a USDOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations, or under circumstances indicating a serious lack of business integrity or honesty, USDOT may initiate suspension or debarment proceedings against the firm under 49 CFR parts 180 and 1200.

Discussion

During this review, no deficiencies were found with this requirement.

The reviewers observed that all certification files reviewed utilized the Uniform DBE Certification Application, which includes penalties for fraudulent or false statements.

(B) Confidentiality**Basic Requirement (49 CFR §§26.83(g) and 26.109 (a))**

Notwithstanding any provision of Federal or State law, UCPs must not release information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes DBE certification and supporting documentation.

Discussion

During this review, no deficiencies were found with this requirement.

During the compliance review, LACMTA provided evidence of a Declaratory Relief Action filed in 2014 in Los Angeles Superior Court, Case Number 56362. Pursuant to the California Public Records Act, the complainant sought declaration that Disadvantaged Business Enterprise files and records maintained by and in the custody of LACMTA were public records. The complainant further sought examination and copying of certain Disadvantaged Business Enterprise files regarding certification and annual re-certification.

LACMTA objected on the basis that the information sought constituted confidential business information. Subsequent to a brief trial, the court ordered LACMTA to produce 29 files with the

following redacted information: 1) social security numbers; 2) bank account information; 3) tax returns; 4) personal net worth worksheet; and 5) identification of non-public contracts between the subject DBE and third parties. After LACMTA produced the redacted files in question, the matter was closed. In so far as 49 CFR Part 26 takes precedence over the Freedom of Information Act or Sunshine legislation, it appears that LACMTA protected the confidential nature of its DBE files.

(C) Cooperation

Basic Requirement (49 CFR §26.109(c))

All participants in the DBE program are required to cooperate fully and promptly with USDOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Pursuant to 49 CFR §26.73(c), DBE firms and firms seeking DBE certification must cooperate fully with the UCP's requests (and USDOT requests) for information relevant to the certification process. Failure or refusal to provide such information is grounds for a denial or removal of certification.

Discussion

During this review, no deficiencies were found with this requirement.

LACMTA's DBE Program Plan states:

"If a firm fails to submit this affidavit in a timely manner, it will be deemed to have failed to cooperate under 49 CFR Part 26, Section 26.109(c)."

Through the review of the certification files, reviewers found the DBE firms to be fully cooperative with all certification requirements and requests for information. In cases where a firm was not cooperative and did not respond to requests for information, LACMTA initiated proceedings to either administratively close the firm's file or remove the firm from the DBE program.

6.13 Record Keeping

Basic Requirement (49 CFR §26.11(d))

The UCP must maintain records documenting a firm's compliance with the DBE requirements. At a minimum, the UCP must keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. Other certification or compliance related records must be retained for a minimum of 3 years unless otherwise provided by applicable record retention requirements for the recipient's financial assistance agreement, whichever is longer.

Discussion

During this review, no deficiencies were found with this requirement.

During the onsite review, staff indicated that they follow LACMTA's record retention policy. The complete original certification package is stored in a secure location onsite for two years, then moved to an offsite storage location for one year. After that period, all closed certification files, including those that have been denied or withdrawn, are purged. Files for currently certified firms and recently removed firms continue to be retained. However, only the three most recent years of taxes are kept. Prior taxes are purged.

6.14 Submitting Reports to USDOT

Basic Requirement (49 CFR §26.11(e))

Each year, the State department of transportation in each UCP must report to DOCR the number of certified DBEs its DBE Directory that are (1) Women; (2) Socially and economically disadvantaged individuals (other than women); and (3) Individuals who are women and are otherwise socially and economically disadvantaged individuals (49 CFR §26.11).

Discussion

During this review, no deficiencies were found with this requirement.

It is the responsibility of the California Department of Transportation (Caltrans) to submit this report to the USDOT due annually on January 1. During the on-site review of Caltrans in May 2019, reviewers noted that the 2019 report was submitted on December 6, 2018, in compliance with the USDOT requirements. The 2020 report was submitted on January 3, 2020.

6.15 Training of Certification Application Review Staff

Basic Requirement

On August 22, 2018, USDOT issued official guidance titled: "What steps should a UCP take to ensure that its DBE/ACDBE certification application-review staff are properly trained?" A UCP is responsible for ensuring and documenting the following:

1. The current certification application-review staff successfully complete all nine of the certification training modules provided by DOCR before they begin to review certification applications.
2. The current certification application-review staff view DOCR's "Recorded Presentation of the Rule," which describes changes to the DBE rules instituted through the DOT final rule issued October 2, 2014, (found at <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/dbe-final-rule-and-program-activities>) before they begin to review certification applications.
3. The current certification application-review staff complete all new, revised, or updated training modules or materials when DOCR makes them available through its website.
4. Keeping accurate training records for all certification application-review staff.

UCP Staff who have not documented their completion of the mandatory training and viewing of the “Recorded Presentation of the Rule,” should not be permitted to review certification applications.

Discussion

During this review, no deficiencies were found with this requirement.

LACMTA provided Certificates of Training for its applicant-review staff for completing the National Highway Institute’s (NHI) DBE/ACDBE Certification Training. The course is a 12-hour web-based course which covers DOT’s October 2, 2014 final rule amending 49 CFR 26. LACMTA indicated that its applicant-review staff received the NHI training and completed the required DOCR training modules and presentation prior to reviewing certification files.

7. Summary of Files Review and Findings

File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	DOCR Listing
Initial Certification <1 year	A. Preciado Designs, LLC	Y	Y	Y	N/A	Y/Y	N/A	N/A	N/A
		30 Day / 90 Day	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	N	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	DOCR Listing
	Sabu, LLC	Y	Y	N	N/A	Y/Y	N/A	N/A	N/A
		30 Day / 90 Day	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	N/A	N/A	Y
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	DOCR Listing
Existing Certification >1 year	G2B Consulting	Y	Y	Y	N	Y/Y	N/A	N/A	N
	(removed 2/3/20)	30 Day / 90 Day	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	N	N	N	Y
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	DOCR Listing
	SocialQuest, Inc.	Y	Y	Y	N	Y/Y	N/A	N/A	N/A
		30 Day / 90 Day	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	N/A	N/A	N/A

File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	DOCR Listing
Interstate Certification	MDG Consulting Services, LLC	Y	Y	Y	N/A	Y/Y	N	N/A	N/A
		30 Day / 90 Day	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	DOCR Listing
	Coda Group, Inc.	Y	Y	Y	N	Y/Y	Y	N/A	N/A
		30 Day / 90 Day	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	N/A	N/A	Y
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	DOCR Listing
Removal/Decertification	Brooks + Scarpa Architects, Inc.	Y	Y	N	N	Y/Y	N/A	N/A	N
		30 Day / 90 Day	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	N	N	N	N	Y
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	DOCR Listing
	Civilian, Inc.	Y	Y	N	Y	Y	N/A	N/A	N
		30 Day / 90 Day	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	Y	Y	Y
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	DOCR Listing
	Deco Pave, Inc.		Y	Y	Y	N/N	N/A	N/A	N
		30 Day / 90 Day	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	N/A	N	N	N	N	Y

File Type		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	DOCR Listing
Initial Certification Denial	Cutting Edge Concrete Services, Inc.		Y	N	Y	Y/Y	N/A	Y	Y
		30 Day / 90 Day	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	N/A	Y	Y	N/A	N/A	Y
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	DOCR Listing
	McNicoll Construction, Inc.	Y	Y	Y	N/A	Y/Y	N/A	Y	Y
		30 Day / 90 Day	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	N/A	N/A	Y
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	DOCR Listing
Suspensions	YBI Management Services	N/A	Y	Y	Y	Y/Y	N/A	N/A	N
		30 Day / 90 Day	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	Y	Y	Y	Y	Y	Y

Requirement of 49 CFR Part 26	Ref.	Site Visit Finding	Deficiencies	Corrective Action(s)	Response Days/Date
1. Group Membership A) Burden of Proof	26.61	ND	-	-	-
B) Additional Evidence of Group Membership	26.63	D	LACMTA uses a supplement to the standard certification application that includes a requirement entitled <i>Documentation of Group Membership</i> , where LACMTA requires proof of group membership from each applicant.	Submit to the FTA Office of Civil Rights a procedure to ensure that requests for proof of group membership are initiated only as required in accordance with 49 CFR §26.63, on a case-by-case basis.	60 Days
2. Business Size	26.65	ND	-	-	-
3. Social and Economic Disadvantage A) Presumption of Disadvantage	26.67	ND	-	-	-
B) Personal Net Worth	26.67	D	LACMTA made adjustments to applicants' Personal Net Worth (PNW) form, but did not provide questions to the applicant to confirm or correct information. Additionally, LACMTA does not adequately analyze PNWs for errors or omissions.	Submit to the FTA Office of Civil Rights procedures to ensure that: <ul style="list-style-type: none"> • PNW forms are thoroughly analyzed for errors and omissions; and • Additional investigation is conducted into pertinent PNW errors and omissions, and revisions are documented. 	60 Days
C) Rebutting the Presumption of Economic Disadvantage	26.67	ND	-	-	-
D) Individual Determinations of Social and Economic Disadvantage	26.67	ND	-	-	-
4. Ownership	26.69	D	LACMTA does not consistently document that an applicant made a real,	Submit to the FTA Office of Civil Rights procedures for ensuring that all applicants	60 Days

