



F E D E R A L T R A N S I T A D M I N I S T R A T I O N

New York State Unified Certification Program Final Report

April 2013

PREPARED BY
Milligan & Company



U.S. Department of Transportation
Federal Transit Administration

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SECTION 1 - GENERAL INFORMATION

Hosting Grant Recipient: New York State Department of Transportation
50 Wolff Road

City/State: Albany, NY

Executive Official: Joan McDonald
Commissioner

On Site Liaison: Jacqueline Jones
DBE Certification Supervisor
518-457-9679

Report Prepared by: MILLIGAN AND CO., LLC
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Philadelphia, PA 19103
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Site visit Dates: May 21 – 24, 2012

Compliance Review Team
Members: Benjamin Sumpter, Lead Reviewer
Habibatu Atta
Kristin Szwajkowski

SECTION 2 - JURISDICTION AND AUTHORITIES

The Federal Transit Administration (FTA) Office of Civil Rights is authorized by the Secretary of Transportation to conduct civil rights compliance reviews. The reviews are undertaken to ensure compliance of applicants, recipients, and subrecipients with Section 12 of the Master Agreement, Federal Transit Administration M.A., (18), October 1, 2011 and 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Programs."

The Federal Transit Administration (FTA) of the U.S. Department of Transportation (DOT) provides financial assistance to transit agencies, Metropolitan Planning Organizations (MPOs) and State Departments of Transportation (State DOTs). These recipients are required to comply with Federal civil rights provisions. The FTA Office of Civil Rights (TCR) oversees grantee compliance with these provisions through compliance reviews, which are conducted at TCR's discretion.

The New York State Unified Certification Program (NYSUCP) members, which are direct or indirect recipients of FTA funding assistance, are subject to the Disadvantaged Business Enterprise (DBE) compliance conditions associated with the use of these funds pursuant to 49 CFR Part 26. These regulations define the components that must be addressed and incorporated in NYSUCP's agreement and were the basis for the selection of compliance elements that were reviewed.

SECTION 3 – PURPOSE AND OBJECTIVES

PURPOSE

The FTA Office of Civil Rights periodically conducts discretionary reviews of grant recipients and subrecipients to determine whether they are honoring their commitment, as represented by certification to FTA, to comply with their responsibilities under 49 CFR Part 26. In keeping with its regulations and guidelines, FTA has determined that a compliance review of the New York State Unified Certification Program (NYSUCP) is necessary.

The primary purpose of the compliance review is to determine the extent to which the New York State Unified Certification Program (NYSUCP) has met its DBE certification program goals and objectives, as represented to DOT in its Unified Certification Program agreement. This compliance review is intended to be a fact-finding process to: (1) examine the New York State Unified Certification Program and its implementation, (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 in behalf of any party.

OBJECTIVES

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

- follow the certification procedures and standards and the non-discrimination requirements of 49 CFR Parts 26 and 23;
- cooperate fully with all oversight, review and monitoring activities of the United States Department of Transportation (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 shall be binding on all UCP members. Certification decisions must be made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE;
- provide a single DBE certification that will be honored by all UCP members;
- maintain a unified 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. The UCP shall make the directory available to the public electronically, on the internet, as well as in print. The UCP shall update the electronic version of the directory by including additions, deletions, and other changes as soon as they are made; and
- ensure the UCP agreement shall commit recipients to ensuring 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 the NYSUCP is honoring the Unified Certification Program agreement submitted to the Secretary of Transportation;
- examine the required certification procedures and standards of the NYSUCP against the Disadvantaged Business Enterprise program compliance standards set forth in the regulations and to document the compliance status of each component; and
- gather information and data regarding the operation of the NYSUCP from certifying members through interviews and certification file review.

SECTION 4 – BACKGROUND INFORMATION

Prior to the 1999 DBE Final Rule 49 CFR Part 26, applicants seeking participation on DOT assisted projects as a Disadvantaged Business Enterprise (DBE) could be required to be certified by multiple DOT recipients in a state. Subpart E, of 49 CFR Part 26.81 requires DOT recipients to participate in a Unified Certification Program (UCP) that shall provide one-stop shopping to applicants for DBE certification. An applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state.

An agreement establishing the UCP for the state was to be submitted to the Secretary of Transportation within three years of March 4, 1999. The agreement was to provide for the establishment of a UCP meeting all the requirements of this section. The agreement must specify the UCP will follow all certification procedures and standards of Part 26, on the same basis as recipients. The UCP is also required to cooperate fully with oversight, review, and monitoring activities of DOT and its operating administration.

Establishment of New York State Unified Certification (NYSUCP) Program

Formed in 2005, the NYSUCP program, confirmed that reciprocity concerning certification decisions among the certifying partners would achieve the goal of the UCP in New York State. They also agreed to commit sufficient resources and expertise to carry out the requirements of the regulation.

The UCP primary responsibilities include:

- following the certification procedures and standards and the nondiscrimination requirements set forth in 49 CFR Part 26;
- cooperating fully with all oversight, review, and monitoring activities of the USDOT and its operating administrations;
- implementing USDOT directives and guidance as related to DBE certification;
- ensuring that all certification and decertification decisions rendered by the certifying agencies are done so on behalf of all NYSUCP partners and that all decisions shall be binding on all NYSUCP partners; and
- maintaining a unified DBE directory which contains all of the information required by the regulation and is made available to the public electronically, on the internet, and in print.

Unified Certification Program Participants

The NYSUCP certifying partners are: the New York State Department of Transportation (NYSDOT), the Niagara Frontier Transportation Authority (NFTA), the Port Authority of New York & New Jersey (PANYNJ), and the Metropolitan Transportation Authority (MTA). Interagency agreements were garnered to support the UCP from non-certifying agencies and subrecipients including metropolitan planning organizations, FTA grantees, and FAA funded airports.

The UCP participants are listed below. The asterisk (*) denotes the grantee signed the MOU:

Metropolitan Planning Organizations

Adirondack Glens Falls Transportation Council
Binghamton Metropolitan Transportation Study
Capital District Transportation Committee*
Elmira Chemung Transportation Council
Genesee Transportation Council
Greater Buffalo Niagara Regional Transportation Council
Herkimer Oneida County Transportation Study
Ithaca Tompkins County Transportation Council
New York City Department of Design and Construction
New York City Department of Transportation*
New York Metropolitan Transportation Council
New York State Thruway Authority
Newburgh Orange County Transportation Council
Poughkeepsie Dutchess County Transportation Council
Syracuse Metropolitan Transportation Council

FTA Grantees

Capital District Transportation Authority
Central New York Regional Transportation*
Chemung County Transit System*
City of Long Beach
City of Poughkeepsie*
County of Broome
County of Dutchess
County of Nassau
County of Oneida
County of Putnam*
County of Rockland*
County of Suffolk*
County of Ulster*
Greater Glens Falls Transit System
New York State Energy Research and Development Authority
Rochester-Genesee Regional Transportation Authority*
Tompkins Consolidated Area Transit*
Westchester County Department of Transportation*

Federal Aviation Administration (FAA) Funded Airports

Adirondack Regional Airport (Town of Harrietstown)*
Akron Airport (Christian Airmen, Inc.)*
Albany County Airport (Albany County Airport Authority)*
Binghamton Regional Airport / Edward A. Link Field (County of Broome)
Brick Yard Road Airport (Ontario County Industrial Development Agency)*
Brookhaven Airport (Town of Brookhaven)
Buffalo Niagara International Airport (Niagara Frontier Transportation Authority)
Chautauqua County - Jamestown Airport (County of Chautauqua)*
Clinton County Airport (County of Clinton)*
Columbia County Airport (County of Columbia)*
Cortland County Airport / Chase Field (County of Cortland)*

