



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

Georgia Department of Transportation
Unified Certification Program (UCP) Compliance
Review

Final Report
November 2017



U.S. Department of Transportation
Federal Transit Administration

This page intentionally left blank to facilitate duplex printing.

Table of Contents

Executive Summary	1
1. General Information	3
2. Jurisdiction and Authorities	4
3. Purpose and Objectives	5
3.1 Purpose	5
3.2 Objectives	5
4. Background Information	7
4.1 Introduction to Georgia Unified Certification Program and Organizational Structure	7
4.2 Budget and FTA-Assisted Projects	12
5.1 Scope	13
5.2 Methodology	14
5.3 Stakeholder Interviews	16
6. Findings and Advisory Comments	21
6.1 Group Membership	21
6.2 Business Size	23
6.3 Social and Economic Disadvantage	24
6.4 Ownership	27
6.5 Control	28
6.6 Other Rules Affecting Certification	31
6.7 UCP Requirements	31
6.8 UCP Procedures	33
6.9 Interstate Certification	39
6.10 Denials of Certification	40
6.11 Compliance and Enforcement	45
6.12 Record Keeping	47
7. Summary of Files Review and Findings	49
Attachment A: FTA Notification Letter to the Georgia Department of Transportation	56

This page intentionally left blank to facilitate duplex printing.

Executive Summary

This report details the findings from the Compliance Review of the Georgia Unified Certification Program's (GUCP) Disadvantaged Business Enterprise (DBE) certification practices and procedures. The Compliance Review examined the Unified Certification Program's (UCP) DBE certification procedures, management structures, actions, and documentation. Documents and information were collected from the Federal Transit Administration (FTA) and the Georgia UCP certifying agencies – the Georgia Department of Transportation (GDOT) and the Metropolitan Atlanta Rapid Transit Authority (MARTA). In addition, the following entities were interviewed as part of this review: GUCP officials, GUCP certifying and non-certifying members, DBE certified firms, non-DBE firms, and other stakeholders. The on-site review included interviews, assessments of data collection systems, and review of program and relevant documents.

Georgia UCP's Certification Program includes the following positive program elements –

Positive Program Elements

- The GUCP has approved a new certification intake process that allows applications submitted to MARTA to be completed electronically. The process is being evaluated for consideration as a standard intake process for all GUCP certification applications.
- GDOT has restructured its Certification Unit with a focus on managing the day-to-day certification process, productivity, and quality control.
- The GUCP has updated its listing of UCP participants and requested updated MOU signatures from all members in January 2017.

The Program has the following administrative deficiencies –

Administrative Deficiencies

- The GUCP does not have a due date scheduled for the receipt of all updated MOU signatures requested in January 2017.
- The GUCP's draft 2017 Standard Operating Procedures Manual does not provide guidelines for MARTA's electronic intake of certification applications.
- The GUCP policies and procedures are not centralized into one uniform manual, but are contained within three separate documents (GDOT's 2012 and 2016 DBE Program Plans, and the GUCP's draft 2017 SOP).

The Program has the following substantive deficiencies –

Substantive Deficiencies

- The GUCP does not have an updated version of the original 2002 Memorandum of Understanding (MOU).
- The GUCP certifying partners do not convene regularly to review and address programmatic issues.
- The GUCP does not have an approved Procedures Manual to provide uniformity in the implementation of the DBE certification Process.

According to GDOT, the GUCP receives an average of 260 DBE certification applications each fiscal year. The Georgia Department of Transportation (GDOT) received 248 applications in FY

2014, 176 in FY 2015, and 150 in FY 2016. The Metropolitan Atlanta Rapid Transit Authority (MARTA) received 101 applications in FY 2014, 160 in FY 2015, and 267 in FY 2016. During the compliance review, it was noted that the GUCP does not have a completed "Certification Procedures" document or manual compiled for the certifying partners' reference and/or guidance. The GUCP's policies and procedures are described in three separate documents, GDOT's 2012 DBE Program Plan, GDOT's revised 2016 DBE Program Plan (pending approval), and a draft of the 2017 Standard Operating Procedures (pending approval of GDOT's 2016 DBE Program Plan).

Notwithstanding, this report will provide an in-depth assessment of GUCP's overall certification practices.

I. General Information

This chapter provides basic information concerning this Compliance Review of the Georgia Unified Certification Program. Information on GUCP, the review team, and the dates of the review are presented below.

Hosting Grant Recipient:	Georgia Department of Transportation
City/State:	Atlanta, GA
Grantee Number:	1002
Executive Official:	Russell R. McMurry, P.E., Commissioner
On-site Liaison:	Kimberly A. King, EEO Director Betty Mason, Assistant State EEO Administrator
Report Prepared By:	MILLIGAN AND CO., LLC 105 N. 22nd Street, 2nd Floor Philadelphia, PA 19103 (215) 496-9100
Dates of On-site Visit:	June 21 – 23, 2017
Compliance Review Team Members:	Lillie Claitt, Lead Reviewer Lorraine E. Aldridge, Reviewer Habibatu Atta, Reviewer

2. Jurisdiction and Authorities

The Federal Transit Administration (FTA) Office of Civil Rights is authorized by the Secretary of U.S. Department of Transportation (USDOT) to conduct Civil Rights Compliance Reviews. The reviews are undertaken to ensure compliance of applicants, recipients, and sub recipients with Section 12 of the Master Agreement, Federal Transit Administration M.A. (23), October 1, 2016, 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., DOT recipients within the state) must comply with the DBE regulations at 49 C.F.R. Part 26 as a condition associated with the use of these funds. The DBE regulations define the components that must be addressed and incorporated in Georgia's UCP agreement, and were the basis for this Compliance Review.

3. Purpose and Objectives

3.1 Purpose

The FTA Office of Civil Rights periodically conducts discretionary reviews of recipients and sub-recipients 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 the GUCP 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 Georgia’s UCP has met its goal and objections as represented to DOT in its UCP agreement. This Compliance Review is intended to be a fact-finding process to (1) examine Georgia’s UCP 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 sub recipients, nor to adjudicate these issues in 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 non-discrimination requirements of 49 CFR Parts 26 and 23.
- 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 shall be binding on all UCP members.
- 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.
- Ensure the UCP agreement shall commit 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 the GUCP is honoring the UCP agreement submitted to the Secretary of Transportation.
- Examine the required certification procedures and standards of the GUCP against the Disadvantaged Business Enterprise program compliance standards set forth in the regulations and to document the compliance status of each component.
- Gather information and data regarding the operation of the GUCP from certifying members through interviews and certification file review.

4. Background Information

The purpose of this section is to provide an understanding of GUCP's operations and scale. The section highlights the GUCP's services, budget, and history.

4.1 Introduction to Georgia Unified Certification Program and Organizational Structure

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 that the UCP will follow all certification procedures and standards of Part 26. The UCP is also required to cooperate fully with oversight, review, and monitoring activities of DOT and its operating administration.

Establishment of the Georgia Unified Certification (GUCP) Program

The Georgia Federal Transportation Aid recipients discussed the requirements for developing a unified certification process. There were two meetings held to assist in the facilitation of the process. The first meeting was hosted by FHWA/Southern Resource Center on March 21-22, 2001; all Southern States were invited to attend. The second meeting was held on October 24, 2001. Each agency discussed their perceptions, minimum requirements, limitations, and the process for eventual program approval. All participants were encouraged to bring ideas, input, and cooperation to the discussion.

During the development of the UCP process, there were many issues identified that had to be discussed in order to provide enough information to create the agreement, while meeting the legal and Federal requirements of individual agencies.