Requirement of 49 CFR Part 26	Ref.	Site Visit Finding	Deficiencies	Corrective Action(s)	Response Days/Date
			substantial, and continuing contribution of capital or expertise to acquire ownership interest in the applicant firm.	applying for DBE certification submit documented proof of contributions, for each owner claiming disadvantaged status, used to acquire ownership interest in the firm. The procedures should also ensure that proof of transfer of ownership to each individual owner of the firm upon whose ownership and control is relied upon for certification is submitted.	
5. Control	26.71	D	LACMTA does not consistently question the involvement of a non-socially and economically disadvantaged individual (non-SED), outside employment of the SED, technical competence of the SED, or meet the higher standard of proof, since the firm was previously owned by the non-SED.	Submit to the FTA Office of Civil Rights a plan to ensure that control determinations are appropriately addressed and documented in the file. The plan should also ensure that a higher standard of proof is applied when a firm was formerly owned by a non-disadvantaged individual, majority ownership of the firm is transferred to a disadvantaged individual, and the non-disadvantaged individual remains involved with the firm.	60 Days
6. Interstate Certification	26.85	D	LACMTA requires interstate applicants to submit personal taxes and an updated PNW form in addition to the original home-state application.	Submit to the FTA Office of Civil Rights a procedure to ensure that it does not routinely require interstate applicants to submit information beyond what is required by 49 CFR §26.85(c).	60 Days

Requirement of 49 CFR Part 26	Ref.	Site Visit Finding	Deficiencies	Corrective Action(s)	Response Days/Date
7. Other Rules Affecting Certification	26.73	ND	-	-	-
8. UCP Requirements					
A) UCP Agreement	26.81	ND	-	-	-
B) UCP Directory	26.31	ND	-	-	-
9. Entering Information Into USDOT's Ineligibility Database	26.85	D	LACMTA does not enter removals into USDOT's Ineligibility Database.	Submit to the FTA Office of Civil Rights: <ul style="list-style-type: none"> Evidence that it has entered the required information for firms it has decertified into USDOT'S Ineligibility Database. A procedure to ensure that future decertifications are entered into USDOT's Ineligibility Database. 	60 Days
10. UCP Procedures					
A) Uniform Certification Application	26.83	ND	-	-	-
B) On-Site Visits	26.83	ND	-	-	-
C) 30-Day Notification	26.83	ND	-	-	-
D) 90-Day Determinations	26.83	ND	-	-	-
E) Annual Updates	26.83	D	LACMTA requires certified firms to submit personal taxes, in addition to business taxes, during its annual update. Firms removed for non-response to the annual and or five-year review are not provided an opportunity for an informal hearing.	Submit to the FTA Office of Civil Rights a procedure to ensure that: <ul style="list-style-type: none"> Personal tax returns are no longer required to be submitted during an Annual Update. Firms removed for non-response to the annual and or five-year review are provided an opportunity for an informal hearing in accordance with §26.87. 	60 Days

Requirement of 49 CFR Part 26	Ref.	Site Visit Finding	Deficiencies	Corrective Action(s)	Response Days/Date
11. Denials of Applications for Certification A) Initial Request Denials	26.86	ND	-	-	-
B) Removing Existing Certification	26.87	D	LACMTA does not consistently offer an informal hearing and/or USDOT appeal information when it removes an existing certified firm.	Submit to the FTA Office of Civil Rights a procedure to ensure that: <ul style="list-style-type: none"> • The right to an informal hearing is consistently communicated to firms that it seeks to decertify; and • The availability of a USDOT appeal is included consistently in removal letters. 	60 Days
C) Mandatory Summary Suspension	26.88	ND	-	-	-
D) Optional Summary Suspension	26.88	ND	-	-	-
E) Appeals to USDOT	26.89	ND	-	-	-
12. Compliance and Enforcement A) DBE Enforcement Actions	26.107	ND	-	-	-
B) Confidentiality	26.109	ND	-	-	-
C) Cooperation	26.109	ND	-	-	-
13. Record Keeping	26.11	ND	-	-	-
14. Submitting Reports to USDOT	26.11	ND	-	-	-
15. Training of Certification Application Review Staff	USDOT	ND	-	-	-

Findings at the time of the site visit: ND = No Deficiencies Found; D = Deficiency; NA = Not Applicable; AC = Advisory Comment

Attachment A – FTA Notification Letter to LACMTA



U.S. Department
of Transportation
Federal Transit
Administration

Headquarters

East Building, 5th Floor, TCR
1200 New Jersey Avenue, SE
Washington, DC 20590

November 25, 2019

Phillip A. Washington
Chief Executive Officer
Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012

Dear Mr. Washington:

The Federal Transit Administration (FTA) Office of Civil Rights is responsible for ensuring compliance with 49 CFR Part 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs” by its grant recipients and subrecipients. As part of its ongoing oversight efforts, the FTA Office of Civil Rights conducts a number of on-site DBE specialized reviews of grant recipients. Los Angeles County Metropolitan Transportation Authority (LACMTA) has been selected for a review of its Unified Certification Program (UCP) to take place February 25–27, 2020.

The purpose of this review will be to determine whether LACMTA is meeting its obligations, as represented by certification to FTA, to comply with all applicable provisions of 49 CFR Part 26.

The review process includes data collection before the on-site visit, an opening conference, an on-site review of DBE certification procedures (including, but not limited to discussions to clarify items previously reviewed, work-site visits, and interviews with staff), interviews with UCP certifying and non-certifying members, DBE applicants, DBE certified firms, firms that were denied DBE certification, and other stakeholders, possible work-site visits, and an exit conference. The reviewers will complete the on-site portion of the review within a three-day period. FTA has engaged the services of Milligan & Company LLC of Philadelphia, PA to conduct this specialized review. Representatives of Milligan and FTA will participate in the opening and exit conferences, with FTA participating by telephone.

We request an opening conference at 9 a.m., on Tuesday, February 25, 2020, to introduce the Milligan team and FTA representatives to LACMTA. Attendees should include you and other key staff. During the opening conference, the review team members will present an overview of the on-site activities.

Because review team members will spend considerable time on site during the week, please provide them with temporary identification and a workspace within or near your offices for the duration of their visit. The review team will need adequate working space and the use of privately controlled offices with internet access to conduct interviews and review documents. Please let us know if you will designate a member of your staff to serve as LACMTA’s liaison with the review team and will coordinate the on-site review and address questions that may arise during the visit.

So that we may properly prepare for the site visit, we request that you provide the information described in the enclosure, which consists of items that LACMTA must submit to the review team within 30 calendar days of the date of this letter. Please forward these materials to the following contact person:

Sandra Swiacki
Milligan & Company LLC
105 N. 22nd Street
Philadelphia, PA 19103
215-496-9100 x5120
sswiacki@milligancpa.com

You also have the option of sending the documents via Milligan's secure file transfer protocol (FTP) site. Your reviewer will reach out to you concerning the use of the FTP site. Please be prepared to designate a point of contact for your agency, for which user access should be provided.

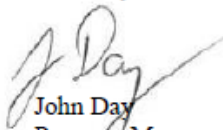
FTA requests your attendance at an exit conference scheduled for 3 p.m., on Thursday, February 27, 2020. The exit conference will afford an opportunity for the reviewers to discuss their observations with you and your agency. We request that you and other key staff attend the exit conference.

The FTA Office of Civil Rights will make findings and will provide a Draft Report. You will have an opportunity to correct any factual inconsistencies before FTA finalizes the report. The Draft and Final Report, when issued to LACMTA, will be considered public documents subject to release under the Freedom of Information Act, upon request.

LACMTA representatives are welcome to accompany the review team during the on-site activities, if you so choose. If you have any questions or concerns before the opening conference, please contact Ed Birce at 202-366-1943 or via email at *guljed.birce@dot.gov*.

Thank you in advance for your assistance and cooperation as we undertake this process. We look forward to working with your staff.

Sincerely,



John Day
Program Manager
FTA Office of Civil Rights

Enclosure

cc: Ray Tellis, Regional Administrator, FTA Region 9
Selene Faer Dalton-Kumins, Associate Administrator, FTA Office of Civil Rights

Enclosure

The following information must be submitted to Milligan within 30 calendar days from the date of this letter:

1. Current Unified Certification Program Agreement.
2. Current Memorandum of Understanding or similar documents forming the LACMTA's Unified Certification Program (which should be signed by all members of the UCP).
3. The certification criteria/guidelines used in determining DBE eligibility.
4. Standard Operating Procedures or similar documents that explain the DBE certification process, including copies of the application used during certification, annual affidavits/updates, and personal net worth (PNW), etc.
5. A list of all firms certified, denied, and decertified or removed by the UCP from federal fiscal year 2017 to present. The list must include:
 - a) the firm's city and state
 - b) the firm's ethnicity
 - c) the firm's gender
 - d) the date of site visit
 - e) the reasons for denial and/or decertification (e.g., size, PNW, control, etc.)
 - f) whether the denial decision was appealed to the UCP or USDOT
 - g) The result of the appeal
6. A description of LACMTA UCP appeals process(es). List the individuals involved in the appeals process and how they are selected.
7. Any third-party complaints regarding DBE firms certified by the LACMTA and actions taken to resolve the matter in the past three (3) years.
8. Any Freedom of Information or similar request for certification information in the past three (3) years.
9. Any enforcement action against a DBE firm (e.g., suspension, debarment, etc.) regarding certification in the past three (3) years.
10. Other pertinent information determined by LACMTA's staff to illustrate its UCP operations and procedures.