Dansville Municipal Airport (Town of North Dansville)*
 Dutchess County Airport (Dutchess County)
 East 34" Street Heliport (City of New York, Dept. of Business Services)
 East Hampton Airport (Town of East Hampton)
 Elizabeth Field (Town of Southhold)
 Elmira / Corning Regional Airport (County of Chemung)
 Finger Lakes Regional Airport (County of Seneca)
 Floyd D. Bennett Airport (County of Warren)
 Francis Grabeski Airport (County of Suffolk)
 Fulton County Airport (County of Fulton)
 Genesee County Airport (County of Genesee)*
 Greater Rochester International Airport (County of Monroe)
 Hamilton Municipal Airport (Village of Hamilton)*
 Hornell Municipal Airport (City of Hornell)*
 JFK International Airport (Port Authority of New York & New Jersey)
 Joseph Y. Resnick Airport (Town of Wawarsing)*
 Kingston Airpark (Kingston Airpark, Inc.)*
 LaGuardia Airport (Port Authority of New York & New Jersey)
 Lake Placid Airport (Town of North Elba)
 Lancaster Airport (Lancaster Airport, Inc.)*
 Ledgesdale Airport (Big Fella Enterprises, Inc.)*
 LeRoy Airport (LeRoy Aviation Services, Inc.)*
 Long Island / MacArthur Airport (Town of Islip)*
 Lt. Warren Eaton Chenango County Airport (County of Chenango)*
 Malone Airport (Town of Malone)
 Massena international Airport (Town of Massena)*
 Montauk Airport (Montauk Airport, Inc.)*
 Niagara Falls International Airport (Niagara Frontier Transportation Authority)
 Ogdensburg International Airport (Ogdensburg Bridge & Port Authority)
 Olean Municipal Airport (City of Olean)
 Oneida County Airport (County of Oneida)
 Oneonta Municipal Airport (City of Oneonta)*
 Orange County Airport (County of Orange)
 Oswego County Airport (County of Oswego)
 Perry-Warsaw Municipal Airport (Town of Perry)*
 Plattsburgh International Airport (County of Clinton)
 Potsdam Municipal Airport (Village of Potsdam)
 Randall Airport (Aerodrome Development Corp.)
 Republic Airport (New York State Department of Transportation)
 Saratoga County Airport (County of Saratoga)*
 Schenectady County Airport (County of Schenectady)*
 Sidney Municipal Airport (Village of Sidney)*
 Sky Acres Airport (Sky Acres Enterprises, Inc.)
 Stewart International Airport (National Express Corp.)*
 Sullivan County Airport (County of Sullivan)
 Syracuse-Hancock International Airport (City of Syracuse)*
 Ticonderoga Municipal Airport (Town of Ticonderoga)*
 Tompkins County Airport (County of Tompkins)*
 Tri-Cities Airport (Village of Endicott)
 Watertown International Airport (City of Watertown)
 Wellsville Municipal Airport (Town of 'Wellsville)

Westchester County Airport (County of Westchester)
Whitford Airport (LDW Properties, Inc)
Williamson-Sodus Airport (Williamson Flying Club, Inc.)*
Wurtsboro-Sullivan County Airport (Wurtsboro Flight Services, Inc)
Yates County Airport (County of Yates)*

SECTION 5 – SCOPE AND METHODOLOGY

Scope

Implementation of the following twelve required DBE UCP program components specified by the FTA are reviewed in this report.

1. You must rebuttably presume that members of the designated groups identified in 26.67 are socially and economically disadvantaged [49 CFR 26.61].
2. If you have a well founded reason to question the individual's claim of membership in that group, you must require the individual to present additional evidence that he or she is a member of the group [49 CFR 26.63].
3. You must apply 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 [49 CFR 26.65].
4. You must require applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged [49 CFR 26.67].
5. In determining whether the socially and economically disadvantaged participants in a firm own the firm, you must consider all the facts in the record, viewed as a whole [49 CFR 26.69].
6. In determining whether socially and economically disadvantaged owners control a firm, you must consider all the facts in the record, viewed as a whole [49 CFR 26.71].
7. Other rules affecting certification include not considering commercially useful function issues, evaluating the eligibility of a firm on the basis of present circumstances, and making sure only firms organized for profit may be eligible DBEs [49 CFR 26.73].
8. You and all other DOT recipients in your state must participate in a Unified Certification Program (UCP). You must maintain and make available to interested persons a directory identifying all firms eligible to participate as DBEs in your program [49 CFR 26.81 and 26.31].
9. You must ensure that only firms certified as eligible DBEs under this section participate as DBEs in your program [49 CFR 26.83].
10. When a firm currently certified in its home State ("State A") applies to another State ("State B") for DBE certification, State B may, at its discretion, accept State A's certification and certify the firm, without further procedures. In any situation in which State B chooses not to accept State A's certification of a firm, as the applicant firm you must provide the information in paragraphs (c)(1) through (4) of Part 26.85 to State B [49 CFR 26.85].

11. When you deny a request by a firm to be certified as a DBE, you must provide the firm a written explanation of the reasons for the denial [49 CFR 26.86 – 26.89].
12. If you fail to comply with any requirement of this part, you may be subject to formal enforcement action under program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or refusal to approve projects, grants or contracts until deficiencies are remedied [49 CFR 26.101 – 26.109].

Methodology

The initial step in the scope of this Compliance Review consisted of consultation with the FTA Office of Civil Rights and a review of available information from the Unified Certification Program websites and other sources. Subsequent to this review, potential dates for the site visit were coordinated.

An agenda letter was then compiled and sent to the NYSUCP by FTA's Office of Civil Rights. The agenda letter notified the NYSUCP of the planned site visit, requested preliminary documents, and informed the NYSUCP of additional documents needed and areas that would be covered during the on-site portion of the review.

The documents received prior to the on-site portion of the review were examined and an itinerary for the site visit was developed.

An entrance conference was conducted at the beginning of the Compliance Review with the NYSUCP Certifying Members and the review team. Subsequent to the entrance conference, a review was conducted of the NYSUCP agreement and other documents submitted to the review team by the NYSUCP representative. Interviews were also conducted with NYSUCP Certifying Member representatives regarding DBE program certification standards and certification procedures. A sample of certification files was then selected and reviewed for the DBE required elements.

At the end of the review, an exit conference was held with the NYSUCP Certifying Member representatives and the review team. A list of participants is included at the end of this report. At the exit conference, initial findings and corrective actions were discussed with the representatives.

Following the site visit, draft report and final reports were compiled. This final report incorporates the responses to the draft report and identifies the remaining corrective actions.

NOTE: Materials and information to address the findings and corrective actions in the report and in greater detail within the summary table in Section 7 should be sent to the attention of:

Aaron Meyers
FTA Region II Civil Rights Officer
One Bowling Green, Room 429
New York, NY 10004
212-668-2179
Aaron.Meyers@dot.gov

New York State Department of Transportation

File Type	Firm	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification <1 year	██████████ ██████████ ██████████	Y	Y	Y	N/A	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification <1 year	██████████ ██████████.	Y	Y	Y	N/A	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		N	Y	N/A	Y	Y	N/A	N/A	N/A

		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification Denial	██████████ ██████████	Y	Y	Y	N/A	Y/Y	N/A	N	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	N	N	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification Denial	██████████ ██████████	Y	Y	Y	N/A	N/Y	N/A	N	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	N	Y	N/A	N/A	N/A

		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Removal	██████████ ██████████	Y	Y	Y	N	N/N	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	N	Y	N	N	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Removal	██████████ ██████████ ██████████	Y	N	Y	N/A	N/N	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	N	N	N/A

Niagara Frontier Transportation Authority:

		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification <1 year		Y	Y	Y	N/A	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification <1 year		Y	Y	Y	N/A	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	N/A	N/A	N/A