Subject to the approval by the Secretary, the UCP in the State of Georgia implemented the *single agency approach*. It was agreed that the single agency approach would work best for the State of Georgia. It was discussed, decided, and accepted that the Georgia Department of Transportation (GDOT) would become the lead agency for the Unified Certification Program, with assistance from the Metropolitan Atlanta Rapid Transit Authority (MARTA). Firms located outside of Georgia and firms located in Fulton, DeKalb, and Clayton Counties are processed by MARTA. All other firms are processed by GDOT. On July 1, 2017, the processing of out-of-state applications was transferred from MARTA to GDOT.

All applications submitted to GDOT are forward to the Georgia Unified Certification Program at 600 West Peachtree Street, N.W., 7th Floor, Atlanta, Georgia. As of November 2015, applications submitted to MARTA are completed electronically through MARTA's DBE management software system, powered by B2GNOW. In the event a firm expresses the

inability to submit their application electronically, GDOT processes the application or provides appropriate supportive services to the firm.

If a firm is approved for certification, the firm is sent a letter of certification. A firm denied certification is sent a denial letter with the reason or reasons for denial, and a copy of the appeal instructions. MARTA reports its certification determinations (approval or denial) to GDOT on a weekly basis. GDOT is responsible for maintaining the UCP directory as well as entering all DBE certification determinations into the Georgia UCP DBE database. The UCP directory is updated immediately from the database entries.

GDOT and MARTA are responsible for processing Annual Affidavits and the removal of certification eligibility for non-responsiveness to the Annual Affidavit requirement. All removals of certification eligibility unrelated to the Annual Affidavit, such as changes in the firm's circumstances that renders a firm unable to meet the eligibility standards, or information not available to the GUCP at the time the firm was originally certified, are processed exclusively by GDOT. GDOT updates the GUCP database accordingly.

In late 2012, GDOT hired a UCP DBE Liaison/GDOT Director. An assessment of the current GUCP operating procedures was completed, and actions were initiated to rectify the various deficiencies identified in GDOT's 2012 UCP compliance review. The GDOT certification Unit was restructured, and the certification backlog was identified as a priority. Additional staff was hired to develop and implement new procedures for managing the day-to-day certification process with a focus on productivity (to reduce backlog) and quality control.

GDOT's Certification Unit consists of the following personnel:

- GDOT Assistant Administrator
- DBE Lead Coordinator/Certification Manager
- Two DBE Coordinators/Analysts
- One Intake and Annual Affidavit Coordinator
- Seven District EEO Officers (responsible for conducting on-site interviews only)
- Consultant Service (analyst responsible for reviewing specialty applications and conducting financial audits)
- Two Compliance Officers (responsible for DBE investigations and Updated On-site interviews)

MARTA's Certification Unit consists of the following personnel:

- MARTA Executive Director, Diversity & Inclusion
- Manager, Supplier Diversity
- Five DBE Analysts (three positions are currently vacant)

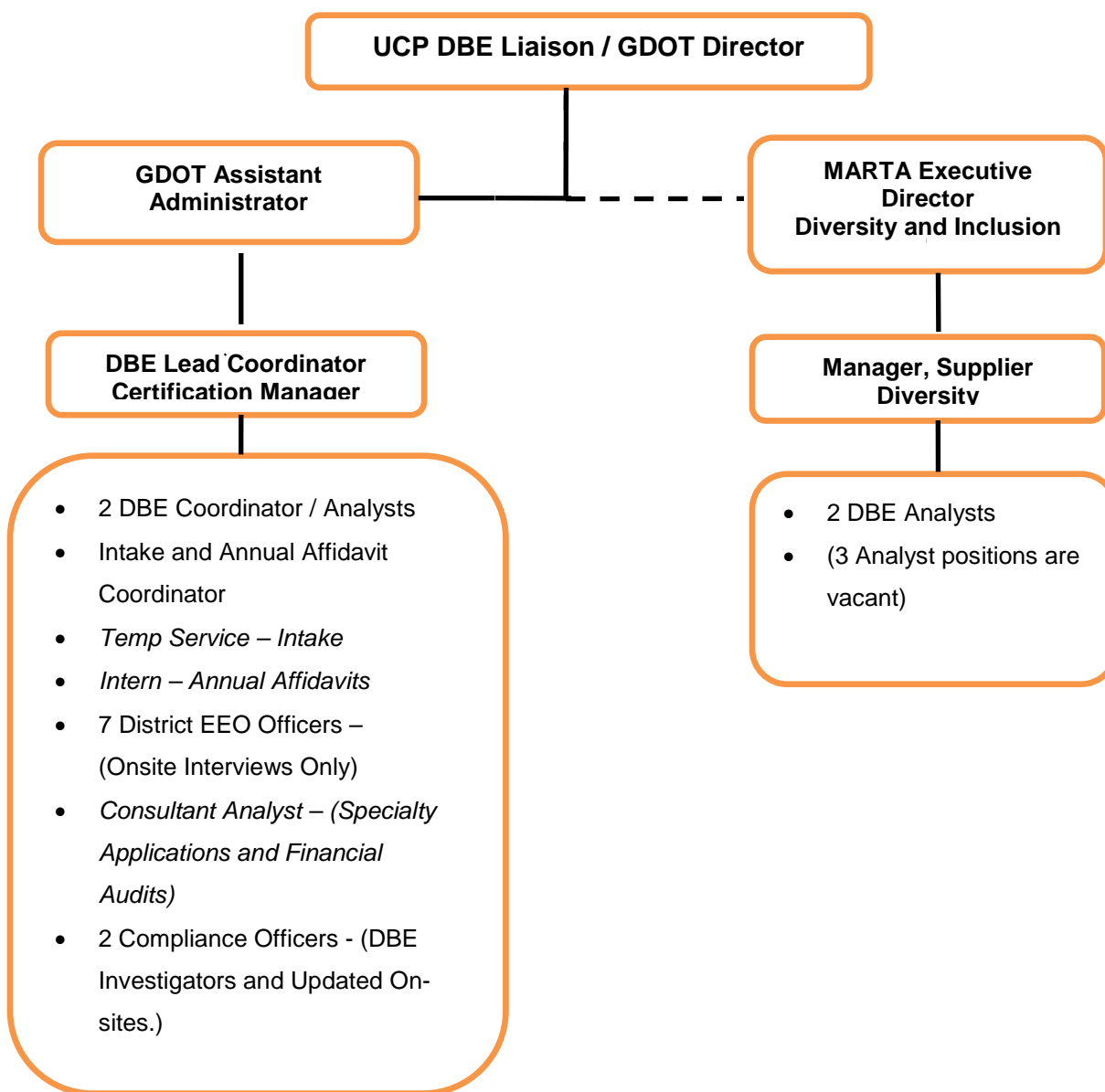
GDOT's Director stated that the certifying partners met throughout 2013 and 2014 to update the GUCP Standard Operating Procedures (SOPs). While the updated SOP contains guidelines for GDOT's application Intake process, the SOP does not contain guidelines for MARTA's new electronic application intake process. MARTA's electronic intake process is a pilot operation that is being evaluated to determine its effectiveness in simplifying the submittal of certification applications and supporting documents. If

successful, the GUCP will then decide whether GDOT will change its intake process to electronic applications.

GDOT stated the updated SOP is currently in draft form pending approval of GDOT's updated DBE Program Plan submitted to the FHWA in June 2016.

The GUCP organization and staff dedicated to UCP responsibilities are shown in the following chart:

GEORGIA UNIFIED CERTIFICATION PROGRAM ORGANIZATION CHART



Funding of the Unified Certification Program in Georgia

During the development stages in 2002, it was anticipated that the initial start-up cost of the UCP would be estimated at one hundred thousand dollars (\$100,000).