Attachment B – LACMTA’s Response to the Draft Report



Metro

Los Angeles County
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

213.922.2000 Tel
metro.net

March 8, 2021

John Day
Program Manager, Policy & Technical Assistance
Office of Civil Rights, Federal Transit Administration
1200 New Jersey Avenue, SE Room E-54-310
Washington, DC 20590

Subject: Draft Report: LACMTA DBE UCP Review
Factual Errors Response

Mr. Day,

Attached, please find Metro’s response to factual errors regarding the LACMTA DBE UCP Review. Should you have any questions, please feel free to contact me.

Sincerely,

Debra Avila
Chief Vendor/Contract Management Officer
213 418-3051

cc: Phil Washington, CEO LACMTA
Miguel Cabral, EO LACMTA
Dr. Irma L. Licea, Director LACMTA
Ray Tellis, FTA
Nicholas Sun, FTA
Anita Heard FTA
Yolanda Mitchell, FTA
Sandra Swiacki, Milligan
Denise Bailey, Milligan

LACMTA - FACTUAL ERRORS RESPONSE

6.1 (B) Additional Evidence of Group Membership

If a UCP has a well-founded reason to question the individual's claim of membership in that group, it must require the individual to present additional evidence that he or she is a member of the group. The UCP must provide the individual with a written explanation of its reasons for questioning his or her group membership. The UCP must take special care to ensure that it does not impose a disproportionate burden on members of any particular designated group.

Findings

In addition to submitting a signed, notarized statement that the applicant is a member of a presumptively socially and economically disadvantaged group, the application in LACMTA's DBE Program Plan includes a supplemental document checklist that requires all applicants to submit the following evidence of group membership:

1. For each owner seeking disadvantaged status on the basis of Ethnic membership, please provide a document (e.g. birth certificate, U.S. Passport, Green Card, parent's birth certificate etc.) evidencing Ethnic heritage or similar document evidence Ethnic community affiliation.
2. For each owner seeking social disadvantaged status on the basis of gender, please provide a document evidencing gender (e.g., birth certificate, driver's license etc.)
3. For each owner seeking an individual showing of social disadvantage, please provide documents you deem appropriate for consideration.

The certification files reviewed for the new applicants: A. Preciado Designs, LLC (A. Preciado), Sabu, LLC. (Sabu), G2B Consulting (G2B), SocialQuest, Inc. (SocialQuest), and YBI Management Services, LLC (YBI) all included the requirement to submit one of the items listed above to evidence group membership. This is a routine practice performed by LACMTA and not based on a "well-founded reason" to question the applicant's claim of membership in a group.

Metro's Response

Metro adheres to the California Unified Certification Program (CUCP) Operational Procedure CUCPP-005 – Group Membership Determination (attachment #1). Metro requests the birth certificate/passport because it is the supporting document needed as proof of citizenship (attachment #2).

6.4 Ownership

Basic Requirement (49 CFR § 26.69(a-j))

To be an eligible DBE, a firm must demonstrate, by a preponderance of the evidence, that it is at least 51 percent owned by SED individuals. Section 26.69(h) describes when the higher evidentiary standard of clear and convincing evidence applies.

(A) The owners upon whom the firm relies for DBE certification must have made a real, substantial, and continuing contribution of capital or expertise to acquire their ownership; the ownership must not be pro forma in nature. The applicant firm should submit proof of a capital contribution at the time it submits its DBE application; however, the firm is permitted to submit it any time before the UCP makes a final eligibility decision.

(B) When marital assets are used to acquire ownership, the non-disadvantaged spouse must irrevocably transfer and renounce his ownership rights in the firm.

Indicators of compliance: The applicant firm materials should include proof of the transfer and renunciation before the UCP makes a final eligibility decision. UCPs are encouraged to notify the applicant firm that proof of renunciation is missing from the DBE application and allow the firm to provide it within a reasonable timeframe.

Findings

LACMTA does not consistently document that an applicant made a real, substantial, and continuing contribution of capital or expertise to acquire ownership interest in the applicant firm.

G2B: According to the site visit report dated January 3, 2017, the owner invested \$1,600 into the business using a credit card. There was no evidence in the file to substantiate the investment or a request from the certifier for proof of the contribution.

Brooks + Scarpa: The certification file did not have adequate documentation that the applicant made a real, substantial, and continuing contribution of capital or expertise, to acquire ownership interest in the applicant firm. In 2010, the company changed its name after a majority shareholder left the firm. Under the "Initial Investment to acquire ownership interest in firm" section of the certification application dated December 5, 2012, the owner indicated that in January 2012, the majority shares of the company, 51%, were sold to the disadvantaged individual upon whom the certification relies for \$100. In 2011, the firm reported gross receipts in excess of \$2.5 million.

Deco Pave: The file contained a Bill of Sale, dated June 2, 2014, indicating that the disadvantaged owner agreed to pay the previous 100% owner \$81,000 for 51.2% of the stocks. A check was provided for \$20,000, approximately one quarter of the total shares necessary to purchase majority ownership of the firm. There was no evidence in the file to confirm that the disadvantaged owner paid the remaining balance for majority ownership on which certification to the program was relied.

Metro's Response

In the case of Brooks + Scarpa: the 2011 gross receipts were in excess of \$2.5 million, however, according to the 2011 balance sheet, the company net worth was negative \$72,506.25. Therefore, the company's net worth was nothing in 2011 (attachment #3).

6.5 Control

Basic Requirement (49 CFR § 26.71(a-q))

(A) Independence: A DBE firm's viability must not depend on a relationship(s) with another firm(s); to make the determination, the UCP should consider the four factors in §26.71(b).

(B) Restrictions: Formal or informal restrictions, such as a quorum provision in the firm's bylaws, must not limit the customary discretion of the SED owners (§26.71(c)). A SED owner must hold the highest officer position in the company. In a corporation, SED owners must control the board of directors. In a partnership, one or more SED owners must serve as general partners, with control over all partnership decisions (§26.71(d)).

(C) Involvement by non-SED individuals and Delegations: Individuals who are not SED or immediate family members may be involved in a DBE firm; however, they must not possess or exercise the power to control the firm, or be disproportionately responsible for the operation of the firm. [§26.71(e)]. The SED owners may delegate authority as long as such delegations are revocable, and the SED owners retain the power to hire and fire any person to whom such authority is delegated. UCPs must be able to reasonably conclude that the SED owners actually control all aspects of the firm (§26.71(f)).

(D) Overall Understanding, Technical, and Managerial Competence: SED owners must have an overall understanding of the firm's principal business activities. They 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 (§26.71(g)).

(E) Licensure: If State or local law does not require owners to have a license or credential to own and/or control a firm, UCPs must not deny certification solely on the ground that the person lacks the license or credential. However, the UCP may consider the absence

of the license or credential as one factor in determining whether the SED owners actually control the firm (§26.71(h)).

(F) Remuneration: Differences in remuneration do not necessarily indicate that SED owners do not control the firm. UCPs should consider the differences in remuneration 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. Remuneration differences between a former non-SED owner and current SED owner is a factor in determining who controls the firm, particularly when the non-SED individual remains involved with the firm and continues to receive greater compensation than the SED individual (§26.71(i)).

(G) Outside Employment or Business Interests (Time and Attention): Having outside employment does not automatically mean that the SED owners do not control the firm. UCPs should consider whether the outside employment or other business interest 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. 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 (§26.71(j)).

(H) Involvement of Immediate Family Members: A SED individual may control a firm even though one or more of the individual's immediate family members, even if they are not SED, participate in the firm. If a UCP cannot determine that the SED owners—as distinct from the family as a whole—control the firm, then the SED owners have failed to carry their burden of proof concerning control, even though they may participate significantly in the firm's activities (§26.71(k)).

(I) The Higher Burden of Proof Standard: Where a firm was formerly owned and/or controlled by a non-SED individual (whether or not an immediate family member), ownership and/or control were transferred to an SED individual, and the non-SED individual remains involved with the firm in any capacity, there is a rebuttable presumption of control by the non-SED individual unless the SED individual now owning the firm demonstrates, by clear and convincing evidence, that (1) the transfer of ownership and/or control to the SED individual was made for reasons other than obtaining certification as a DBE; and (2) the SED individual controls the firm, notwithstanding the continuing participation of a non-SED individual who formerly owned and/or controlled the firm (§26.71(l)).

(J) Equipment: A UCP must not determine that a firm is not controlled by SED individuals solely because the firm leases, rather than owns, 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 firm's independence (§26.71(m)). To become certified in an additional type of work, the firm need demonstrate only that its SED owners are able to control the firm with respect to that type of work (§26.71(n)).

Findings

LACMTA's DBE Program Plan states:

"In determining whether socially and economically disadvantaged owners control a firm, Metro will consider all the facts in the record, viewed as a whole including the origin of all assets and how and when they were used in obtaining the firm when making Certification eligibility recommendations to the "CUCP Part 26 Cluster"."

Based on the review of the certification files below, it did not appear that LACMTA initiated a higher standard of proof required by regulation when firms are previously owned by a non-SED individual.

Brooks + Scarpa: The firm was previously owned by the disadvantaged owner's husband, a non-SED individual. According to the Minutes of the Annual Meeting of the Shareholders, dated December 20, 2011, Mr. Scarpa testified to the board that there are benefits to becoming a Woman-Owned firm. The board minutes indicated that Mr. Scarpa agreed to transfer shares to Mrs. Scarpa to update the firm's status as a woman-owned small business. Majority ownership was later sold to Mrs. Scarpa on January 1, 2012, while her husband remained involved in the company.