		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Removal		Y	Y	Y	N/A	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		N/A	Y	N/A	Y	Y	Y	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Removal		Y	Y	Y	Y	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	Y	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Removal		Y	Y	Y	Y	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	N	Y	Y	N/A	N/A

Port Authority of NY / NJ:

File Type	Firm	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification <1 year	██████████ ██████	Y	Y	Y	N/A	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		N	Y	N/A	Y	Y	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification <1 year	██████████	Y	Y	Y	N/A	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	N/A	N/A	N/A

		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification Denial	██████ ██████████	Y	Y	Y	N/A	Y/Y	N/A	N	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		N	Y	N/A	N	Y	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification Denial	██████████	Y	Y	N	N/A	Y/Y	N/A	N	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	N	Y	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification Denial	██████████	Y	Y	Y	N	Y/Y	N/A	N	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		N	Y	N/A	Y	Y	N/A	N/A	N/A
						Concession Business	ACDBE Size Standards	PNW Exclus.	ACDBE Dir.
						Y	N/A	N/A	Y

		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Removal		Y	Y	N	N	No/No	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	N	N	N	N/A
						Concession Business	ACDBE Size Standards	PNW Excl.	ACDBE Dir.
						Y	N/A	N/A	Y
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Removal		Y	N	Y	N/A	No/No	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	N	N	N/A

Metropolitan Transportation Authority

File Type	Firm	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification <1 year		Y	Y	Y	N/A	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A		Y	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification <1 year		Y	Y	Y	N/A	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	N/A	N/A	N/A

		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Removal		Y	Y	Y	Y	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	Y	Y	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Removal		Y	Y	Y	N/A	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	Y	Y	N/A

		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification Denial		Y	Y	Y	N/A	Y/Y	N/A	Y	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification Denial		Y	Y	Y	N/A	Y/Y	N/A	Y	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	N/A	N/A	N/A

SECTION 6 – ISSUES AND RECOMMENDATIONS

1. **Burden of Proof**

Basic Requirement: (49 CFR Part 26.61) UCPs must rebuttably presume that members of the designated groups identified in 26.67(a) are socially and economically disadvantaged. Individuals must submit a signed, notarized statement that they are a member of one of the groups in 26.67.

Discussion: During this UCP Compliance review, **deficiencies** were found with requirements for burden of proof.

The NYSUCP DBE Standard Operating Procedures (SOP) state that NYSUCP will comply with 49 CFR Part 26, Subpart D, Section 26.61. DBE Certification Applications reviewed contained a signed, notarized statement from individuals presumed to be socially and economically disadvantaged. The DBE regulation in Part 26.61(e) states, *“You must make determinations concerning whether individuals and firms have met their burden of demonstrating group membership, ownership, control, and social and economic disadvantage (where disadvantage must be demonstrated on an individual basis) by considering all the facts in the record, viewed as a whole.”*

The NYSUCP was found to be deficient with this section based on findings in this report in Ownership, Control, and Denials, concerning the lack of consideration given to all the facts in the record.

Corrective Action and Schedule: Submit to FTA’s Office of Civil Rights, within 60 days of the issuance of the final report, revised UCP procedures to ensure that certifiers document that all information in an applicant’s record are considered in certification decisions, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.

NYSUCP Response: Three of the four certifying partners included language in their eligibility evaluation summaries that documented that their determination was based upon a cumulative review. A similar requirement was included in the existing SOP. The NYSUCP will ensure that the updated SOP requires that all certifying partners include language in its eligibility evaluations that specifically states that its determination is “based on all the facts in the record”. Each certifying member will document their concurrence with the updated SOP via email. Their concurrence will include language stating that they agree to uphold the procedures contained therein.

FTA Response: FTA agrees with NYSUCP’s response to the noted deficiency. To close this deficiency, submit to FTA within 60 days from issuance of this final report the finalized Standard Operating Procedures of the NYSUCP and the noted acknowledgements from each certifying member.

2. Group Membership

Basic Requirement: (49 CFR Part 26.63) If a UCP has a well-founded reason to question the individual's claim of membership in that group, you must require the individual to present additional evidence that he or she is a member of the group. You must provide the individual a written explanation of your reasons for questioning his or her group membership. You must take special care to ensure that you do not impose a disproportionate burden on members of any particular designated group.

Discussion: During this UCP Compliance Review, **no deficiencies** were found with the requirement for Group Membership. However, an advisory comment was made regarding group membership.

The preamble in the 2003 DBE Federal Register states, *"The Department does not object to recipients' requirements that applicants document group membership. If a recipient chooses to require proof then it should do so uniformly, by requiring at least one piece of evidence from each applicant."*

Several members in the NYSUCP request documentation to support group membership. This information is requested after receipt of the application package since collection of documents to support group membership is not part of the USDOT Uniform Application.

Advisory Comment: It is recommended that the NYSUCP procedures discuss the requirements relating to questioning group membership, so that certifiers provide written explanations if membership is questioned. This will ensure that the UCP does not impose a disproportionate burden on members of any particular group.

3. Business Size

Basic Requirement: (49 CFR Part 26.65) A UCP must apply current SBA business size standard(s) found in 13 CFR Part 121 appropriate to the type(s) of work the firm seeks to perform in DOT-assisted contracts. 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 \$22.41 million.

Discussion: During this UCP Compliance Review, **no deficiencies** were found with the requirement for business size.

The NYSUCP certifying partners used the appropriate Small Business Administration (SBA) business size standards in 13 CFR Part 121 and DBE size standards of \$22.41 million for evaluating eligibility of this part.

No issues were discovered from the staff interviews or certification files reviewed that were contrary to the SBA or DOT size standards.

4. Social and Economic Disadvantage

A) Presumption of Disadvantage

Basic Requirement: (49 CFR Part 26.67 (a)(1)) You must rebuttably presume that citizens of the United States (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA, are socially and economically disadvantaged individuals. You must require applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.

Discussion: During this UCP Compliance Review, **no deficiencies** were found with the requirement for presumption of disadvantage.

Part 26.61 (c) states you must presume members of groups identified in Part 26.67(a) are socially disadvantaged. Part 26.67 (a)(1) requires the applicant to submit a signed, notarized certification that the disadvantaged owner is socially and economically disadvantaged. This notarized Affidavit of Certification is part of the Uniform Certification Application found in Appendix F of the DBE regulation. The certification files reviewed by the review team included the statement of disadvantage.

B) Personal Net Worth

Basic Requirement: (49 CFR Part 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 that does not exceed \$1.32 million.

Discussion: During this UCP Compliance Review, **deficiencies** were found with the requirement for Personal Net Worth (PNW) statements.

The review team found issues with the personal net worth statements for the companies listed below.

██████████ (reviewed by PANYNJ)

PANYNJ found an additional asset that had not been accounted for in the applicant's PNW statement, which put the applicant over the previous threshold of \$750,000. The review team also identified assets (two commercial properties) included on the applicant owner's 2009 1040 tax return. These properties were not addressed in the certification record or denial letter.

██████████ (reviewed by PANYNJ)

██████████ was an ACDBE firm that had been certified with the agency since 2002. The owner's PNW statement listed Cash on Hand as his sole asset and the mortgage on his personal residence as the sole liability. The review team noted that there was no evidence in the file that the agency asked for clarification or did any further investigation to determine if there were unreported assets or liabilities.

Other PNW forms in NYSUCP member files contained applicant calculation errors. The review team suggested that the NYSUCP consider using a verification worksheet to recalculate the numbers contained on the PNW forms for documentation purposes.

Corrective Action and Schedule: Submit to FTA's Office of Civil Rights, within 60 days of the issuance of the final report, updated UCP procedures for analyzing and documenting errors and omissions related to PNW submissions, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.