Further analysis of the usage of federal recipient programming dollars for transportation and DBE utilization was highest by GDOT, MARTA, and Metro Atlanta Counties (75-80%). The annual cost for the UCP is carried by the Georgia Department of Transportation (as the Lead Agency) valued at \$583,569; the Metropolitan Atlanta Rapid Transit Authority (as Certification Partner In-kind Services in lieu of financial contribution) valued at \$125,000; and \$2,000 contribution from each the following eight (8) GUCP participants:

- Fulton County
- City of Atlanta
- DeKalb County
- Cobb County
- Clayton County
- Gwinnett County
- Georgia Regional Transportation Authority
- Georgia Department of Administrative Service/Governors Small Business Center

Unified Certification Program Participants

Initially, interagency agreements were garnered to support the UCP from the main usage recipients and approximately seventy-four other jurisdictions. In January 2017, GDOT updated the GUCP participant list and required each participating agency to sign an updated Memorandum of Understanding (MOU). The MOU remains essentially unchanged from the original 2002 document. Currently, 123 members participate in the GUCP.

The GUCP participants are listed below:

Albany Transit System	Chatham Area Transit Authority
Athens Clarke County Public Transit Systems	Chatham-Savannah MPC
Athens/Ben Epps Airport	Cherokee County Airport
Atlanta Public Schools Office of Contract Compliance	City Of Atlanta
Atlanta Regional Commission	City Of Cochran
Atlanta South Regional Airport	City Of Gainesville
Augusta Public Transit	City Of Homerville
Augusta Regional Airport	Claxton-Evans County Airport
Bacon County Airport	Clayton County Board Of Commissioners
Barwick-Lafayette Airport	Cobb County Board Of Commissioners
Berrien County Airport	Cochran Municipal Airport
Blairsville Airport	Columbus Consolidated Government
Brantley County Airport	Columbus Metropolitan Airport
Butler Municipal Airport	Cook County Board Of Commissioners
C.P. Savage Airport	Cordele Flying Service
Cairo-Grady County Airport	Covington Airport
Camilla Airport	Dalton Municipal Airport
Cartersville Bartow Airport Authority	Daniel Field
	Davis Field Airport
	Dawson-Terrell County Airport

Decatur County Industrial Airpark
DeKalb County
DeKalb Peachtree Airport
Georgia Department of Administrative Services
Donaldsonville Municipal Airport
Douglas County Rideshare
Douglas Municipal Airport
Early County Airport
Elbert County Airport-Patz Field
Fitzgerald Municipal Airport
Franklin County Airport
Fulton County Government
Gainesville Municipal Airport
Gilmer County Airport
Glynn County Airport Commission
Greene County Regional Airport
Griffin-Spalding County Airport
Georgia Regional Transportation Authority
Gwinnett County Airport-Brisco Field
Gwinnett County Board Of Commissioners
Habersham County Airport
Harris County Airport
Hawkinsville-Pulaski County Airport
Hazelhurst Airport
Heart of Georgia Regional Airport
Homerville Airport
Jackson County Airport
Jackson County Government
Jekyll Island Airport
Jenkins County Airport
Jesup-Wayne County Airport
Jimmy Carter Regional Airport
Lagrange- Callaway Airport
Laurens County Airport
Liberty County Airport
Louisville Airport
Lumpkin County-Wimpy's Airport
Madison Municipal Airport
Marion County Airport
Metropolitan Atlanta Rapid Transit Authority
Mathis Airport
Meriwether County Authority
Metra Transit System
Metter Airport
Middle Georgia Regional Airport
Millen-Jenkins County Airport
Moultrie Airport
Newnan-Coweta County Airport
Peachtree City Airport

Pickens County Airport
Plantation Airport
Polk County Airport
Quitman Brooks County Airport
Randolph County Airport
Richard B. Russell Airport
Savannah Hilton Head International Airport
Southwest Georgia Regional Airport
St. Mary's Airport
Statesboro-Bulloch County Airport
Swinton Smith Field
Sylvester Airport
Telfair-Wheeler Airport Authority
Thomaston-Upson County Airport
Thomasville Regional Airport
Tift County Airport
Toccoa-Stephens County Airport
Treutlen County Airport
Turner County Airport
Valdosta-Lowndes County Airport Authority
Vidalia Regional Airport
Washington County Airport
Waycross-Ware County Airport
Wayne County Airport
West Georgia Regional Airport
Wrens Memorial Airport

4.2 Budget and FTA-Assisted Projects

The GUCP's budget comprises funds from the Georgia Department of Transportation (the Lead Agency), valued at \$583,569 and the Metropolitan Atlanta Rapid Transit Authority (Certification Partner In-kind Services in lieu of financial contribution), valued at \$125,000. In addition, an annual contribution for \$2,000 is received from each of the following GUCP participating members: Fulton County, City of Atlanta, DeKalb County, Cobb County, Clayton County, Gwinnett County, Georgia Regional Transportation Authority, and Georgia Department of Administrative Service/Governors Small Business Center.

The GUCP budget for FY 2017 is as follows:

Funding Source	Funding Amount	
Federal – FTA	Total:	\$0.00
		\$0.00
Federal – FHWA	Total:	\$0.00
		\$0.00
State:		\$583,569.00
Local:		\$141,000.00
Total:		\$724,569.00

State

- GDOT's DBE Certification Unit (approximate annual personnel budget) \$335,019
 - GDOT's Certification Consultation Contract \$248,550
- Total \$583,569**

Local

- MARTA's annual in-kind-service dollar value (approximate) \$125,000
 - Eight (8) UCP Participants annual contribution (\$2,000 each) \$ 16,000
- Total \$141,000**

(Fulton County, City of Atlanta, DeKalb County, Cobb County, Clayton County, Gwinnett County, Georgia Regional Transportation Authority and Georgia Department of Administrative Service/Governors Small Business Center)

5. Scope and Methodology

5.1 Scope

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

1. The rebuttable presumption that members of the designated groups identified in 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. Applying 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. 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. Considering all facts in the record, viewed as a whole, when determining whether the socially and economically disadvantaged participants in a firm own the firm [49 CFR 26.69].
6. Considering all facts in the record, viewed as a whole, when determining whether socially and economically disadvantaged owners control a firm [49 CFR 26.71].
7. Excluding commercially-useful function issues from certification decisions [49 CFR 26.73].
8. Evaluating the eligibility of a firm on the basis of present circumstances and ensuring only firms organized for profit are considered eligible DBEs [49 CFR 26.73].
9. Participation as a certifying or non-certifying UCP member—as evidence by signing the UCP agreement. [49 CFR 26.81 and 26.31].
10. Ensure that only firms certified as eligible DBEs under this section participate as DBEs on federally-assisted projects [49 CFR 26.83].
11. Properly applying interstate certification requirements. [49 CFR 26.85].
12. Issuing denial letters that clearly explain the reason why the individual was denied DBE certification [49 CFR 26.86–26.89].
13. If the UCP fails to comply with any requirement of the DBE regulations, it 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].

14. Maintaining proper records (i.e., application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews) for a minimum of 3 years. [49 CFR 26.11]
15. Submitting to the USDOT the number of minority women, non-minority women, and men that are certified DBEs in the UCP Directory. [49 CFR 26.11]

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 UCP websites 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 (Attachment A) to GDOT that informed the UCP 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 GDOT of staff and other parties that would potentially be interviewed.