Documents provided in the original application also indicated that there is a difference in remuneration between the disadvantaged and non-disadvantaged owners. The disadvantaged owner receives \$14,000 less than her husband. However, based on information from the application, both her and her husband are equally responsible for the management and operation of the company and both have technical expertise as licensed and practicing architects. There was no evidence in the file that LACMTA discussed the reason for the salary difference with the owners or considered it 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".

Deco Pave: This firm was previously owned by a non-SED individual. According to the certification application, the non-SED owner remained involved in the firm with responsibility for bidding, estimating, field operations, marketing, and sales. Although not disclosed on the application where requested, corporate documents indicate that the non-SED individual continues to have the authority to sign checks and contracts. There was no evidence in the file that LACMTA questioned the disadvantaged owner about his ability to control the firm.

It does not appear that the disadvantaged owner has the technical expertise or sufficient time to run a paving business. The certification decision was primarily based on the fact that the owner of the company had 29 years of experience in the construction industry. However, there was no mention that the experience was primarily as a Controller for financial matters within the construction industry. The non-SED owner appears to have the relevant years of paving experience. In addition, at the time of application, the disadvantaged owner was still employed as a Controller with Western Paving Contractors, which is located in the same yard as Deco

Pave. There was no evidence in the file that LACMTA questioned the disadvantaged owner about his employment or location of the firm.

According to the certification application, Deco Pave owns one piece of equipment related to paving, a pavement reheater valued at \$5,000. Given the volume of work reported on the application, it appears that other paving equipment would be necessary. The file notes that the non-SED owner also owns an equipment rental business, DHD Equipment Rental. However, there is no information to indicate whether Deco Pave rents their equipment from this firm or evidence in the file that LACMTA questioned Deco Pave's rental practices or possible involvement with DHD Equipment Rental.

Metro's Response

With regards to Brooks - Scarpa: This firm provided the 2012 annual salary on December 5, 2012 showing the Disadvantaged owner received \$14,000 less than her husband (attachment # 4). However, they also provided the payroll input worksheet for the period 2/28/13 to 3/4/13 showing the Disadvantaged owner received \$4,333.33 which was much higher than her husband of \$2,720.83 (attachment #5).

With regards to Deco Paving: Although the Disadvantaged owner's work experience before being the owner of Deco was in finance & accounting, the disadvantaged owner had been working in the construction field for over twenty-six years. He holds a Contractor A – General Engineering Contractor License and he met the license requirement for the NAICS codes granted – 237310 & 238990 (attachment #6). He also holds a Bachelor of Science in Civil Engineering (attachment #7). Therefore, Metro determined that he met the requirement to control the company.

6.6 Interstate Certification

Basic Requirement (49 CFR §26.85)

The interstate certification rule applies when any firm that is currently certified in its home State ("State A") seeks DBE certification in another State ("State B"). The DBE regulations do not permit State B to require the certified DBE to submit a new uniform certification application as if it were seeking certification for the first time. State B should process each application for interstate certification, on a case-by-case basis, using the two options described in §§26.85(b) or 26.85(c):

Option 1: Proceed under §26.85(b) to confirm current home-state certification and certify the firm. State B may verify by checking State A's directory (preferable) or obtaining State A's written confirmation.

Option 2: Proceed under §26.85(c) and notify the Applicant-DBE that it must provide all of the information required by §26.85(c)(1)-(4). State B may require the applicant-DBE to submit only

the information described in section §26.85(c). The regulations require the applicant to submit an affidavit that all of the information it submitted to State B is a complete and identical copy of the information submitted to State A. If the on-site report from State A is more than three years old, as of the date of its application to State B, the regulations permit State B to require that the firm's affidavit to affirm that the facts in the on-site report remain true and correct.

Common indicators of noncompliance:*

- *State B asked the DBE for information not listed in §26.85(c).*
- *State B denied the interstate certification application without giving the DBE written notification identifying and describing at least one of the five "good cause" reasons for the denial.*
- *State B denied the interstate certification application based on a mere interpretive disagreement with State A about a regulatory provision or factual conclusion.*
- *State B denied the interstate certification application because it thinks State A did not adequately evaluate the DBE's eligibility.*
- *State B asked the DBE for an updated PNW statement even though the DBE timely submitted to State A an annual affidavit(s) of no-change.*
- *State B, without new information previously unavailable to State A, re-evaluated a DBE owner's economic disadvantage based on a belief that the owner has the ability to accumulate substantial wealth.*
- *State B decertified a DBE solely because State A decertified it.*
- *State B received an interstate certification application from a Native American-owned firm and certified the firm without verifying whether the Federal government or State B recognize the tribe.*

**This is not an exhaustive list of indicators of noncompliance. UCPs and reviewers should apply the subsections of §26.85 and also refer to USDOT's official guidance on interstate certification.*

Findings

LACMTA's DBE Program Plan states that for interstate certifications, 49 CFR §26.85 will be followed. The program is silent as to whether LACMTA will follow Option 1 or Option 2 when processing interstate applications; however, during the site visit, the reviewers identified that LACMTA follows Option 2 and requires applicants to provide all of the information required by §26.85(c)(1)-(4) that was submitted to its home state.

As a matter of course, LACMTA also requires interstate applicants to submit up-to-date personal taxes and an updated PNW. This practice was observed in the review of the certification files for MDG Consulting Services, Inc. (MDG) and Coda Group, Inc. (Coda Group). LACMTA requires interstate applicants to submit documentation beyond what is required by 49 CFR §26.85(c).

Metro's Response

According to the 49 CFR Part 26.85 (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. According to the Uniform Certification Application Supporting Documents Checklist, personal tax returns & PNW statement are required documents. Also, according to 26.73 (b)(1) You must evaluate the eligibility of a firm on the basis of present circumstances. Therefore, Metro requested the up-to-date personal taxes and updated PNW in order to make a determination on the firm requesting interstate certification.

6.9 Entering Information into USDOT's Ineligibility Database

Basic Requirement (49 CFR §26.85(f))

If the UCP denies a firm's application, rejects the application of a firm certified in State A or any other State in which the firm is certified, or decertifies a firm, in whole or in part, you must make an entry in USDOT's Ineligibility Determination Online Database. The UCP must enter the following information:

- The name of the firm.
- The name(s) of the firm's owner(s).
- The type and date of the action.
- The reason for the action.

UCPs must check the DOCR website at least once every month to determine whether any firm that is applying to the UCP for certification, or that the UCP has already certified, is on the list.

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

Findings

LACMTA has entered denials into USDOT's Ineligibility Database, including the name of the firm; the names of the firm's owners; the type and date of the action; and the reason for the action. However, LACMTA has not entered all decertifications into the database. The following firms decertified by LACMTA were not located on the USDOT's Ineligibility Database at the time of the site visit:

- Civilian: Decertified on March 6, 2019
- Brooks + Scarpa: Decertified on December 6, 2019

- Deco Pave: Decertified on November 1, 2019
- YBI: Decertified on December 14, 2018

After the site visit, LACMTA entered the required information into USDOT's Ineligibility Database for the decertified firms listed above, except YBI.

Metro's Response

Y B I Management Services was in fact input into DOCR database on 2/27/20 (attachment #8)

6-10 UCP Procedures

- (E) Annual Updates
- Basic Requirement (49 CFR §26.83(h)-(j))

Once the UCP has certified a DBE, it must remain certified until and unless the UCP removes its certification. The UCP may not require DBEs to reapply for certification or undergo a recertification process. The certified DBE must provide to the UCP, every year on the anniversary of the date of its certification, an affidavit sworn to by the firm's owners before a person who is authorized by state law to administer oaths. If the certified firm fails to comply with the annual submission requirement, it will be deemed to have failed to cooperate under §26.109(c). Failure or refusal to cooperate is grounds for removing a firm's certification under §26.87.

Findings

During this review, deficiencies were found with the requirement for Annual Updates.

LACMTA's DBE Program Plan states:

"The U.S. DOT also requires all owners of DBEs certified under the CUCP to submit to their Home Agency, on the anniversary date of their certification, an Annual Update Affidavit that meets the requirements of 49 CFR Part 26, Section 26.83(j). The Annual Update Affidavit is included in Attachment 6 Certification Application Forms. Metro requires DBEs to submit with this affidavit, documentation of the firm's size and gross receipts (e.g. submission of Federal tax returns). If a firm fails to submit this affidavit in a timely manner, it will be deemed to have failed to cooperate under 49 CFR Part 26, Section 26.109(c)."

A review of the certification files demonstrated that LACMTA requires firms to submit personal taxes in addition to the Annual Update Affidavit. The requirement applies to all firms providing

an annual update. This practice was observed in the review of the certification files for Social Quest, Civilian, and G2B. The standard request for personal taxes to be provided during an annual update goes beyond the requirements of 49 CFR §26.83(h)-(j).

In addition, LACMTA performs a five-year review of every certified firm where it requires the submittal of personal taxes and a signed, notarized PNW from "qualifying owners". A site visit is also performed during the five-year review. This practice is consistent with the CUCP and was observed in the review of the certification files for Civilian and Deco Pave.