NYSUCP Response: The NYSUCP will update its SOP to include a uniform procedure requiring the certifying partners to document their verification of the accuracy and completeness of the PNW. Each certifying member will document their concurrence with the updated SOP via email. Their concurrence will include language stating that they agree to uphold the procedures contained therein.

FTA Response: FTA agrees with NYSUCP's response to the noted deficiencies. To close this deficiency, submit to FTA within 60 days from issuance of this final report the finalized Standard Operating Procedures of the NYSUCP and the noted acknowledgements from each certifying member.

C) Individual determinations of social and economic disadvantage

Basic Requirement: (49 CFR Part 26.67 (d)) Firms owned and controlled by individuals who are not presumed to be socially and economically disadvantaged 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 socially and economically disadvantaged.

Discussion: During the UCP Compliance Review, **no deficiencies** were found with the requirement for individual determinations.

The NYSUCP certifying members were familiar with requirements regarding individual determinations of social and economic disadvantage. No certification files were from individuals not presumed to be socially and economically disadvantaged.

5. Ownership

Basic Requirement: (49 CFR Part 26.69) In determining whether the socially and economically disadvantaged participants in a firm own the firm, UCPs must consider all the facts in the record, viewed as a whole. To be an eligible DBE, a firm must be at least 51 percent owned by socially and economically disadvantaged individuals.

Discussion: During this UCP Compliance Review, **deficiencies** were found with the requirement of ownership.

██████████ (reviewed by NYSDOT)

Originally, the firm was owned equally by a wife and her husband. In 2009, the wife acquired an additional share, which gave her 51% ownership in the company. The reviewers did not find meeting minutes or signed documentation to verify that the wife bought an additional share in the company. The review team also did not see where additional information was requested to show proof that the wife purchased an additional share in the company.

Additionally, according to the firm's application and a question on the onsite visit questionnaire, the majority owner did not make a financial contribution to the firm. According to the regulations, *"The contributions of capital or expertise by the socially and economically disadvantaged owners to acquire their ownership interests must be real and substantial. Examples of insufficient contributions include a promise to contribute capital, an unsecured note payable to the firm or an owner who is not a disadvantaged individual, or mere participation in a firm's activities as an employee. Debt instruments from financial institutions or other organizations that lend funds in the normal course of their business do not render a firm ineligible, even if the debtor's ownership interest is security for the loan."* This issue was not included as a basis for denial in the determination letter. Based on this information reviewed, it appeared that the majority owner conducted activities as an employee, even though she received a percentage of the profits. She was responsible for hiring and firing personnel and signing contracts, payroll, and company checks along with her husband, the minority shareholder.

Although the majority owner's husband could be considered a socially disadvantaged individual as a black male, he exceeds the PNW threshold, and is therefore ineligible to participate in the program. *"When an individual's presumption of social and/or economic disadvantage has been rebutted, his or her ownership and control of the firm in question cannot be used for purposes of DBE eligibility under this subpart unless and until he or she makes an individual showing of social and/or economic disadvantage. If the basis for rebutting the presumption is a determination that the individual's personal net worth exceeds \$750,000, the individual is no longer eligible for participation in the program and cannot regain eligibility by making an individual showing of disadvantage."* This issue was not included as a basis for denial.

██████████. (reviewed by PANYNJ)

In the application and during the onsite review, the majority owner stated that he made an initial investment of \$50,000 from his personal savings. There was no documentation in the file to substantiate the claim, nor did there appear to be additional inquiry regarding the origin of the initial investment funds.

Corrective Action and Schedule: Submit to FTA's Office of Civil Rights, within 60 days of the issuance of the final report, updated UCP procedures for thoroughly reviewing and documenting ownership requirements for certification, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.

NYSUCP Response: The existing SOP has a number of procedures designed to validate ownership eligibility. The NYSUCP will ensure that the NYSUCP updates its SOP to add

procedures designed to prevent recurrence of the type of audit findings identified in this section of the report. These procedures will require ensuring that stock certificates are signed, and that initial investments of capital are investigated and adequately supported in the certification file. Each certifying member will document their concurrence with the updated SOP via email. Their concurrence will include language stating that they agree to uphold the procedures contained therein.

FTA Response: FTA agrees with NYSUCP's responses to the noted deficiencies. To close this deficiency, submit to FTA within 60 days from issuance of this final report the finalized Standard Operating Procedures of the NYSUCP and the noted acknowledgements from each certifying member.

6. Control

Basic Requirement: (49 CFR Part 26.71) In determining whether socially and economically disadvantaged owners control a firm, UCPs must consider all the facts in the record, viewed as a whole.

Discussion: During this UCP Compliance Review, **advisory comments and deficiencies** were noted for determining control.

████████████████████ (reviewed by NYSDOT)

The firm was denied on the basis that the majority shareholder had a fulltime job and could not devote sufficient time to run her company. A review of the owner's resume showed that she also does not have the necessary expertise to fully operate the company. In the denial letter, the firm is classified as an electrical contractor. The owner is responsible for administrative related functions, whereas her husband is a licensed electrician.

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

Subsequent to the compliance review, a member of NYSDOT re-stated: "The firm was denied," without addressing with any specificity on the areas for that denial determination.

Corrective Action and Schedule: Submit to FTA’s Office of Civil Rights, within 60 days of the issuance of the final report, updated UCP procedures for fully documenting reasons for ineligibility determinations related to control issues within denial letters, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.

[REDACTED] (reviewed by NFTA)

_____ was certified as a DBE in NAICS Codes 423810-Construction and Mining Machinery and Equipment Merchant Wholesalers and 425120-Wholesale Trade Agents and Brokers. The firm is a wholesale broker of Safespan (a bridge safety platform and scaffolding/mast climbers) and construction safety products. During the onsite interview, the applicant revealed that he devotes approximately 20 hours per week to the firm and would begin working a full time job (40 hours per week) at the New York State Thruway later in the month. The review team had concerns about absentee ownership and the owner devoting sufficient time and attention to the affairs of the firm [26.71(j)].

The NFTA Compliance Specialist noted in the Inter-Office Memo that *the firm is a new business and currently a part-time business due to the nature of bridge construction contracts. There are only so many bridge contracts per year, and [the firm] does not have the staff/manpower to work full-time.* The specialist also stated during the compliance review that the firm was a part-time firm.

The onsite visit notes stated that the applicant firm would be a supplier of safety products and a distributor of Safespan in particular. The review team questioned if NFTA had any independence concerns with the applicant firm's exclusive relationship with the inventor of Safespan. The Specialist stated that verification was done during the onsite review to confirm that the applicant was seeking to supply other safety products in addition to Safespan.

Advisory Comment: NFTA should continue to monitor American Construction Supply's eligibility for independence and the full time status of owner and the DBE firm during annual updates.

[REDACTED], [REDACTED] (reviewed by NFTA)

The female owner of the firm had all of the necessary licenses and skills to operate the applicant firm. However, her father, a non-disadvantaged member, owns an engineering firm () and both of the companies were located in the same building, along with the building owner . The onsite visit noted that each firm works out of their own offices, but share common areas (lunch room, bathrooms, hall, etc.). They also share common office machines (copier, fax, and phones). Each company has their own phone numbers.

Advisory Comment: NFTA should continue to monitor [REDACTED] and [REDACTED] eligibility during annual updates for independence.

██████████ (reviewed by NFTA)

██████████ applied for DBE certification in 2009. A former NFTA DBE Specialist performed an onsite visit during the application process and determined the non-disadvantaged husband had the expertise to perform the work. The Specialist noted that during the onsite review, the qualifying woman applicant (wife) stated that she handles all the administrative and office duties specifically and has no real knowledge of the inter-working of the service they provide. A denial letter was sent to the firm on November 5, 2009 citing the above reasons for denial and information that the firm could reapply in one year. The firm was advised they could appeal the denial to the USDOT within 90 days.