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

- UCP Agreement
- Memorandum of Understanding or similar documents forming the UCP (signed by all members of the UCP)
- The certification criteria/guidelines used in determining DBE eligibility
- 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, etc.
- A list of all firms certified, denied, and decertified or removed by the UCP in FYs 2015-current. The list must include the firm's city, state, ethnicity, gender, date of site visit, reasons for denial and/or decertification (e.g., size, PNW, control, etc.), whether the denial decision was appealed to the UCP or USDOT, and the result of the appeal
- Explanation of UCP appeals process(es). List the individuals involved in the appeals process and how they are selected
- Any third party complaints regarding DBE firms certified by the UCP and actions taken to resolve the matter
- Any Freedom of Information or similar request for certification information.
- Any enforcement action against a DBE firm (e.g., suspension, debarment, etc.) regarding certification
- Other pertinent information related to UCP operations and procedures

An opening conference was conducted at the beginning of the Compliance Review with FTA representatives, Georgia Department of Transportation staff, Metropolitan Area Rapid Transit (MARTA) staff, and the review team. The following people attended the meeting:

Federal Transit Administration

Janelle Hinton	FTA Equal Opportunity Specialist
Dee Foster	FTA Region IV Civil Rights Officer

Georgia Department of Transportation (GDOT)

Russell R. McMurry, P.E.	Commissioner
Mike Dover	Deputy Commissioner
Kimberly King	EEO Director
Betty Mason	Assistant State EEO Administrator
Matthew Cline	General Counsel, Division of Administration
Carol Comer	Director, Intermodal Division

Metropolitan Area Rapid Transit Authority (MARTA)

Antoine Smith	Manager, Supplier Diversity
---------------	-----------------------------

Milligan & Company, LLC

Lillie Claitt	Lead Reviewer
Lorraine Aldridge	Reviewer
Habibatu Atta	Reviewer

Following the opening conference, the review team examined GDOT's certification and other documents submitted by the UCP. The team then conducted interviews with GUCP members and staff regarding UCP administration, organizational structure, certification procedures, record keeping, monitoring, and enforcement. A sample of DBE applications and certification decisions were selected and reviewed, (See the table below).

Status	Firm Name	Certifying Agency
New Certifications <1 Year		
	House of Preparation	MARTA
	Maesawyr, LLC	GDOT
Existing Certifications >1 Year		
	Deanna, Inc.	GDOT
	Moon Trucking, Inc.	GDOT
Interstate		
	CodeRed Business Solutions, Inc.	MARTA
	People's Transit, LTD.	MARTA
	R&G Business Enterprises, LLC	MARTA
Removals		
	Clanton's Trucking	MARTA
	Neal Properties, LLC	GDOT
Denials		
	Rhema Construction, LLC	GDOT
	S&C Hospitality Services, LLC	MARTA

At the end of the review, FTA representatives, GDOT and MARTA staff, and the review team convened for the final exit conference where initial findings were discussed. Attending the conference were:

Federal Transit Administration

Janelle Hinton	FTA Equal Opportunity Specialist
Ed Birce	FTA Equal Opportunity Specialist
Dee Foster	FTA Region IV Civil Rights Officer

Georgia Department of Transportation (GDOT)

Russell R. McMurry, P.E.	Commissioner
Mike Dover	Deputy Commissioner
Kimberly King	EEO Director
Betty Mason	Assistant State EEO Administrator
Matthew Cline	General Counsel, Division of Administration
Carol Comer	Director Intermodal Division

Metropolitan Area Rapid Transit Authority (MARTA)

Dr. Shelton Goode	Executive Director, Diversity and Inclusion
Antoine Smith	Manager, Supplier Diversity

Milligan & Company, LLC

Sandra Swiacki	Program Director
Lillie Claitt	Lead Reviewer
Lorraine Aldridge	Reviewer
Habibatu Atta	Reviewer

FTA provided GDOT with a draft copy of the report for review and response. No comments were provided by GDOT in response to the report.

5.3 Stakeholder Interviews

Prior to the on-site visit, the review team contacted DBE and non-DBE firms, UCP participants, and organizations regarding their interaction with the GUCP.

DBE Firms

Two DBE firms, Nobel Line Enterprises, LLC and Wright's Construction & Development Company, were contacted for an interview to gain insight into how the GUCP works with the small minority and women-owned business community and learn about their experience with the certification process. One DBE firm 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 submitted?*
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 statement, current tax returns, etc.)?*
10. *Do you have any concern(s) about the UCP or the certification process?*

The DBE is currently certified and learned of the UCP program through the Small Business Development Center. The firm's representative did not have the specific dates, but indicated that notification was received from GDOT acknowledging receipt of their application, followed by a request for additional documentation. Once the requested documentation had been submitted, a site visit was conducted. The representative stated that the certification process took approximately 90 days to complete. The representative noted that the firm has received subcontract work with several prime contractors because of becoming DBE certified.

Non-DBE Firms

Three non-DBE firms were contacted for an interview to gain insight into how the UCP works with the non-DBE and prime contractor communities in the management of the UCP. The firms contacted were:

- C.W. Matthews Contracting Company, Inc.
- Northwest Georgia Paving, Inc.
- Reeves Construction Company

One non-DBE firm responded to the interview request.

The interview questions included:

1. *Is your company familiar with the State Unified Certification Program (UCP) and the certifying authorities?*
2. *Has your company contacted the UCP regarding DBE / ACDBE certification requirements?*
3. *Has your company referred firms interested in DBE / ACDBE certification to the UCP?*
4. *Has your company participated in any outreach activities organized by the UCP?*
5. *Does your company utilize the UCP DBE Directory to identify firms for contracting opportunities?*
6. *Have you experienced any difficulties in accessing and/or searching the UCP DBE Directory?*
7. *Have you contacted the UCP for assistance in accessing and/or searching the directory for certified DBEs?*
8. *Have there been any issues regarding the type of work a certified DBE is listed to perform in the UCP Directory?*
9. *Are you aware of any concern(s) about the UCP or the certification process?*

The non-DBE firm's representative stated that the company is familiar with the GUCP. Many of their contracts are funded with federal dollars. The company contacts the certifiers regarding various DBEs they are interested in working with to inquire about the firm's current

certification status, or with concerns about a DBE firm's NAICS code(s). They also contact the UCP to refer new firms interested in pursuing DBE/ACDBE certification.

In addition, the company regularly participates in outreach activities organized by the UCP. The company has a business practice of soliciting DBE participation regardless of the funding source, and utilizes the UCP DBE Directory to identify firms for participation in its federally funded and non-federally funded subcontracting opportunities. Over the years, the company has developed good working relationships with DBE firms. The company has a department that is devoted to monitoring its DBE subcontractors' performance. The company conducts additional vetting of DBEs to verify the firm's capability to perform subcontract work. The vetting includes a site visit to the DBE's place of business and interviews with DBE employees.

Stakeholder Groups

Four stakeholder organizations were contacted for an interview to gain insight into how the GUCP works with external organizations and the small minority and women-owned business community. The organizations contacted were:

- National Black & Latino Council
- National Association of Asian American Professionals
- Georgia Hispanic Chamber of Commerce
- Greater Atlanta Economic Alliance

One stakeholder responded to the interview request.

The interview questions included:

1. *Is your organization and membership familiar with the state 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 DBE 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 state 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 state UCP?*
8. *Has the state UCP participated in any outreach activities organized by your organization?*
9. *What is your organization members' view of the state 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. *Do you have any concern(s) about the UCP or the certification process?*

The representative stated that the organization is familiar with the GUCP and its certifying authorities. Some members have mentioned that the UCP DBE directory is user friendly. However, the timeframe for adding newly certified firms need improvement. Members have

commented that there may not be enough GUCP staff to notify firms when applications have been received, or if additional documentation is needed to complete the certification process. The membership is of the opinion that the GUCP is in need of more support staff to help with the flow of applications.