Firms that do not complete an annual update or five-year review by 30 calendar days past their anniversary date will have their DBE certification removed as a result of being non-responsive. Non-response to this five-year review was cited as the reason for the removal of Deco Pave with no opportunity for an informal hearing. Firms removed for not being responsive must wait 12 months from the date of removal before reapplying for certification.

Metro's Response

Requesting the firm to submit the personal tax returns is the current practice for all CUCP certifying agencies in accordance with CUCP-001(B). We need the company tax returns to support the regulation of gross receipts; therefore, Metro requests the personal tax returns to support the regulation regarding the personal net worth requirements (attachment #9).

In the case of Brooks + Scarpa, the firm notified Metro in a letter dated December 30, 2018 that the qualifying owner's Persona Net worth was in excess of the personal net worth limits and therefore the firm no longer qualified for DBE. The firm also provided PNW statements that demonstrated that the firm exceeded the PNW requirements. That being said, the firm themselves therefore there was no reason to include the language to appeal to USDOT given that the firm provided the request and supporting information to remove themselves from the program (attachment #10).

Attachment #1

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)

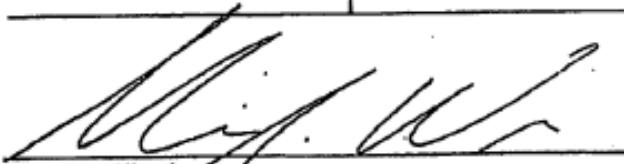


<i>Operational Procedure</i>	Number: CUCP-005
	Effective Date: 02/12/2020
	Supersedes: N/A

Title	Group Membership Determination
Purpose	To establish a procedure for a Certifying Agency's request of additional information from a Disadvantaged Business Enterprise (DBE)/Airport Concession Disadvantaged Business (ACDBE) applicant firm owner as defined in 49 Code of Federal Regulations (CFR), Part 26.63 and 23.3. A DBE/ACDBE applicant firm at least 51% owned and controlled by a socially and economically disadvantaged individual(s) is considered to be a part of the Group Membership.
Description	Pursuant to 49 CFR, Part 26.63 and Part 23.3, if the Certifying Agency has reason to doubt whether an individual is a part of the Group Membership, the Certifying Agency shall require the individual(s) to demonstrate, by a preponderance of evidence, that he or she is socially and economically disadvantaged. Prior to making a final determination, the Certifying Agency will consider whether or not the individual(s) is a part of the Group Membership during review of the DBE/ACDBE applicant firm owner's application. Additionally, if necessary, the Certifying Agency shall require the DBE/ACDBE applicant firm owner to produce additional evidence to determine eligibility in the Group Membership. The Certifying Agency's final decision concerning a DBE/ACDBE applicant firm owner's eligibility of being a socially and economically disadvantaged individual will be subject to the certification appeal procedures as defined in 49 CFR, Part 26 and 23 regulations.

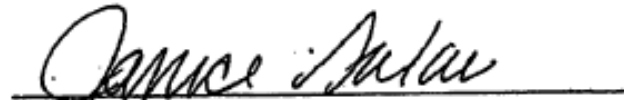
Operational Procedure
CUCP-005
Page 2

Impact	Failure to provide additional evidence of Group Membership from a DBE/ACDBE applicant firm owner shall result in non-compliance with 49 CFR, Part 26 and 23 regulations.
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Maceo Wiggins
CUCP Oversight Chair

Date: 2/27/2020



Janice Salais, Chair
Executive Committee
California Unified Certification Program

Date: 2/27/2020

Attachment # 2

**UNIFORM CERTIFICATION APPLICATION
SUPPORTING DOCUMENTS CHECKLIST**



In order to complete your application for DBE or ACDBE certification, you must attach copies of all of the following **REQUIRED** documents. A failure to supply any information requested by the UCP may result in your firm denied DBE/ACDBE certification.

Required Documents for All Applicants

- Résumés (that include places of employment with corresponding dates), for all owners, officers, and key personnel of the applicant firm
- Personal Net Worth Statement for each socially and economically disadvantaged owners who the applicant firm relies upon to satisfy the Regulation's 51% ownership requirement.
- Personal Federal tax returns for the past 3 years, if applicable, for each disadvantaged owner
- Federal tax returns (and requests for extensions) filed by the firm and its affiliates with related schedules, for the past 3 years.
- Documented proof of contributions used to acquire ownership for each owner (e.g., both sides of cancelled checks)
- Signed loan and security agreements, and bonding forms
- List of equipment and/or vehicles owned and leased including VIN numbers, copy of titles, proof of ownership, insurance cards for each vehicle.
- Title(s), registration certificate(s), and U.S. DOT numbers for each truck owned or operated by your firm
- Licenses, license renewal forms, permits, and haul authority forms
- Descriptions of all real estate (including office/storage space, etc.) owned/leased by your firm and documented proof of ownership/signed leases
- Documented proof of any transfers of assets to/from your firm and/or to/from any of its owners over the past 2 years
- DBE/ACDBE and SBA 8(a), SDB, MBE/WBE certifications, denials, and/or decertification's, if applicable; and any U.S. DOT appeal decisions on these actions.
- Bank authorization and signatory cards
- Schedule of salaries (or other remuneration) paid to all officers, managers, owners, and/or directors of the firm
- List of all employees, job titles, and dates of employment.
- Proof of warehouse/storage facility ownership or lease arrangements

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(s)
- Minutes of all stockholders and board of director's 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)

Optional Documents to Be Provided on Request

The certifying agency to which you are applying may require the submission of the following documents. If requested to provide these document, you must supply them with your application or at the on-site visit.

- Proof of citizenship
- Insurance agreements for each truck owned or operated by your firm
- Audited financial statements (if available)
- Trust agreements held by any owner claiming disadvantaged status
- Year-end balance sheets and income statements for the past 3 years (or life of firm, if less than three years)

Suppliers

- List of product lines carried and list of distribution equipment owned and/or leased

Attachment # 3

Balance Sheet (Cash Basis)

Tuesday, November 27, 2012

Brooks + Scarpa Architects, Inc.

As of December 31, 2011

6:38:57 PM

		Balance
A s s e t s		
101.00	Wells Fargo Checking	12,037.47
102.01	ING - Savings 5347(08/12/08)	171,706.81
102.02	WF Bus Mkt Rate Savings	1,204.68
103.00	Petty Cash	315.03
	Subtotal	186,263.99
153.00	Leasehold Improvements	43,606.92
154.00	Accumulated Amortiz-LI	-43,606.92
157.00	Computers and Systems	118,705.40
158.00	Accum Depreciation - Computers	-118,705.40
159.00	Furniture and Equipment	17,432.91
159.01	Office Improvements (Build Out)	
	Subtotal	17,432.91
160.00	Accumulated Depreciation	-17,432.91
	Subtotal	-17,432.91
170.00	Partnership - PSK	
	Subtotal	0.00
	Total Assets	186,263.99
L i a b i l i t i e s		
203.00	Larry and Angie Loan	98,625.61
209.00	Clearing Account	
	Subtotal	98,625.61
221.00	Retainers	144,800.03
222.00	Pension Contribution Payable	14,344.60
	Subtotal	169,144.63
299.00	Shareholders Loan	
	Subtotal	0.00
	Total Liabilities	267,770.24
N e t W o r t h		
300.20	Loan Payable - Larry	
301.00	Capital	10,000.00
301.40	Distribution - Larry	
302.00	Redemption of Stock	-57,440.00
	Subtotal	-47,440.00
311.00	Prev Yrs Retained Earnings	-184,883.61
312.00	Current Yrs Profit(Loss)	159,817.36
	Subtotal	-26,066.26

v9.0 (BrooksScarpa) - Page 1

Balance Sheet (Cash Basis)	As of December 31, 2011	November 27, 2012 - 6:38 PM
		Balance
Net Worth		
Total Net Worth		-72,606.25
Total Liabilities and Net Worth		105,263.99

Attachment #4

Salary Schedule for Officers, Owners, and Directors of Firm		
Last Name	First Name	Annual Salary
Scarpa	Larry	\$ 118,000.00
Brooks	Angie	\$ 104,000.00

Note: without pay reduction

SECID CERTIFICATION
2012 DEC - 5 P 3: 29

Attachment #1

Payroll Input Worksheet

CUR-WORK		Telephone: (800)523-9190		Fax : (800)894-2112		Specialist: ALICIA										
Client #	COMPANY NAME	Div #	DIVISION NAME	DEPT #	DEPARTMENT NAME	PERIOD BEGIN	PERIOD END	CHECK DATE	PAGE NO							
19-7741	BROOKS SCARPA ARCHITECTS, INC.					2/28/2013	3/14/2013	3/15/2013	1							
Emp. No.	Phone Dept/Sec.No.	EMPLOYEE NAME	STATUS	RATE	TEMPORARY OVERRIDE			SALARY \$	VACATION	SICK	PTO	HOLIDAY	BONUS	OTHERS	EARNINGS AMOUNT	DEDUCTION AMOUNT
13	1	BROOKS, ANGELA Semi: nth ***-**-8870 FIT: M 01 SIT: M 01	S					4333.33								
62	1	HUCKLAND, MARK A Semi: nth ***-**-1731 S 02 SIT: S 02	S					3750.00								
50	1	HODGDON, EMILY E Semi: nth ***-**-1227 FIT: M 01 SIT: M 01	S					2100.00								
9	1	LUK, CHING Semi: nth ***-**-8038 FIT: S 02 SIT: S 02	S					2833.33								
6	1	SCARPA, LAWRENCE Semi: nth ***-**-1920 FIT: S 00 SIT: S 00	S					2720.83								
NEXT EMP. #		69	EARNINGS CODES		EMPLOYEE DEDUCTION CODES											
# OF CHECKS		5	01 REGULAR	11 OVERTIME RT 1	14 RETROS	1 ADVANCE	2 LOAN REPAYMENT	102 125 MEDICAL								
			19 D D	24 NET ADJUSTMEN	SV SEVERANCE \$	160 PRE-TAX OTHER DEDU	9501 401-K	9521 401-K AMOUNT-CU								
			XR Conv. Reg Sal													
MANUAL TOTALS								15737.49								