The certification record included an Inter-Office Memo dated November 24, 2009. The memo stated that the NFTA *General Counsel suggested that [the certification department] take another look at the application before deciding on a DBE Certification denial.* The firm (husband and wife) was invited for a second interview on November 19, 2009. The woman owner explained that *although she stated she only worked 15-17 hours per week, it really was more like 25 hours, on second thought. On the question of her "expertise" which she stated was minimal, she now said she should have said she could navigate with basic machine shop workings, if the [husband] was not there. The husband stated that his wife omitted pertinent information during the initial interview that would determine if they would be certified or not.* The firm was certified on November 27, 2009 based on the information obtained from the second interview.

The firm was denied on November 5, 2009 and the decision was reversed on November 27, 2009. NFTA did not have a documented state-level appeal process. The NFTA General Counsel's recommendation for certification reconsideration for a denied firm was not a documented NFTA state level appeal procedure. The USDOT Official Questions and Answers state, *UCPs should ensure that any state-level appeal process from certification decisions available to firms calls for appeals to be heard and decided by experienced, professional employees very familiar with DOT DBE program certification standards and procedures. The individuals making decisions on appeal should, to the maximum extent possible, be insulated from political pressure (e.g., by firewalls prohibiting contact with them by state or local elected or appointed officials concerning the merits or outcome of a case). In DOT's experience, a flawed state appeal process can be worse than none at all.*

NFTA sent a *Proposal To Remove* letter for failure to cooperate with submittal of the annual no change affidavit to the firm on March 20, 2012. The firm requested to be removed from the program for lack of business activity from New York State UCP partners and NFTA. A *Removal of DBE Certification* letter was sent to the firm on March 30, 2012.

Corrective Action and Schedule: Submit to FTA's Office of Civil Rights, within 60 days of the issuance of the final report, updated UCP procedures that include uniform policies and procedures for conducting and documenting state level appeals for initial denials, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld. Each certifying member must also submit an outline on what department personnel will be involved in the appeal

process and their familiarity with the DBE certification standards and procedures. If no state level appeal process will be implemented, provide a plan to prohibit reversal of denials and removals after a final determination has been rendered outside of appeal to USDOT.

NYSUCP Response: The NYSUCP will ensure that the NYSUCP updates its SOP to add procedures which require that all reasons for denial be included in an applicant firm's denial letter. The NYSUCP does not have a state level appeal process for certification denials. The NYSUCP will ensure that the SOP is updated to add language which prohibits any certifying agency from reversing denial determinations, unless directed by USDOT. Each certifying member will document their concurrence with the updated SOP via email. Their concurrence will include language stating that they agree to uphold the procedures contained therein.

FTA Response: FTA agrees with NYSUCP's responses to the noted deficiencies. To close this deficiency, submit to FTA within 60 days from issuance of this final report the finalized Standard Operating Procedures of the NYSUCP and the noted acknowledgements from the certifying members.

7. Other rules affecting certification

Basic Requirement: (49 CFR Part 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. You may consider, in making certification decisions, whether a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program. DBE firms and firms seeking DBE certification shall cooperate fully with UCP requests for information relevant to the certification process.

Discussion: During this UCP Compliance Review, **no deficiencies** were found with other rules affecting certification.

The DBE regulation in Part 26.73 initially included provisions for evaluating eligibility of Indian tribes, Alaska Native Corporations, and Native Hawaiian. The 2003 amended DBE regulation included a separate evaluation process for Alaska Native Corporations (ANCs) seeking DBE certification. No certification files of firms owned by ANCs or Native Hawaiian organizations were reviewed.

8. UCP Requirements

A) UCP Agreement

Basic Requirements: (49 CFR Part 26.81) All DOT recipients in a state must participate in a Unified Certification Program. Recipients must sign an agreement establishing the UCP for the state and submit the agreement to the Secretary for approval.

Discussion: During this UCP Compliance Review, **deficiencies** were found regarding the NYSUCP Agreement.

The NYSUCP provided copies of the signed MOUs from the DOT recipients (listed in the background section of this report). While a majority of the MOUs were signed and secured by NYSDOT as indicated by the asterisk beside each name, several MOUs were still outstanding. The review team advised NYSDOT and the UCP to collect the remaining MOUs from the recipients.

The NYSUCP provided their 2004 Standard Operating Procedures (SOP) to the review team. The SOP must be updated to reflect changes in the DBE regulation. Updates include but are not limited to: size standards changes, SBA/DOT MOU removal, and interstate certification.

The PANYNJ program includes DBE, M/WBE, SBE, and other certification programs. The DBE certification files were inclusive of several other certification programs, making the status and other information confusing to follow. The review team recommended that PANYNJ maintain a separate file or develop a process to firewall the DBE information from the other program information.

Corrective Action and Schedule: Submit to FTA's Office of Civil Rights, within 60 days of the issuance of the final report:

- signed MOUs from all missing DOT recipients;
- evidence that PANYNJ has implemented a process for firewalling DBE certification information from other certification programs; and
- updated UCP standard operating procedures reflecting recent regulatory changes, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.

NYSUCP Response: The NYSUCP will seek signed MOUs from all missing recipients and provide to FTA, within 60 days of the final report, all signed MOUs obtained and a status update of any recipients, if any, for which signatures could not be obtained. PANYNJ will separate documents unique to DBE certification by using clearly labeled dividers. Efforts to update the SOP have been well underway. The NYSUCP will ensure that additional updates recommended in this report are incorporated into the final SOP. Each certifying member will document their concurrence with the updated SOP via email. Their concurrence will include language stating that they agree to uphold the procedures contained therein.

FTA Response: FTA agrees with NYSUCP's responses to the noted the deficiencies. To close this deficiency, submit to FTA within 60 days from issuance of this final report the finalized Standard Operating Procedures of the NYSUCP and the noted acknowledgements from the certifying members. NYSUCP must also provide copies of the signed MOUs and status updates for those signatures that could not be obtained.

B) UCP Directory

Basic Requirements: (49 CFR Part 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, DBE or both. The listing shall include for each firm, its address, phone number, and the types of work the firm has been certified to perform as a DBE. The UCP shall update the electronic

version of the directory by including additions, deletions, and other changes as soon as they are made.

Discussion: During this DBE compliance review, **no deficiencies** were found with the requirements for the UCP directory.

The NYSDOT website includes a Biznet directory. The Biznet directory is an online searchable database, which include DBEs and ACDBEs certified by the UCP. The UCP representatives update the directory as soon as changes occur. The directory includes the NAICS code. There is a field in the system for ACDBE designation that says “yes or “no” for ACDBE.

9. UCP Procedures

A) On-site Visits

Basic Requirements: (49 CFR Part 26.83(c)) UCPs must perform an on-site visit to the offices of the firm. You must interview the principal officers of the firm and review their resumes and/or work histories. You must also perform an on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation in your jurisdiction or local area.

Discussion: During this DBE Compliance Review, **deficiencies** were found with the requirements for on-site visits.

The NYSUCP procedures state that an on-site visit to the offices of the firm must be completed. NYSUCP certifiers are to interview the principal officers of the firm and review their resumes and/or work histories. The procedures further state that NYSUCP certifiers must perform on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility review. The review team could not determine if job sites were visited for the files reviewed from NYSDOT, NFTA, or PANYNJ. The files reviewed from MTA included a summary that addressed if a job site visit was conducted. The review team advised NYSUCP representatives that jobsite visits must be performed when applicable, and recommended that procedures be revised to reflect this requirement to document job site visits.

Subsequent the compliance review, NYSDOT provided a copy of a *Jobsite Report* in response to the recommendations to include jobsite information in the certification onsite questionnaire used by the NYSUCP.

Corrective Action and Schedule: Submit to FTA’s Office of Civil Rights, within 60 days of the issuance of the final report, updated UCP procedures that include a process for documenting job site visits in the certification files, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.