The representative stated that there is a positive working relationship between the organization and the GUCP certifying agencies. The organization has participated in outreach activities hosted by the state UCP. However, it was recommended that more advanced notice of UCP activities would be beneficial to the organization. The certifying agencies have also participated in outreach efforts hosted by the organization.

The representative noted that the GUCP has exhibited consistent improvement over the last five to six years, but more notably in the last two to three years. The constituency has communicated that the DBE Directory is more user friendly and that there has been improvement in the certification processing time. When asked if there were any suggestions for improving the certification process, the representative stated that the GUCP needs to expedite their response to other states processing certification applications for DBEs who were originally certified in Georgia.

UCP Participants

Four GUCP participant agencies were contacted for interview to gain insight on how the GUCP works with DOT recipients to develop and administer the State's UCP. The agencies contacted were:

- Albany Transit
- Clayton County Government – Central Services Department
- Savannah Metropolitan Planning Commission
- Chatham County Government

Representatives from two UCP participating agencies responded to the interview request.

The interview questions included:

1. *Is your agency familiar with the federal requirements for Unified Certification Programs (§26.81)?*
2. *Are you familiar with the certifying authorities that make up the UCP for your state?*
3. *Is your agency currently a participant in the state UCP?*
4. *Does your agency have a (signed) copy of the Memorandum of Understanding?*
5. *Is your agency actively involved in UCP oversight and decision making?*
6. *Is your agency made aware of changes in the UCP?*
7. *Does your agency contact the UCP for DBE Program assistance?*
8. *Has your agency participated in any outreach efforts organized by the UCP?*
9. *Does your agency include UCP information in its outreach literature/handouts?*
10. *Has your agency referred firms interested in DBE certification to the UCP?*
11. *What is your agency's view of the effectiveness of the UCP?*
12. *Are you aware of any concern(s) about the UCP DBE Directory?*
13. *Does your agency have any suggestions to improve the UCP?*

The representatives from one agency stated that they receive FTA funds for planning. However, the agency's representatives stated that the organization is not familiar with the GUCP or the federal DBE program.

The second agency's representative stated that the organization is familiar with the GUCP and the certifying authorities. The representative stated that the organization does not have a signed copy of the Memorandum of Understanding, nor are they actively involved in the GUCP oversight and decision-making. However, the organization is aware of changes in the UCP through email updates and training sessions organized by the GUCP.

The second agency stated further that it has DOT-assisted projects and routinely checks the DBE Directory to identify certified vendors for participation in their contracting opportunities. The representative suggested that the GUCP could host more workshops and training sessions for potential DBEs in their geographic location to walk the membership through the certification process.

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 GUCP's Program 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 Georgia's 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 Part 26.61)

There is a rebuttable presumption 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. Individual who are not presumed to be member of these groups and individuals for which the presumption has been rebutted, have the burden of proving by a preponderance of the evidence that they are socially and economically disadvantaged. The UCP must ensure that its review process comports with this standard.

Discussion

During this compliance review, no deficiencies were found with the requirement for Burden of Proof.

The Georgia Unified Certification Program (GUCP) Standard Operating Procedures (SOP), indicate that the certifiers (GDOT and MARTA) will follow the certification standards of Part

26, Subpart D, to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. The procedures state that the GUCP will make certification decisions based on the facts as a whole. Any firm seeking DBE certification shall have the burden of demonstrating, by a preponderance of the evidence that it meets the requirements concerning group membership or individual disadvantage, business ownership, and control. The GUCP will rebuttably presume that members of the designated groups identified in 49 CFR Part 26.67(a) are socially and economically disadvantaged. The DBE Certification Application contains a signed, notarized statement from individuals presumed to be socially and economically disadvantaged.

B) Additional Evidence of 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, 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 compliance review, deficiencies were found with the requirement for Additional Evidence of Group Membership.

The GUCP Certification Procedures describe the membership determination process, in accordance with Part 26.63(a)(1). The procedures states, *"If a UCP recipient has reason to question whether an individual is a member of a group that is presumed to be socially and economically disadvantaged, the GUCP will require the individual to demonstrate by a preponderance of the evidence, that he or she is a member of the group."*

The procedures exclude Part 26.63(a)(2) of the DBE regulations that state, *"The UCP must provide the individual a written explanation of your reasons for questioning his or her group membership and a written request for additional evidence as outlined in paragraph (b) of this section."*

Paragraph (b) from the DBE regulations is included in the procedures, which states,

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

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

(2) GUCP's decisions concerning membership in a designated group are subject to the certification appeals procedure."

The GUCP's procedures must follow the entire process for making group membership determinations.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, the GDOT must submit to the FTA Office of Civil Rights revised GUCP procedures that include the entire process for making group membership determinations, which would include the addition of information from Part 26.63(a)(2).

6.2 Business Size

Basic Requirement (49 CFR Part 26.65)

A UCP must apply current Small Business Administration (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 \$23.98 million.

Discussion

During this compliance review, deficiencies were found with the requirement for Business Size.

The GUCP Procedures reference the appropriate Small Business Administration (SBA) business size standards in 13 CFR Part 121, and DBE size standards of \$23.98 million for evaluating eligibility of this part.

Of the eleven certification files examined, three were identified as missing business tax returns and/or affiliate tax returns. See the following table:

<i>Firm</i>	<i>Certification Type</i>	<i>Missing Corporate and/or Affiliate Tax Returns for Initial Certification</i>
Moon Trucking, Inc. (GDOT)	Existing	2011, 2012, 2013
Neal Properties, LLC (GDOT)	Removal	Affiliate: 2011
R&G Business Enterprises, LLC (MARTA)	Interstate	Affiliate: 2011, 2012 & 2013

In accordance with 49 CFR 26.65, to be an eligible DBE firm, the applicant firm, including its affiliates, cannot have average annual gross receipts that exceed \$23.98 million. In order to determine if a DBE applicant or approved firm meets this criterion, the UCP is required to analyze the most current three years' business tax returns of the DBE applicant and any affiliated business interests.

Moon Trucking, Inc. - The firm specializes in freight trucking, and was established in May 2012. GDOT certified the firm in January 2015. None of the required Federal Corporate Tax returns were present in the file.

Neal Properties, LLC – The firm was established in November of 2005, and GDOT certified the firm in April 2013. During the initial certification process, business tax returns were submitted for the applicant firm and an affiliate firm, Auto & Truck Towing. Three years tax returns were submitted for Neal Properties, and two years tax returns were submitted for the affiliate firm. One tax return for the affiliate, 2011, was not in the file. Additionally, the two-year average gross receipts for the affiliate firm totaled \$486,655. The affiliate's tax information was not factored into GDOT's calculation when determining the applicant firm's business size.

R&G Business Enterprises, LLC - This is an interstate firm certified in the state of Connecticut. The firm specializes in parking lots and garages. R&G Business Enterprises was established in July 1994, and MARTA certified the firm in June 2015. During the certification process, MARTA received three years (2011, 2012, and 2013) of Corporate Tax Returns for the Applicant Firm, but no Affiliate Tax Returns. The certification file contained a screenshot of the Connecticut Department of Transportation's UCP Directory search results, which revealed that an affiliate firm, R&G Services, LLC, was owned by one of the applicant firm owners, and shared the same business address as R&G Business Enterprises, LLC.

Corrective Actions and Schedule

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

- revised GUCP procedures for ensuring the collection of required business tax documents (including applicable requests for extensions), affiliate tax returns, and a process for how gross receipts are to be calculated; and
- procedures to ensure that all certification participants are adhering to business size standards.

6.3 Social and Economic Disadvantage

A) Presumption of Disadvantage

Basic Requirement (49 CFR Part 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 individuals. The UCP must require applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.

Discussion

During this compliance review, no deficiencies were found with the requirement for Presumption of Disadvantage.