Attachment # 6

[Home](#) | [Online Services](#) | [License Detail](#) | [Personnel List](#)

Contractor's License Detail (Personnel List)

Contractor License # 761655
Contractor Name DECO - PAVE INC

Click on the person's name to see a more detailed page of information on that person

Personnel Currently Associated with License

Name [FERRY RIZAL SOENDJOJO](#)
 Title RMO / CEO / PRES
 Association Date 07/08/2014
 Classification A

Name [DAVID JOHN NOONE](#)
 Title OFFICER
 Association Date 10/08/2008
 Classification A

Personnel No Longer Associated with License

Name [LESLIE ANTHONY WILLIAMS](#)
 Title RMO
 Association Date 04/15/1999
 Disassociation Date 10/08/2008
 Classification A

Name [WILLIAM JAMES MILLAR](#)
 Title RMO / CEO / PRES
 Association Date 04/15/1999
 Disassociation Date 07/10/2008
 Classification A
 Additional [There are additional classifications that can be viewed by selecting this link.](#)
 Classification

1/10/2017

Attachment #7

FERRY SOENDJOJO
5114 Sereno Drive
Temple City, CA 91780
(626) 384-1550 (mobile)
Email: ferry@decopavecorp.com

EDUCATION

Master Of Business Administration, May 1985
UNIVERSITY OF SOUTHERN CALIFORNIA, Los Angeles, California

Bachelor of Science, Civil Engineering, December 1982
UNIVERSITY OF CALIFORNIA IRVINE, Irvine, California

DEED CERTIFICATION
2018 JUN 24 P 3:37

EXPERIENCE

June 2014 to present	<u>Deco Pave Inc.</u> Irwindale, CA 91706
President	Responsible for day to day operation of the company especially in the accounting, administration, personnel and financial area. Manage bond and insurance coverage for the company, contract administration, Accounts Payable, Accounts Receivable, Payroll, Job Costing and Sales Tax Administration.
June 1996 to present	<u>Western Paving Contractors Inc.</u> Irwindale, CA 91706
Controller	Responsible for company accounting, personnel and financial function, Supervise Accounts Payable, Accounts Receivable, Payroll and Job Costing. Manage bond and insurance coverage for company and construction job site. Work with Safety Director overseeing workers compensation. Responsible as 401(k) Plan Administrator. Responsible for preparation of quarterly financial statements, bonding reports and Union, OCIP, GL, WC and other Audits. Work with IT consultant managing company computer network environment.
January 1993 to April 1996	<u>The Environmental Group</u> Los Angeles, CA 90040
Controller	Responsible for company accounting, personnel and financial function. Supervise Accounts Payable, Accounts Receivable, Payroll, Sales Commission and Job Costing. Manage bond and insurance coverage for company and construction job site. Work with Director of Health & Safety overseeing workers compensation. Responsible as 401(k) Plan Administrator. Working as a liaison to corporate office. Responsible for preparation of monthly financial statements, projections, budgets and year end audit. Responsible for computer network environment.
December 1989 to December 1992	<u>Unitek Structural Services, Inc.</u> Los Angeles, CA 90021
Controller	Responsible for company accounting, personnel and financial function, supervise construction budgets and loan draws for project under construction.

Attachment #8

[Home](#) » [DBE Companies and Decisions](#)

Civil Rights DBE Admin Lookup

Y B I Management Services Decertification 12/17/2018

[node:field-ucp-state:administrative_area]

UCP State: CA
Decision Type: Decertification
Decision Rendered By: LA Metro
UCP Decision Number: CUCP
Decision Date: Mon, 12/17/2018
Reason for Decision: Other
Other Reason for Decision: Not a Economically Advantaged Individual
Decision Appealed: Yes
Post date: 02/27/2020

Before adding a new UCP Decision, verify that the company is not currently listed in the database.
Search for the company below before adding your decision.

[Add Decision for Y B I Management Services](#)

[Review DBE Companies and Decisions](#)

Attachment #9

CALIFORNIA UNIFIED CERTIFICATION PROGRAM (CUCP)



<i>Operational Procedure</i>	Number: CUCP-001(B)
	Effective Date: 02/12/2020
	Supersedes: N/A

Title	B2GNow Online Application Processing Module
Purpose	The purpose of the review is to establish CUCP guidelines and create uniformity in file content utilizing the B2GNow online modules in order to ensure that all Certification files are maintained in a uniform fashion that is easily accessible to all, with all the required documentation for each firm applying for DBE/ACDBE certification and to ensure that CUCP certifying agencies are adhering to the requirements.
Description	<p>Below are the requirements for a complete online Certification File:</p> <ul style="list-style-type: none"> • New Applications <p style="margin-left: 20px;">New Applications will consist of the following:</p> <ul style="list-style-type: none"> ○ Section 1: Certification Information <ul style="list-style-type: none"> ▪ General Information ▪ Basic Contact Information ▪ Prior/Other Certifications and Applications ○ Section 2: General Information <ul style="list-style-type: none"> ▪ Business Profile ▪ Relationships and Dealings with Other Businesses ○ Section 3: Majority Owner Information ○ Section 4: Control <ul style="list-style-type: none"> ▪ Officers & Board of Directors ▪ Management Personnel ▪ Inventory ▪ Financial Information ▪ Licenses & Contracts ○ Document List <p>5 Year Reviews and Annual Affidavit Applications will consist of the following:</p>

- o Section 1: General Information
- o Section 2: Ownership and Control Information
- o Section 3: DBE Business Financial Information
- o Document List

The content of Document Lists for each application will vary depending on the business nature and structure.

Mandatory Documents may include:

- Affidavits
- Personal Net Worth Statements
- Federal and Personal Tax Returns
- Stock Certificates/Stock Transfer Ledger
- Statement of Domestic Stock
- Meeting Minutes
- Bylaws
- Articles of Incorporation
- Resumes
- Bank Information (Bank Letters)
- Ethnicity/ Citizenship (Birth Certificates and Passports)

Required Documents (depending on structure or if applicable)

- Business and Professional licenses, license renewal forms, and permits
- Contract/Invoices or PO's
- Fictitious Business Name Statement
- Income/ Balance Sheets
- Salaries and W2 Forms
- Shareholder Agreement(s)
- Documented proof of contributions used to acquire ownership for each owner
- Schedule of salaries (or other remuneration) paid to all officers, managers, owners, and/or directors of the firm
- Insurance agreements for each truck owned or operated by your firm
- Personal federal tax returns for the past 3 years, if applicable, for other disadvantaged owners of the firm
- Proof of warehouse/storage facility ownership or lease arrangements
- Statement of Qualification, if incorporated outside the State of California
- Title(s), registration certificate(s), and U.S. DOT numbers for each truck owned or operated by your firm
- DBE/ACDBE and SBA 8(a), SDB, MBE/WBE certifications, denials, and/or decertifications. Include any U.S. DOT appeal decisions on these actions.

Operational Procedure
CUCP-001(B)
Page 3

- Descriptions of all real estate owned/leased by your firm and documented proof of ownership/signed leases
- Documented proof of any transfers of assets to/from your firm, and/or to/from any of its owners over the past two years
- List of all employees, job titles, and dates of employment
- List of equipment and/or vehicles owned and leased
- Signed loan and security agreements, and bonding forms
- SUPPLIERS - List of distribution equipment owned and/or leased
- SUPPLIERS - List of product lines carried
- Trust agreements held by any owner claiming disadvantaged status
- Third party agreements such as rentals, lease agreements and professional services agreements.
- Additional supporting documents not listed above

Each application submitted will be under the Certifications Tab and have documentation submitted with that application under the Application Docs Tab

- **Files, Communications, and App Q&A Tab**

Consist of the Following:

- Correspondence including all letters, communications, copies of emails, and any other form of communication between the certifying agency and the firm

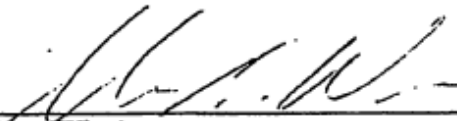
- **Site Visits Tab**

Consists of the following:

- Onsite Visit Questionnaire/Photos

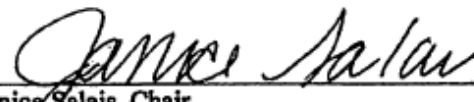
Operational Procedure
CUCP-001(B)
Page 4

Impact	By establishing a uniform file structure, all CUCP agencies will adhere to the same file format and thus files would be verified to contain all the same information in the same format for audit.
---------------	--



Maceo Wiggins
CUCP Oversight Chair

Date: 2/22/2020



Janice Salais, Chair
Executive Committee
California Unified Certification Program

Date: 2/27/2020

Attachment #10

December 30, 2018

To Whom It May Concern
Los Angeles County Metropolitan Transportation Authority
Certification Unit
Diversity & Economic Opportunity Department



3929 W. 139th Street Hawthorne, CA 90250

Re: Metro DBE/SBE Annual Affidavit Metro File #6143

To Whom It May Concern,

This letter is to inform you that Angela Brooks no longer meets the 1.3 million-dollar threshold for 'DBE' status, but would like to continue with SBE status under Metro. Please see attached her Personal Net Worth statement, 2018 tax returns and current relevant licenses. Brooks + Scarpa Architects, Inc. is a woman-owned firm.