NYSUCP Response: The NYSUCP will update its procedures to require negative assurance in those instances in which it is not feasible to conduct a job site visit in

accordance with the Regulations. Each certifying member will document their concurrence with the updated SOP via email. Their concurrence will include language stating that they agree to uphold the procedures contained therein.

FTA Response: FTA agrees with NYSUCP's responses to the noted deficiencies. To close this deficiency, submit to FTA within 60 days from issuance of this final report the finalized Standard Operating Procedures of the NYSUCP and the noted acknowledgements from the certifying members.

B) Uniform Application

Basic Requirements: (49 CFR Part 26.83 (i)) UCPs must use the application form provided in Appendix F of the regulations without change or revision. However, you may provide in your DBE program, with the approval of the concerned operating administration, for supplementing the form by requesting additional information not inconsistent with this part.

Discussion: During this DBE Compliance Review, **no deficiencies** were found with the requirements for using the Uniform Certification Application Form in Appendix F. However, an advisory comment was made regarding the application.

The NYSUCP uses the form for DBE certification as required by the regulations. The application and instructions are included on the websites of NYSDOT, NFTA, and PANYNJ. MTA mails out the application and instructions to interested parties. The NYSUCP Procedures discuss the application review procedures; however, there was no discussion about the ACDBE process.

Advisory Comment: The review team advised NYSDOT to update their UCP Procedures to include ACDBE standards and procedures.

C) 30-day Notification

Basic Requirements: (49CFR Part 26.83(l)) As a recipient or UCP, you must advise each applicant within 30 days from your receipt of the application whether the application is complete and suitable for evaluation and, if not, what additional information or action is required.

Discussion: During the review, **deficiencies** were found with the requirement to notify the applicant, within 30 days of receipt, whether the application is complete.

The NFTA and PANYNJ did not have mechanisms in place to notify applicants within the 30-day requirement on a consistent basis. Notification letters were found with some of the NYSDOT files; however it wasn't done on a consistent basis. The review team advised the certification members to include this new requirement in their NYSUCP Procedures.

Corrective Action and Schedule: Submit to FTA's Office of Civil Rights, within 60 days of the issuance of the final report, updated UCP procedures for ensuring the delivery, and a method for tracking, the issuance of 30-day notification letters,

documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.

NYSUCP Response: NYSUCP certifying members use different computer systems for tracking applications within their respective organizations. NYSUCP will update its SOP to require that each agency develop specific monitoring mechanisms within those systems to ensure that applicants are notified within 30 days whether their application is complete or whether additional information is required. Each certifying member will document their concurrence with the updated SOP via email. Their concurrence will include language stating that they agree to uphold the procedures contained therein.

FTA Response: FTA agrees with NYSUCP's responses to the noted deficiencies. To close this deficiency, submit to FTA within 60 days from issuance of this final report the finalized Standard Operating Procedures of the NYSUCP and the noted acknowledgements from each certifying member. Each certifying member must also provide a computer system report showing how the 30-day notification is tracked.

D) 90-day Determinations

Basic Requirements: (49CFR Part 26.83 (k) If you are a recipient, you must make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under this part. You may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension.

Discussion: During this DBE Compliance Review, a **deficiency** was found with the requirement for 90-day determinations.

The regulations require that UCPs make certification determinations within 90 days of receiving all the required information. Some of the applications reviewed extended past 90 days; however, a determination of when the application package was deemed to contain all of the requested information could not be ascertained in some cases.

Corrective Action and Schedule: Submit to FTA's Office of Civil Rights, within 60 days of the issuance of the final report, updated UCP procedures for tracking the timeliness of certification determinations after receipt of the required information in accordance with §26.83(k), documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.

NYSUCP Response: NYSUCP certifying members use different computer systems for tracking applications within their respective organizations. NYSUCP will update its SOP to require that each agency develop specific monitoring mechanisms within those systems to ensure that applicants are notified within 30 days whether their application is complete or whether additional information is required. Each certifying member will document their concurrence with the updated SOP via email. Their concurrence will include language stating that they agree to uphold the procedures contained therein.

FTA Response: FTA agrees with NYSUCP's responses to the noted deficiencies. To close this deficiency, submit to FTA within 60 days from issuance of this final report the

finalized Standard Operating Procedures of the NYSUCP and the noted acknowledgements from each certifying member. Each certifying member must also provide a computer system report showing how the 90-day determination is tracked.

E) Annual Updates

Basic Requirements: (49CFR Part 26.83) Once you have certified a DBE, it shall remain certified until and unless you have removed its certification. If you are a DBE, you must provide to the UCP, every year on the anniversary of the date of your certification, an affidavit sworn to by the firm's owners before a person who is authorized by state law to administer oaths.

Discussion: During this DBE Compliance Review, **deficiencies** were found with the requirement for annual updates.

During the review, it was found that the certification file for Able Asbestos Construction, (reviewed by NYSDOT) only contained Annual No Change Affidavits for 2003, 2004, and 2006. The firm was removed in 2011.

Subsequent to the compliance review, NYSDOT provided the following response: *NYSDOT was unable to retrieve the 2007 and 2010 [no change] affidavits. Corrective Action: NYSDOT has identified placing a calendar tickler in place once affidavits are sent. A return date will be assigned. If not received on the return date, the next day a removal letter will be initiated in accordance with 49 CFR 26.87. The same will apply to proposals to remove.*

The review team did not find any annual No Change Affidavits in any of the applicable files reviewed at PANYNJ. The review team found one No Change Affidavit in the file of [REDACTED]. The firm had been in and out of the DBE program since 2002; however the firm is no longer DBE certified as of 2010.

PANYNJ includes on their website and certificates that certification lasts for three years, then expires. The 2011 DBE final rule clarified that a firm is certified until removed and the certification does not expire.

Corrective Action and Schedule: Submit to FTA's Office of Civil Rights, within 60 days of the issuance of the final report, updated UCP procedures for ensuring and tracking that annual updates are collected from DBEs and maintained in the certification files, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld. Additionally, NYSUCP members must submit evidence that websites, certificates of certification and other correspondence's boilerplate language has been edited to remove any indication that certifications expire, or that firms must re-certify or seek renewal, unless the UCP removes the firm's certification.

NYSUCP Response: The NYSUCP has drafted an update to its SOP which requires each certifying member to notify, within 30 days in advance of the applicable certification anniversary date, each firm in the DBE directory which it certified. The procedures will be further revised to ensure that the annual updates are in fact collected, and that "intent

to remove” actions are initiated if the updates are not received as required. The required corrective action pertaining to the removal of recertification language was based on observations with the PANYNJ. This Certifying Member has removed “recertification” language from its correspondence. The NYSUCP will provide evidence of the updated language to FTA when it submits its updated SOP. Each certifying member will document their concurrence with the updated SOP via email. Their concurrence will include language stating that they agree to uphold the procedures contained therein.

FTA Response: FTA agrees with NYSUCP’s responses to the noted deficiencies. To close this deficiency, submit to FTA within 60 days from issuance of this final report the finalized Standard Operating Procedures of the NYSUCP and the noted acknowledgements from each certifying member.

10. Interstate Certification

Basic Requirements: (49 CFR Part 26.85). This section applies with respect to any firm that is currently certified in its home state. When a firm currently certified in its home State (“State A”) applies to another State (“State B”) for DBE certification, State B may, at its discretion, accept State A's certification and certify the firm, without further procedures. In any situation in which State B chooses not to accept State A's certification of a firm, as the applicant firm you must provide the information in paragraphs (c)(1) through (4) of Part 26.85 to State B.

Discussion: During this UCP Compliance Review, **deficiencies** were found concerning the interstate certification process.

The regulations require that UCPs implement this section by January 1, 2012. The NYSUCP Procedures did not address this section. The UCP representatives indicated during the review that their interstate certification process is not yet operational.