In accordance with the requirements of 26.67(a)(1), all certification files examined included a signed and notarized statement that the presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.

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. All applicants must use the USDOT PNW form in Appendix G without change or revision. Moreover, the UCP must assess the PNW in the manner prescribed by 26.67.

Discussion

During this compliance review, deficiencies were found with the requirement for Personal Net Worth.

The following three files did not contain documentation to substantiate the applicant's claims on the PNW statement:

- Deanna, Inc. (GDOT)
- R&G Enterprises, LLC (MARTA)
- Rhema Construction, LLC (GDOT)

Deanna, Inc. - The reviewers found that an investment property, assessed in 2016 at \$67,670, was listed in the owner's 2012, 2013, and 2014 personal tax returns, but was not disclosed on the PNW statement. There was no evidence in the file that indicated a follow up inquiry was conducted regarding the property, or that a revised PNW statement was submitted that applied the value of the property to the PNW calculation.

R&G Business Enterprises, LLC - The reviewers noted that the applicant's PNW statement was incomplete. Pertinent information regarding other business interests included in the applicant's personal tax returns was omitted. Furthermore, it was noted that the business owner's assets totaled \$1.5 million, exceeding the DBE program limit of \$1.32 million. However, the applicant listed a sole liability of \$450,000, which was identified as a loan against a life insurance policy. This liability brought the applicant's personal net worth to \$1.13 million, below the program limit. No documentation was present in the file indicating MARTA's actions to investigate or verify the stated liability.

Rhema Construction, LLC - This firm initially applied for certification to GDOT in July 2014, but was later denied entry into the program in February 2015. The applicant's certification file contained two PNW forms, one dated August 2014 and the second dated November 2014. On both forms, the applicant claimed an automobile liability, but did not state a corresponding automobile asset. Furthermore, according to the applicant's salary statement, his annual salary exceeded \$100,000; however, only \$1,000 was claimed in the checking account, zero dollars in the savings account, and zero value for personal property. No documentation was available in the file that supported the amount of funds disclosed for

the applicant's checking and savings accounts. There is also no evidence in the file that GDOT requested or researched the correct value of the applicant's personal property.

Corrective Actions and Schedule

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

- ensure that PNW forms are thoroughly analyzed for errors and omissions;
- ensure that additional investigation is conducted into pertinent PNW errors and omissions for revision; and
- ensure that all certification participants are adhering to the PNW review standards.

C) Rebutting the Presumption of Disadvantage

Basic Requirement (49 CFR Part 26.67)

A UCP may rebut the presumption of disadvantage if the PNW statement of wealth exceeds \$1.32 million or the applicant's assets would lead a reasonable person to believe the applicant is not economically disadvantaged.

Discussion

During this compliance review, deficiencies were found with the requirement for Rebutting the Presumption of Disadvantage.

As previously discussed in the Personal Net Worth section above, the business owner of R&G Business Enterprises, LLC, had a personal net worth that totaled \$1.5 million, exceeding the DBE program limit of \$1.32 million. However, the applicant listed a sole liability in the amount of \$450,000, which was identified as a loan against a life insurance policy. This liability reduced the applicant's personal net worth to \$1.13 million, below the program limit.

In 49 CFR Part 26.67(b)(i), it states that *"If the statement of personal net worth and supporting documentation that an individual submits under paragraph (a)(2) of this section shows that the individual's personal net worth exceeds \$1.32 million, the individual's presumption of economic disadvantage is rebutted."*

The GUCP's procedures state that, *"The GUCP will review all information submitted in this regard to determine if a rebuttal of presumption of disadvantage is required. If an individual's Personal Net Worth exceeds \$1.32 million, said individual's presumption of economic disadvantage is automatically rebutted and their application for certification will be denied."* There was no evidence or documentation in the file indicating any action taken by MARTA to investigate or verify the stated liability.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, GDOT must submit to the FTA Office of Civil Rights a plan to ensure that all certification participants are adhering to GUCP Standard Operating Procedures and requirements of this section.

D) 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 this compliance review, no deficiencies were found with the requirement for Individual Determinations of Social and Economic Disadvantage.

The GUCP Procedures state that individual determinations of social and economic disadvantage are made on a case-by-case basis. Applicants under this provision are required to provide sufficient information pertinent to their social and economic disadvantaged status. All of the files reviewed contained sufficient information to document that individuals whose ownership and control were relied upon for DBE certification were socially and economically disadvantaged.

6.4 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 compliance review, deficiencies were found with the requirement for Ownership.

Documented proof of contribution used to acquire ownership in the DBE firm was not found in the following five certification files:

- CodeRed Business Solutions (MARTA)
- Deanna, Inc. (GDOT)
- House of Preparation (MARTA)
- Moon Trucking (GDOT)
- Neal Properties, LLC (GDOT)

CodeRed Business Solutions – The certification application indicates the business owner invested \$5,000 cash and \$16,000 in equipment for the start-up of the business. The file did not contain documented proof of the stated capital contribution.

Deanna, Inc. – The “*Initial Investment to acquire ownership interest in firm*” section of the certification application was left blank. According to the on-site report dated April 13, 2016,

the owner stated that the investment was more than \$20,000 from personal savings, and used to purchase three minivans for the start of the business. The reviewers did not find documented proof of the capitalization in the certification file.

House of Preparation – According to the initial DBE application, the business owner capitalized the firm with \$5,000 cash. No documented proof of the origin of the cash was found in the file. A signed loan agreement, dated October 1, 2013, between the firm and the disadvantaged owner was found in the file. According to the agreement, the firm (House of Preparation) is required to repay the owner for the \$5,000 used to capitalize the firm. The loan is signed by the owner twice, as both Lender and Borrower. A repayment plan is mentioned in the loan agreement that states repayment was to conclude in July 2017. There was no documented proof that the repayment was being fulfilled. Consequently, no acceptable proof of initial capitalization or ongoing capital exists in the record.

Moon Trucking, Inc. – The firm is authorized to issue 1,000 shares of corporate stock. The value of the stock shares was not indicated. There was also no record of how many shares were issued, if any. The certification file did not contain a record of the Corporate Stock Certificates, nor the firm's Stock Transfer Ledger. The applicant submitted a Word document itemizing initial start-up costs that included *Deposit on Mack Dump Truck, Commercial Auto Insurance, GA Secretary of State (Corporation), GA Intrastate Carrier Registration, Fuel (first week) and Supplies/Etc.* The investment totaled \$6,115.00; however, there was no proof of the capitalization found within the file.

Neal Properties, LLC – This firm is 100% minority owned. Reviewers did not find any proof of the capitalization for the firm in the file.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, GDOT must submit to the FTA Office of Civil Rights procedures to ensure that all applicants applying for DBE/ACDBE Certification provide documented proof of contributions, for each owner, used to acquire ownership interest in the firm.

6.5 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. Only an independent business can be certified as DBE and the UCP must scrutinize relationships with non-DBE firms in areas such as personnel, facilities, equipment, financial and/or bonding support, and other resources.

Discussion

During this compliance review, deficiencies were found with the requirement for Control.

Reviewers found that the Deanna, Inc. certification file was deficient for this requirement.