Sincerely,

Angie Brooks, FAIA, Principal
Brooks + Scarpa Architects, Inc.

Attached:

12/30/2018 Personal Net Worth Statement

- Most recent U.S. income tax return including all schedules for your business and all affiliates (signed)
- Most recent U.S. individual income tax return (Form 1040) with all schedules (signed) - for all owners and/or partners whose ownership is relied upon for DBE certification
- Current relevant licenses

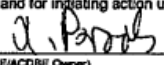
ASSETS		LIABILITIES	
(Omit Cents)		(Omit Cents)	
Cash and Cash Equivalents	\$ 199,190	Loan on Life Insurance (Complete Section 5)	\$ 00
Retirement Accounts (IRAs, 401Ks, 403Bs, Pensions, etc.) (Report full value minus tax and interest penalties that would apply if assets were distributed today) (Complete Section 3)	\$ 420,761	Mortgages on Real Estate Excluding Primary Residence Debt (Complete Section 4)	\$ -25,000
Brokerage, Investment Accounts	\$ 224,393	Notes, Obligations on Personal Property (Complete Section 6)	\$ -33,000
Assets Held in Trust	\$ 600,000	Notes & Accounts Payable to Banks and Others (Complete Section 2)	\$ -358,761
Loans to Shareholders & Other Receivables (Complete section 6)	\$ 00	Other Liabilities (Complete Section 8)	\$ 00
Real Estate Excluding Primary Residence (Complete Section 4)	\$ 45,352	Unpaid Taxes (Complete Section 9)	\$ 00
Life Insurance (Cash Surrender Value Only) (Complete Section 5)	\$ 137,823		
Other Personal Property and Assets (Complete Section 6)	\$ 193,400		
Business Interests Other Than the Applicant Firm (Complete Section 7)	\$ 00		
Total Assets	\$ 1,820,919	Total Liabilities	\$ -416,761
		NET WORTH	\$1,404,158

Section 2. Notes Payable to Banks and Others					
Name of Noteholder(s)	Original Balance	Current Balance	Payment Amount	Frequency (monthly, etc.)	How Secured or Endorsed Type of Collateral
American Express	00	-2000	-2000	monthly	do not carry a balance
First Citizen's Bank (Bal: \$514,326/2)	578,000	-257,163	-3750	monthly	3029 139th Street, Hawthorne property
Centlar (Bal: \$99,598)	112,200	-99,598	-196	monthly	1016 Mississippi Ave property (per Sect 9)
TOTAL		-358,761			

Section 3. Brokerage and custodial accounts, stocks, bonds, retirement accounts. (Full Value) (Use attachments if necessary).				
Name of Security / Brokerage Account / Retirement Account	Cost	Market Value Quotation/Exchange	Date of Quotation/Exchange	Total Value
Equity Services Brokerage Account (Brooks various)	70000		12/30/2018	70000
General Electric Stocks (Brooks)	5300		12/30/2018	5300
American Funds, IRA Retirement (Brooks)	15000		12/30/2018	15000
Principal 401k Retirement (Brooks)	330461		12/30/2018	330461
TOTAL	420,761			420,761

Section 4. Real Estate Owned (Including Primary Residence, Investment Properties, Personal Property Leased or Rented for Business Purposes, Farm Properties, or any Other Income Producing property). (List each parcel separately. Add additional sheets if necessary).			
	Primary Residence	Property B	Property C
Type of Property	Primary Residence (50% Owner)	Rental Property (25% Owner)	Rental Property (25% Owner)
Address	616 Boccaccio Ave, Venice, CA 90291	1016 Mississippi Ave, Lakeland, FL 33803	1017 Mannigan Ave, Lakeland, FL
Date Acquired and Method of Acquisition (purchase, inherit, divorce, gift, etc.)	1997 (original) 2011 (refinance) 09/25/2018 (entire payoff)	+/-1990 (orig) 2012 (reli)	2015 (original)
Names on Deed	Angela Brooks/Lawrence Scarpa	Angela Brooks/Lawrence Scarpa Glenn Scarpa, Ashley Scarpa	Angela Brooks/Lawrence Scarpa Ronald Scarpa, Elisa Scarpa
Purchase Price	\$452,000	\$112,000	\$80,000
Present Market Value	\$2,000,000	\$200,000	\$190,000
Source of Market Valuation	past appraisal	Zillow	zillow
Name of all Mortgage Holders	Angela Brooks/Lawrence Scarpa	Angela Brooks	No mortgage, cash payment by Brooks and Scarpa is being paid back monthly with current note due of \$109,000. See Section 6.
Mortgage Acc. # and balance (as of date of form)	N/A	8197352 -\$99,598	NONE
Equity line of credit balance	NONE	NONE	NONE
Amount of Payment Per Month/Year (Specify)	\$0	\$798 mnthly	NONE

Section 5. Life Insurance Held (Give face amount and cash surrender value of policies, name of insurance company and beneficiaries).				
Insurance Company	Face Value	Cash Surrender Amount	Beneficiaries	Loan on Policy Information
Pacific Life Insurance/Angela	\$500,000	\$42,236	Lawrence Scarpa	NONE
Pacific Life Insurance/Calder	\$500,000	\$24,939	Angela Brooks/Lawrence Scarpa	NONE
Pacific Life Insurance/Larry	\$1,000,000	\$208,471	Angela Brooks	NONE

Section 6. Other Personal Property and Assets (Use attachments as necessary)				
Type of Property or Asset	Total Present Value	Amount of Liability (Balance)	Is this asset insured?	Lien or Note amount and Terms of Payment
Automobiles and Vehicles (including recreation vehicles, motorcycles, boats, etc.) Include personally owned vehicles that are leased or rented to businesses or other individuals.				
2018 Tesla Model 3 vehicle (owners Angela Brooks/Lawrence Scarpa)	\$58,000	-\$42,000	yes	\$785.84/mnth
2001 Ford Truck (owners Angela Brooks/Lawrence Scarpa)	\$800	00	yes	NONE
2015 Tesla Model S vehicle (owners Angela Brooks/Lawrence Scarpa)	60,000	-\$24,000	yes	\$731.50/mnth
(owners Angela Brooks/Lawrence Scarpa)				
Household Goods / Jewelry	\$60,000	00	yes	NONE
Other (List)				
Note receivable: Joni Scarpa/mortgage on 109 E Patterson property	\$165,000	00	yes	\$1,398.88 monthly
Note receivable: for Property C	\$109,000			
TOTAL (for Angela Brooks and Lawrence Scarpa spouse)	\$452,800	-\$66,000		
Accounts and Notes Receivables				
Section 7. Value of Other Business Investments, Other Businesses Owned (excluding applicant firm) Sole Proprietorships, General Partners, Joint Ventures, Limited Liability Companies, Closely-held and Public Traded Corporations				
NONE				
Section 8. Other Liabilities and Unpaid Taxes (Describe)				
NONE				
Section 9. Transfer of Assets: Have you within 2 years of this personal net worth statement, transferred assets to a spouse, domestic partner, relative, or entity in which you have an ownership or beneficial interest including a trust? Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> If yes, describe.				
Yes, asset of Hawthorne South LLC property at address 3929 139th Street, Hawthorne, Ca was transferred to the Family Trust. Family Trust trustees are Angela Brooks and Lawrence Scarpa, beneficiary is Calder Scarpa. Primary residence was also placed in Trust in the year 2016				
I declare under penalty of perjury that the information provided in this personal net worth statement and supporting documents is complete, true and correct. I certify that no assets have been transferred to any beneficiary for less than fair market value in the last two years. 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 this personal net worth statement, and I authorize such agency to contact any entity named in the application or this personal financial statement, including the names 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 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.				
 Signature (DBE/ACDBE Owner)		12/31/2018 Date		NOTARY CERTIFICATE: (insert applicable state acknowledgment, affirmation, or oath)
In collecting the information requested by this form, the Department of Transportation complies with Federal Freedom of Information and Privacy Act (5 U.S.C. 552 and 552a) provisions. The Privacy Act provides comprehensive protections for your personal information. This includes how information is collected, used, disclosed, stored, and discarded. Your information will not be disclosed to third parties without your consent. The information collected will be used solely to determine your firm's eligibility to participate in the Disadvantaged Business Enterprise (DBE) Program or Airport Concessionaire DBE Programs as defined in 49 C.F.R. Parts 23 and 26. You may review DOT's complete Privacy Act Statement in the Federal Register published on April 11, 2000 (65 FR 19477).				

ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California
County of LOS ANGELES

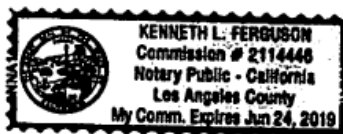
On Dec 31, 2018 before me, KENNETH L. FERGUSON A NOTARY PUBLIC
(insert name and title of the officer)

personally appeared ANGELA BROOKS
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

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

WITNESS my hand and official seal.