The Port Authority of New York & New Jersey was the only agency that had completed review of an out-of-state DBE in 2012. [REDACTED] was certified by the City of Chicago as an ACDBE in January 12, 2010. PANYNJ received the firm’s application on January 13, 2012 and certified them on March 30, 2012. The personal financial statement was date stamped March 27, 2012, and the Chicago onsite form was stamped April 4, 2012. The certification record was unclear regarding if PANYNJ requested a copy of the home state’s onsite report within the seven days of receiving the file or if Chicago provided the report within seven days. Additionally, it appears that the onsite report was received after the firm was approved for certification. Given the date of receipt for the personal financial statement, it appeared the PANYNJ made a determination within 60 days.

MTA provided a draft of interstate certification procedures during the compliance review. MTA plans to send their interstate procedures to firms certified in other states seeking to be certified with them. Subsequent to the compliance review, NYSDOT provided similar interstate correspondence informing out-of-state applicants of the interstate process.

Corrective Action and Schedule: Submit to FTA’s Office of Civil Rights, within 60 days of the issuance of the final report, updated UCP procedures containing the statewide policies and procedures for conducting interstate certification, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.

NYSUCP Response: The NYSUCP has drafted an update to its SOP which outlines requirements for processing interstate certifications in accordance with the recently issued regulations. These procedures are consistent with the draft procedures provided to the FTA reviewers during their on-site visit. Each certifying member will document their concurrence with the updated SOP via email. Their concurrence will include language stating that they agree to uphold the procedures contained therein.

FTA Response: FTA agrees with NYSUCP’s responses to the noted deficiencies. To close this deficiency, submit to FTA within 60 days from issuance of this final report the finalized Standard Operating Procedures of the NYSUCP and the noted acknowledgements from the certifying members.

11. Denials of Certification

A) Initial Request Denials

Basic Requirement: (49 CFR Part 26.86) When a UCP deny a request by a firm, which is not currently certified with them, 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 support each reason for the denial.

Discussion: During this UCP Compliance Review, **deficiencies** were found with the requirement for denial of initial certification request.

The NYSUCP procedures outline the process for denials of initial request for certification. The firm is provided a written explanation of the reasons for the denial that specifically references the regulation and evidence in the certification record. The NYSUCP has a twelve-month waiting period that must lapse before the applicant is eligible to re-apply. Applicants can appeal the NYSUCP’s decision to the DOT.

As discussed in the requirement for Control and Ownership, there were additional reasons for denial that should have been included in the determination letter for [REDACTED] (reviewed by PANYNJ) and [REDACTED] (reviewed by NYSDOT). The review team advised NYSUCP that denials letters should include all applicable reasons for ineligibility.

Corrective Action and Schedule: Submit to FTA’s Office of Civil Rights, within 60 days of the issuance of the final report, updated UCP procedures for ensuring that all reasons for ineligibility are included in denial letters, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.

NYSUCP Response: The NYSUCP will update its SOP to require that all reasons for denying an applicant certification are included in the applicant's denial letter. Each certifying member will document their concurrence with the updated SOP via email. Their concurrence will include language stating that they agree to uphold the procedures contained therein.

FTA Response: FTA agrees with NYSUCP's responses to the noted deficiencies. To close this deficiency, submit to FTA within 60 days from issuance of this final report the finalized Standard Operating Procedures of the NYSUCP and the noted acknowledgements from certifiers. The NYSUCP must also submit a sample denial letter from each certifying member.

B) Removing Existing Certification

Basic Requirement: (49 CFR Part 26.87) If a UCP determines that there is reasonable cause to believe that the firm is ineligible, you must provide written notice to the firm that you propose to find the firm ineligible, setting forth the reasons for the proposed determination.

Discussion: During this UCP Compliance Review, **deficiencies** were found with the requirements for removing existing certification.

██████████ (reviewed by NYSDOT)
██████████ was removed from the program in 2011, however no intent to remove or final determination letters were found in the file.

Subsequent to the compliance review, NYSDOT provided the following response:
The removal letters [for ██████████] were not inserted into the file. The intent to remove letter dated May 17, 2011 and removal letter dated June 84, 2011 were retrieved from the specialist. NYSDOT provided copies of the missing letters.

[REDACTED] (reviewed by NYSDOT)
The intent to remove letter for [REDACTED] was sent out on May 20, 2011. NYSDOT sent out the final determination letter on September 14, 2011. The review team noted that the removal letter was sent roughly four months after the firm failed to respond to the intent letter. NYSDOT was advised that removal letters should be sent soon after the intent to remove letters, so that an eligible firm is taken out of the directory in a timely manner.

██████████ (reviewed by PANYNJ)

The intent to remove letter was not found in the file. The applicant was not given an opportunity for an informal hearing. They were only directed to appeal to the USDOT.

██████████ (reviewed by PANYNJ)
The applicant was provided with the opportunity for an informal hearing; however, this opportunity was mentioned in the final determination letter along with the opportunity to appeal to the USDOT. The reviewers advised the UCP that the opportunity for an informal hearing must be awarded prior to decertification.

Corrective Action and Schedule: Submit to FTA's Office of Civil Rights, within 60 days of the issuance of the final report, updated UCP procedures that address the process to follow and a mechanism for tracking the removal of firms in accordance with §26.87, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.

NYSUCP Response: The NYSUCP has drafted an update to its SOP which outlines the process to follow for removal of firms in accordance with §26.87, including the informal hearing process. It will further update these procedures to incorporate a tracking process to ensure removals are implemented on a timely basis when applicable. Each certifying member will document their concurrence with the updated SOP via email. Their concurrence will include language stating that they agree to uphold the procedures contained therein.

FTA Response: FTA agrees with NYSUCP's responses to the noted deficiencies. To close this deficiency, submit to FTA within 60 days from issuance of this final report the finalized Standard Operating Procedures of the NYSUCP and the noted acknowledgements from certifiers.

C) Appeals to the DOT

Basic Requirement: (49 CFR Part 26.89) When the Department receives an appeal and requests a copy of the recipient's administrative record, the UCP must provide the administrative record, including a hearing transcript, within 20 days of the Department's request.

Discussion: During this UCP Compliance Review, **no deficiencies** were found with the Appeals to the USDOT. An advisory comment was made regarding the USDOT appeal address.

Denial letters for [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED], all reviewed by PANYNJ, contained the wrong address for USDOT appeals. Appeals should be sent to the following address: Department of Transportation, Office of Civil Rights, 1200 New Jersey Avenue, SE, Washington, DC 20590. The NYSUCP Procedures updated on February 21, 2012 included the old appeals address as: 400 7th Street SW, Room 5414, Washington, DC 20590.

Advisory Comment: PANYNJ should update all boiler plate letters to ensure that the correct USDOT appeal address is included.

12. Compliance and Enforcement

A) DBE Enforcement Actions

Basic Requirement: (49 CFR Part 26.107) If a firm does not meet the eligibility criteria of subpart D and attempts to participate in a DOT-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, the Department may initiate suspension or debarment proceeding against you under 49 CFR Part 29.

Discussion: During this DBE Compliance Review, **no deficiencies** were found with DBE Enforcement Actions.

The review team found no issues with enforcement actions. The NYSUCP utilizes the USDOT Uniform Certification Application which includes the penalties for fraudulent or deceitful statements.

B) Confidentiality

Basic Requirement: (49 CFR Part 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 for DBE certification and supporting documentation.

Discussion: During this DBE Compliance Review, **no deficiencies** were found with the confidentiality issues in the New York State UCP.

NYSDOT received two Freedom of Information requests in 2010 on DBE firms. The Personal Privacy Protection Law guidelines were provided to the review team which outlines the disclosure of records process. NYSDOT sent 625 pages for one request and 139 pages for the second. Portions of both certification files were redacted and withheld due to confidentiality rules.