In the review of the certification application, Deanna, Inc. is 100 percent owned by an African American female. In *Section 1: Certification Information*, the applicant's husband, an

African American male, is listed as the CEO. In *Section 4: Control*, the owner is listed as “Owner/CFO”. In *Section 4: “B. Duties of Owners, Officers, Directors, Managers, and Key Personnel”*, the owner checked “A - Always” for signs business checks, while the husband is checked “N-Never”; however, the file contained the following bank authorization cards:

Account Owner	Date Opened	Type of Bank Account	Authorized Signatures Listed and Positions
Deanna, Inc.	May 28, 2014	Business	Owner is listed as CEO
			Husband is listed as CFO
Deanna, Inc. dba Way to Go Transportation	September 30, 2002	Business	Owner is listed as President
			Husband is listed as Vice President
Deanna, Inc. dba Thomas & Thomas Transportation	January 7, 2010	Business	Owner is listed as Owner
			Husband is listed as President
			Office Manager is listed
Deanna, Inc. dba Deshawn's Seafood and Chicken	October 17, 2012	Business	Owner is listed as President
			Husband is listed as CEO

The file contained a Schedule of Salaries, which lists the husband as the “CEO/Operations Manager”, with an annual salary of \$48,000. The document also lists salaries for the Office Manager and Regional Manager, but the Owner is not listed. During the on-site interview conducted on March 22, 2016, the owner indicated that she does not receive compensation from the firm. According to Section 6.08(f) in the GDOT's 2012 DBE Plan and Section 26.69(i) in the 2016 DBE Plan, *“the GUCP considers differences in remuneration between socially and economically disadvantaged owners and other participants in the firm in determining whether to certify a firm as a DBE.”* There was no evidence in the file that this was further investigated.

During the on-site visit interview, the owner stated that she works four hours per day in the business. She stated that her responsibilities include signing payroll checks, paying bills, and handling the loan agreements. Reviewers also found a full list of employees in the certification file. The list includes the husband, who is listed as a Full-Time Area Manager. The owner is not listed in the document at all. Another document titled “Staffing Structure” also lists the husband as CEO, but does not list the owner in the chart. In Section 6.08(h) in the 2012 DBE Plan and Section 26.69(j) in the 2016 DBE Plan, it states:

“In order to be viewed as controlling a firm, a socially and economically disadvantaged owner cannot engage in outside employment or other business

interests that conflict with the management of the firm or prevent the individual from devoting sufficient time and attention to the affairs of the firm to control its activities. For example, absentee ownership of a business and part-time work in a full-time firm are not viewed as constituting control."

No documentation was available in the file that indicated the owner was questioned regarding outside employment or how much time was devoted to other business interests, if any. Furthermore, the reviewers did not find documentation in the file that showed that the owner worked in the firm.

As part of the on-site visit, three employees were interviewed. Questions included:

- Name, position, and time of employment
- Who interviewed the employee?
- Who supervises the employee?
- Who trained the employee?
- Who signs the employees' paychecks?
- Does the employee receive benefits through the company?
- Does the employee work for other companies?
- Who, in the employee's opinion, controls the company and why?

Each of the three employees interviewed indicated that the husband is in control of the company. They gave the following reasons:

- The husband checks on things regularly and takes care of the payroll.
- The husband gives orders.
- The husband has the initial input in the process of programs and daily work duties.

In addition to the completed On-site Report, a separate document was found in the file, a "Control Determination Checklist", which contained a notation that indicated the control requirements for the owner were not met. No specific details were written. An additional note on the Checklist indicated that the owner was contacted on April 28, 2016 to respond to additional questions; however, the file did not contain any documentation of what was discussed in the conversation.

The employment experience on the owner's resume does not include any transportation related duties or indicate experience related to owning and operating a transportation company. Instead, it lists that the owner is presently an entertainment reporter (since September 1995) and has held many positions as an on air radio personality and producer. The husband has owned many companies and his resume states that he is the owner of Thomas & Thomas Transportation from May 1999 to present.

According to Section 6.08(e) in the 2012 DBE Plan and Section 26.69(g) in the 2016 DBE Plan, it states:

"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 will not be 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, the GUCP does not consider expertise limited to office management, administration, or bookkeeping functions unrelated to the principal business activities of the firm as sufficient to demonstrate control."

There was no documentation available in the file to substantiate the owner's ability to direct or cause the direction of the management and policies of the firm and to make day-to-day or long-term decisions on matters of management, policy, and operations.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, GDOT must submit to the FTA Office of Civil Rights, a plan to ensure that control determinations are appropriately addressed and documented in the file.

6.6 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. 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 shall cooperate fully with UCP requests for information relevant to the certification process.

Discussion

During this compliance review, no deficiencies were found with the requirement for Other Rules Affecting Certification.

The GUCP certification procedures cite the complete regulation pertaining to the requirements of this section, specifying that the GUCP apply the guidelines in making certification decisions.

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 GUCP's requests for additional information relevant to the certification process.

6.7 UCP Requirements

A) UCP Agreement

Basic Requirement (49 CFR Part 26.81)

All DOT 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 compliance review, deficiencies were found with the requirement for UCP Requirements.

The GUCP Memorandum of Understanding (MOU) has not been updated since the initial 2002 approval. Recognizing the time that has lapsed since the original signatures to the MOU, in January 2017, GDOT's Equal Employment Opportunity Office contacted DOT recipients to update the list of UCP participants, and to obtain updated signatures to the MOU. The participants were advised that the substantive language of the MOU remains essentially unchanged from the original 2002 document. The UCP participant list has been updated to contain 123 organizations (as exhibited in Section 4: Background Information of this report). As of June 2017, GDOT had not received all of the requested MOU signature updates, nor has it set a specific due-date for receipt of all signatures. GDOT advised the reviewers that the MOUs are trickling in daily, and a record is maintained to track the MOUs received and those outstanding.

Corrective Actions and Schedule

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

- a scheduled due date for the receipt of all updated MOU signatures requested from GUCP participants; and
- a plan to ensure that all updated MOU signatures are received by the scheduled date.

B) UCP Directory

Basic Requirement (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, a DBE, or both. The listing shall include for each firm its address, phone number, and 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 compliance review, deficiencies were found with the requirement for UCP Directory.

The GUCP Procedures states that the GDOT is responsible for maintaining the GUCP directory. The directory identifies all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, fax number, email, certification type (DBE/ACDBE), and NAICS code. The UCP procedures indicate the directory is revised immediately after a change to a firm's information or status is reported, reviewed and approved. The directory is available electronically to the public and GUCP partners for review and printing from a read-only format at: <http://www.dot.ga.gov/PS/Business/DBE>.

The GUCP directory contains approximately 2,649 firms. The NAICS codes are listed in both five and six digit formats with the corresponding NAICS description. Although the DBE directory provides for the entry of a DBE's "Work Class Description", the space is left blank. A description of the specific type of work each DBE is certified to perform relative to the NAICS code is not specified. For example, the NAICS Code and Description for a firm is listed as 541611 – *Administrative Management and General Management Consulting Services*. However, according to the certification application, the type of service the firm provides is "Asset Management". The reviewers advised the UCP representatives that listing NAICS codes without a description of the type of work the DBE is certified to perform is insufficient directory information.

Furthermore, regarding timely directory updates, correspondence found in the CodeRed Business Solutions, Inc.'s file indicated the business owner notified MARTA in April 2016 of a change in mailing address. A review of the DBE firm's listing in the UCP Directory on June 22, 2017 (14 months later) did not reflect the reported address change.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, GDOT must submit to the FTA Office of Civil Rights a plan to ensure that the directory is:

- updated as soon as DBE changes are made;
- consistent in how NAICS codes are listed; and
- modified to include the description of the types of work each DBE has been certified to perform.

6.8 UCP Procedures

A) Uniform Application

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

UCPs must use the application form provided in Appendix F of the regulations without change or revision. However, the UCP may provide in its DBE program, with the approval of the concerned operating administration, for supplementing the form by requesting additional information not inconsistent with the DBE regulations.