Signature Kenneth Ferguson (Seal)





Metro

Los Angeles County
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

310-922-6000
metro.net

December 6, 2019

Metro File #6143

Angela Brooks
Brooks + Scarpa Architects, Inc.
3929 W 139th Street
Hawthorne, CA 90250

7319-0756-0002-3425-7317

Subject: Removal of Small Business Enterprise Certification (Exceeds PNW – per applicant)

Dear Ms. Brooks:

This letter is to advise you that your firm is no longer eligible to participate as a Small Business Enterprise (SBE). This determination was made based on the information provided in your no change declaration application on December 4, 2019.

According to Metro's SBE program, an individual cannot exceed the personal net worth (PNW) of \$1,320,000. Since you have exceeded the PNW limit and your ownership and control are relied upon for SBE certification, your firm no longer qualifies as an SBE. For this reason, we have removed Brooks + Scarpa Architects, Inc.'s SBE certification and deleted your firm from LA Metro's database of SBE certified firms.

You may reapply for SBE certification twelve months from the date of this letter should the qualifying owner(s)'s Personal Net Worth fall within the limits.

Thank you for your past participation in the SBE Program.

Sincerely,


Shirley Wong
Principal Certification Officer
Diversity & Economic Opportunity Department

C:\Users\Baker\Documents\DOE SBE App\1st Letter\1211 - SBE CLOS\RE Letter PNW no approval - NACity.doc

Small Business Certification Unit
One Gateway Plaza, Mail Stop 99-8-4, Los Angeles, CA 90012-2952
Ph: 213-922-2600 Option 2

12/11



Los Angeles County
Metropolitan Transportation Authority

One Gateway Plaza
Los Angeles, CA 90012-2952

410-942-2000 TDD
metro.net

Metro CALIFORNIA UNIFIED CERTIFICATION PROGRAM



December 6, 2019

CUCP #40976
Metro File #6143

7019-0700-0002-3425-7317

Angela Brooks
Brooks + Scarpa Architects, Inc.
3929 W 139th Street
Hawthorne, CA 90250

Subject: Removal of Disadvantaged Business Enterprise Certification (Exceeds PNW – per applicant)

Dear Ms. Brooks:

This letter is to advise you that your firm is no longer eligible to participate as a Disadvantaged Business Enterprise (DBE). This determination was made based on the information provided on the personal net worth statement dated December 4, 2019.

According to the U.S. Department of Transportation, 49 Code of Federal Regulations, Part 26, an individual is no longer deemed economically disadvantaged if his or her personal net worth (PNW) exceeds \$1,320,000. Since you have exceeded the PNW limit and your ownership and control are relied upon for DBE certification, your firm no longer qualifies as a DBE. For this reason, we have removed Brooks + Scarpa Architects, Inc.'s DBE certification and deleted your firm from the California Unified Certification Program Database of certified DBE firms.

You may reapply for DBE certification twelve months from the date of this letter should the qualifying owner(s)'s Personal Net Worth fall within the limits.

Thank you for your past participation in the DBE Program.

Sincerely,

Shirley Wong
Principal Certification Officer
Diversity & Economic Opportunity Department

C:\Users\Baker\Documents\6143 - DBE Closure Letter (PNW per applicant) Shirley.doc

Small Business Certification Unit
One Gateway Plaza, Mail Stop 99-8-4, Los Angeles, CA 90012-2952
Ph: 213-922-2600 Option 2

1/4/21

Generated by Megan Hinojosa, Los Angeles County Metropolitan Transportation Authority on 12/5/2019

Certification Application: View DBE/SBE Annual Update Affidavit



Main Documents Signature Submit Q & A Utilities Cert List

Brooks + Scarpa Architects, Inc.
Type: DBE/SBE Annual Update Affidavit
App #: 6178764

Status: Submitted, Pending Receipt
Started: 12/4/2019
Submitted: 12/4/2019

Print to Printer

Print to PDF File

*D/S #40976
6143
12/5/19 ACTION
CL*

DBE/SBE Annual Update Affidavit Information

Type	DBE/SBE Annual Update Affidavit
Certifying Agency	Los Angeles County Metropolitan Transportation Authority
Business Name	Brooks + Scarpa Architects, Inc. DBA Brooks + Scarpa Architects, Inc.
Current Status	Submitted, Pending Receipt
Application Number	6178764
Contact Person	ANGELA BROOKS

*PNW over
per Megan*

Section 1: General Information

1.A. Legal Name of Firm
Brooks + Scarpa Architects, Inc.

1.B. DBA Name
Brooks + Scarpa Architects, Inc.

1.C. Name & Title of Person in the Highest Position in Company
ANGELA BROOKS, Principal

1.D. Street/Physical Address of Firm
3929 W 139th Street
Hawthorne, CA 90250

1.E. Mailing Address of Firm
3929 W 139th Street
Hawthorne, CA 90250

1.F. Company Phone Number
323-596-4702

1.G. Company Fax Number

1.H. Company Email
brooks@brooksscarpa.com

*CL - D/S
PNW over*

Section 2: Ownership and Control Information

2.A. Have there been any changes in the ownership of the company in the last 12 months?
No

2.B. Have there been any changes in the Board of Directors in the last 12 months?
No

2.C. Have there been any changes in the Officers in the last 12 months?
No

Generated by Megan Hinojosa, Los Angeles County Metropolitan Transportation Authority on 12/5/2019

2.D. Have there been any changes in the management of the company in the last 12 months?
No

2.E. Have there been any changes in the control of the company in the last 12 months?
No

2.F. Have there been any changes in the disadvantaged status of the firm in the last 12 months?
Yes - This month per Angela Brooks' Personal Net Worth statement dated 12/30/2018, Angela Brooks did not meet the financial threshold for program eligibility. See attached Personal Net Worth Statement and letter to Metro on company letterhead. Angela would like to maintain SBE status and women-owned status.

2.G. Have there been any changes in the legal structure of the firm in the last 12 months?
No

2.H. Have there been any changes in the work areas of the firm in the last 12 months?
Yes - Our firm office in Fort Lauderdale, Florida relocated to:
address: 808 E. Las Olas Blvd, Fort Lauderdale FL, 33301

2.I. List name on license include individual(s) or business.
Not applicable or no licenses/permits held

Section 3: DBE Business Financial Information	
3.A. Number of Employees	
Full-time	10
Part-time	3
Contract Personnel	2
3.B. Specify the gross receipts of the firm for the last 3 years	
Year Ending	Total Receipts
2017	\$1,918,026
2016	\$1,847,479
2015	\$1,409,949

Mandatory Documents	
Document	Status
DBE/SBE Annual No Change Affidavit Metro Annual Update Declaration (PDF, 47.87 KB)	Attached by ANGELA BROOKS on 12/4/2019
Your firm's federal tax returns (gross receipts) and all related schedules for the last year Brooks Scarpa 2018 Corporate Tax Return (PDF, 3.81 MB)	Attached by ANGELA BROOKS on 12/4/2019
Your personal federal tax return and all related schedules from the last year Brooks Scarpa 2018 Personal Tax Return (PDF, 4.63 MB)	Attached by ANGELA BROOKS on 12/4/2019

Required Documents	
Document	Status
Updated professional and/or business license(s) Architecture License (PDF, 42.84 KB)	Attached by ANGELA BROOKS on 12/4/2019
Additional supporting documents not listed above	Not Applicable, noted by ANGELA BROOKS on 12/4/2019

Electronic Signature	
Signature	Angela Brooks
Title	Principal
Organization	Brooks + Scarpa Architects, Inc.
Date	12/4/2019



U.S. Department
of Transportation
**Federal Transit
Administration**

Headquarters

5th Floor – East Bldg., TCR
1200 New Jersey Avenue, SE
Washington, DC 20590

March 10, 2021

Phillip A. Washington
Chief Executive Officer
Los Angeles County Metropolitan Transportation Authority
One Gateway Plaza
Los Angeles, CA 90012

RE: Unified Certification Program (UCP) Compliance Review Final Report

Dear Mr. Washington:

This letter concerns the Federal Transit Administration's (FTA) Disadvantaged Business Enterprise (DBE) Review of the Los Angeles County Metropolitan Transportation Authority's (LACMTA) Unified Certification Program (UCP) conducted February 25–27, 2020. Enclosed is a copy of the Final Report, which will be posted on FTA's website on our DBE page.

The FTA Office of Civil Rights is responsible for ensuring compliance with 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Programs" by its grant recipients and subrecipients. As part of our ongoing oversight efforts, FTA conducts a number of onsite reviews to ensure compliance with the applicable provisions of 49 CFR Part 26. FTA uses the findings from these reviews to provide direction and technical assistance to transit agencies in order to achieve compliance with 49 CFR Part 26.

Unless otherwise noted, all corrective actions identified in the Final Report must be undertaken within 60 days of the date of this letter. Once we have reviewed your submissions, we will request either clarification or additional corrective action, or will close out the finding if your response sufficiently addresses the DBE requirements. Please submit your responses to me at john.day@dot.gov.

We appreciate the cooperation and assistance that you and your staff have provided us during this review, and we are confident LACMTA will take steps to correct the deficiencies. If you have any questions about this matter, please contact Ed Birce at 202-366-1943 or via email at guljed.birce@dot.gov.

Sincerely,

John R. Day
Program Manager
FTA Office of Civil Rights

Enclosure

cc: Ray Tellis, Regional Administrator, FTA Region 9
Selene Faer Dalton-Kumins, Associate Administrator, FTA Office of Civil Rights