C) Cooperation

Basic Requirement: (49 CFR Part 26.109 (c)) All participants in the Department's DBE program are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. (49 CFR Part 26.73 (c) DBE firms and firms seeking DBE certification shall cooperate fully with your requests (and DOT requests) for information relevant to the certification process. Failure or refusal to provide such information is grounds for a denial or removal of certification.)

Discussion: During this DBE Compliance Review, **no deficiencies** were found with cooperation.

The NYSUCP certifying members required DBEs and applicants to comply with requests for onsite visits, supporting documentation, affidavits, and other information relevant to the certification process.

Section 7 – Summary of Findings

Requirement of 49 CFR Part 26	Ref.	Site visit Finding	Description of Deficiencies	Submit Corrective Action for the following:	Response Days/Date
1. Burden of Proof	26.61	D	Not meeting burden of proof requirements	Submit revised UCP procedures to ensure that certifiers document that all information in an applicant's record are considered in certification decisions, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld. The revised UCP SOP must include a method for monitoring that the newly written procedures are being implemented.	June 8, 2013
2. Group Membership	26.63	AC	UCP discuss implementing supplemental checklist or make request for proof documents in writing.		
3. Business Size	26.65	ND			
4. Social and Economic Disadvantage					
a) Presumption of Disadvantage	26.67	ND			
b) Personal Net Worth	26.67	D	Applicant errors on PNW forms, considerations unclear	Submit updated UCP procedures for analyzing and documenting errors and omissions related to PNW submissions, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld. The revised UCP SOP must include a method for monitoring that the newly written procedures are being implemented.	June 8, 2013
c) Individual determination	26.67	ND			
5. Ownership	26.69	D	Questions concerning firms meeting ownership requirements	Submit updated UCP procedures for thoroughly reviewing and documenting ownership requirements for certification,	June 8, 2013

Requirement of 49 CFR Part 26	Ref.	Site visit Finding	Description of Deficiencies	Submit Corrective Action for the following:	Response Days/Date
				documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld. The revised UCP SOP must include a method for monitoring that the newly written procedures are being implemented.	
6. Control	26.71	D	Limited documentation for control determination in some files	<p>Submit</p> <ul style="list-style-type: none"> • updated UCP procedures for fully documenting reasons for ineligibility determinations related to control issues within denial letters, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld. • updated UCP procedures that include uniform policies and procedures for conducting and documenting state level appeals for initial denials, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld. <p>Each certifying member must also submit an outline on what department personnel will be involved in the appeal process and their familiarity with the DBE certification standards and procedures. If no state level appeal process will be implemented, provide a plan to prohibit reversal of denials and removals after a final determination has been rendered outside of appeal to USDOT.</p>	June 8, 2013
7. Other Certification Rules	26.73	ND			

Requirement of 49 CFR Part 26	Ref.	Site visit Finding	Description of Deficiencies	Submit Corrective Action for the following:	Response Days/Date
8. UCP Requirements a) UCP agreement	26.81	D	<ul style="list-style-type: none"> MOU/SOP from 2004 needs updating Missing signed agreements from non-certifying partners Port files include all cert. programs confusing to follow 	Submit: <ul style="list-style-type: none"> signed MOUs from all missing DOT recipients; evidence that PANYNJ has implemented a process for firewalling DBE certification information from other certification programs; and updated UCP standard operating procedures reflecting recent regulatory changes, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld. 	June 8, 2013
b) UCP directory	26.31	ND			
9. UCP Procedures a) On-site visits	26.83	D	Completion of job site visits unclear (except MTA)	Submit updated UCP procedures that include a process for documenting job site visits in the certification files, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld. The revised UCP SOP must include a method for monitoring that the newly written procedures are being implemented.	June 8, 2013
b) Uniform Application	26.83	ND			
c) 30 Day Notification	26.83	D	Need process to notify applicant w/n 30 days (except MTA)	Submit updated UCP procedures for ensuring the delivery and a method for tracking the issuance of 30 day notification letters, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.	June 8, 2013
d) 90 Day Processing	26.83	D	Document when package complete and track number of day to make determination	Submit updated UCP procedures for tracking the timeliness of certification determinations after receipt of the required information in accordance with	June 8, 2013

Requirement of 49 CFR Part 26	Ref.	Site visit Finding	Description of Deficiencies	Submit Corrective Action for the following:	Response Days/Date
				§26.83(k), documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.	
e) Annual Updates	26.83	D	Missing annual updates (spotty for DOT, none collected for PA). Remove expiration date and recertification process.	Submit updated UCP procedures for ensuring and tracking that annual updates are collected from DBEs and maintained in the certification files, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld. Additionally, NYSUCP members must submit evidence that websites, certificates of certification and other correspondence's boilerplate language has been edited to remove any indication that certifications expire, or that firms must re-certify or seek renewal, unless the UCP removes the firm's certification.	June 8, 2013
10. Interstate Certification	26.85	D	No UCP documented process. (Port Authority had one file in this range)	Submit updated UCP procedures containing the statewide policies and procedures for conducting interstate certification, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.	June 8, 2013
11. Denials					
a) Initial Request	26.86	D	Additional reasons for denial should have been added to letters (PA, DOT)	Submit updated UCP procedures for ensuring that all reasons for ineligibility are included in denial letters, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld. The revised UCP SOP must include a method for monitoring that the newly written procedures are being implemented.	June 8, 2013

Requirement of 49 CFR Part 26	Ref.	Site visit Finding	Description of Deficiencies	Submit Corrective Action for the following:	Response Days/Date
b) Remove Existing	26.87	D	Intent, removal letters not followed (PA, DOT).	Submit updated UCP procedures that address the process to follow and a mechanism for tracking the removal of firms in accordance with §26.87, documentation that these procedures have been distributed to certifying entities, and their acknowledgement that the procedures will be upheld.	June 8, 2013
c) Appeals	26.89	AC	Port Authority needs to update denial and removal letters to include correct USDOT appeal address		
12. Compliance and Enforcement					
a) DBE Enforcement Actions	26.107	ND			
b) Confidentiality	26.109	ND			
c) Cooperation	26.109	ND			

Findings at the time of the site visit: ND = No deficiencies found; D = Deficiency; NA = Not Applicable; NR = Not Reviewed

SECTION 8 - LIST OF ATTENDEES

Name	Organization	Title	Phone	Email
FHWA Members:				
Christine Thorkildsen	FHWA	Civil Rights Specialist	518-431-8666	Christine.thorkildsen@dot.gov
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New York State UCP Members:				
Linda Seay	NFTA	Compliance Specialist	716-855-7488	Linda_seay@nfta.com
Vivian Rodgers	NFTA	Administrator	716-855-7486	Vivian_rodders@nfta.com
Colleen Clancy	NFTA	ADA / EEO Administrator	716-855-7286	Colleen_clancy@nfta.com
Diane Byas	NFTA	Compliance Specialist	716-855-7488	Diane_byas@nfta.com
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Lory Smitka	NYSDOT	Compliance Specialist 1	518-457-3180	Lsmitka@dot.state.ny.us
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Naeem Din	MTA HQ	Deputy Director, Dept. of Diversity and	646-252-1387	Ndin@mtahq.org

		Civil Rights		
Linda Smith	MTA HQ	Senior Manager	646-252-1361	Lsmith@mtahq.org
Lorraine Warren	MTA HQ	Acting Assistant Director	646-252-1356	Lwarren@mtahq.org
Milligan & Co LLC:				
Benjamin Sumpter	Milligan & Co., LLC	Lead Reviewer	215-496-9100	Bsumpter@milliganpcpa.com
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Kristin Szwajkowski	Milligan & Co., LLC	Reviewer	215-496-9100	Kszwajkowski@milliganpcpa.com