Discussion

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

The GUCP uses the required application for DBE and ACDBE certification as required by the regulations. The application and instructions are included on the GDOT and MARTA websites. The GUCP Procedures state, *"The GUCP uses the application form provided in Attachment 11 without change or revision. The GUCP ensures that the applicant attests to the accuracy and truthfulness of the information on the application form. This is done in the form of an affidavit sworn to by the applicant before a person who is authorized by State law*

to administer oaths or in the form of an unsworn declaration executed under penalty of perjury of the laws of the United States.”

B) On-Site Visits

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

UCPs must perform an on-site visit to the offices of the firm. The UCP must interview the principal officers of the firm and review their resumes and/or work histories. The UCP 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 the UCP's jurisdiction or local area.

Discussion

During this compliance review, deficiencies were found with the requirement for On-Site Visits.

The GUCP Procedures state, *“The GUCP will require the performance of an on-site to the offices of the firm requesting certification.”* The GUCP will interview the principal officers of the firm and review their resumes and/or work histories. Key personnel of the firm may also be interviewed. The procedures also state that the GUCP may perform an on-site visit to a job site if there is a site on which the applicant firm is working at the time of the eligibility investigation in the jurisdiction or local area.

The GUCP has a “Uniform On-Site Inspection and Owner Interview Report” that is completed during the on-site visit process. The “On-Site Interview Signature Page” contains the assertion, *“Accordingly, by affixing their signature(s) below, the preceding individuals agree with the accuracy of the information annotated by the interviewer as a response to each question”*. The signature page is signed and dated by the applicant/DBE owner(s) and the GUCP interviewer.

In the interview with GDOT certification staff, it was stated that seven District EEO Officers are assigned the responsibility of conducting on-site interviews, exclusively. In addition, DBE investigations and updated on-site reviews are conducted by two GDOT Compliance Officers, as needed.

In the interview with MARTA certification staff, it was stated that the DBE Analyst is responsible for conducting the required on-site visit in the processing of their assigned DBE applicant firm.

One certification file examined was found to be deficient in the requirement for documentation of an on-site visit. There was no evidence that an on-site visit was performed for the DBE firm, House of Preparations.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, the GUCP must submit to the FTA Office of Civil Rights a plan to ensure that on-site visits are conducted and documented in the certification files, and that all certification participants are adhering to the requirement.

C) 30-Day Notification

Basic Requirement (49CFR Part 26.83(I))

The UCP must advise each applicant within 30 days from 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 this compliance review, deficiencies were found with the requirement for 30-Day Notification.

According to the GUCP Procedures, *“The GUCP advises each applicant within 30 days from receipt of an application whether the application is complete and suitable for evaluation and, if not, what additional information is required.”*

The GUCP Procedures did not include sample templates of the letters used to acknowledge receipt of an application or to request additional documentation.

Of the eleven (11) certification files reviewed, five were identified as not meeting the 30-day notification requirement:

- Clanton's Trucking (MARTA)
- CodeRed Business Solutions, Inc. (MARTA)
- House of Preparation (MARTA)
- Moon Trucking, Inc. (GDOT)
- Neal Properties, LLC (GDOT)

Clanton's Trucking – The DBE application was dated September 6, 2011. Although the file contained a second letter of request for additional information, dated February 3, 2012, the initial letter of request for additional information or an acknowledgment letter of receipt was not present in the file. The reviewers could not substantiate the 30-day requirement in the application review.

CodeRed Business Solutions, Inc. - The DBE application was dated January 23, 2014. On February 17, 2014, a letter titled “Acknowledgement of DBE Application and Documents” was sent by GDOT via email correspondence, notifying the firm that their application was assigned to MARTA, a GUCP partner. By letter dated August 20, 2014, MARTA advised the firm of a list of items needed for the certification review, 209 days after the receipt of the firm's application.

House of Preparation – The DBE application was dated March 4, 2016. A request for additional documentation was dated August 18, 2016, approximately five months after receipt of the firm's application.

Moon Trucking, Inc. - The DBE application was dated August 1, 2014. A letter acknowledging receipt of the application or any request for additional documents was not found within the record. The reviewers could not substantiate the 30-day requirement in the application review.

Neal Properties, LLC –The file contained a DBE application dated April 8, 2011. No other correspondence related to the application was found in the file. The reviewers could not substantiate the 30-day requirement in the application review.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, the GUCP must submit to the FTA Office of Civil Rights a process for ensuring that:

- firms are notified of the status of their application within 30 days of receipt
- all certification participants are adhering to the process

D) 90-Day Determinations

Basic Requirement (49 CFR Part 26.83 (k))

The UCP 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 compliance review, deficiencies were found with the requirement for 90-day Determinations.

The following certification files from both GDOT and MARTA exceeded the 90-day determinations requirement.

- Clanton's Trucking (MARTA)
- CodeRed Business Solutions, Inc. (MARTA)
- Deanna, Inc. (GDOT)
- House of Preparation (MARTA)
- Moon Trucking, Inc. (GDOT)
- Neal Properties, LLC (GDOT)
- R&G Business Enterprises, LLC (MARTA)
- Rhema Construction, LLC (GDOT)
- S&C Hospitality, LLC (MARTA)

Clanton's Trucking - The application was received on September 9, 2011. Although a letter acknowledging receipt of application exists within the file, it is not dated. Additionally, a request for additional documentation is dated February 3, 2012; however, there is no documentation indicating when the additional documents were received. As a result, the reviewers could not assess the 90-day certification determination for this firm without information regarding the date of receipt of all required information. The firm's final determination letter is dated August 23, 2012, nearly 12 months from receipt of the application.

CodeRed Business Solutions, Inc. – The application was received on January 23, 2014. The initial request for additional information was sent on August 20, 2014 and a second request on September 3, 2014. The additional documents were received via FedEx on September 15, 2014. The determination letter was sent to the applicant on January 16, 2015, four months after receipt of all required information.

Deanna, Inc. – The application was received on January 14, 2016. GDOT requested additional information in a letter dated January 19, 2016. On January 26, 2016, GDOT sent the “Acknowledgment of DBE Application and Documents” letter that states that the application “included all pertinent information” and provided the name and contact information for the certifier to whom the file was assigned. The determination letter was sent to the applicant firm on May 9, 2016, approximately four months after all necessary documentation was received.

House of Preparation – The application was received on March 4, 2016. The letter acknowledging receipt of the application is dated August 18, 2016, and the final determination letter is dated March 10, 2017, twelve months after receipt of the firm’s completed application.

Moon Trucking, Inc. – The application was received on August 1, 2014. Neither a letter acknowledging receipt of the application nor a request for additional information was found in the file. In addition, the final determination letter was not available in the firm’s file. Consequently, the reviewers could not assess the 90-day certification determination for this firm without information regarding the date all required information was received and the date of the final determination letter.

Neal Properties, LLC – The application was received on April 8, 2011. No information was available documenting when the firm’s application was complete; therefore, the reviewers could not assess the 90-day certification determination for this firm.

R&G Business Enterprises, LLC – The application was received on July 29, 2014. The letter acknowledging receipt of the application is dated December 10, 2014. The final determination letter is dated June 24, 2015, approximately 11 months after receipt of the firm’s application. However, no information was available documenting when the firm’s application was complete; therefore, the reviewers could not assess the 90-day certification determination for this firm.

Rhema Construction, LLC – The application was received on July 21, 2014. The letter acknowledging receipt of the application is dated October 17, 2014. The final determination letter is dated February 27, 2015, approximately seven months after receipt of the application. However, no information was available documenting when the firm’s application was complete; therefore, the reviewers could not assess the 90-day certification determination for this firm.

S&C Hospitality, LLC’s application was received on January 30, 2015. MARTA sent a letter to the firm, dated February 4, 2015, indicating that they were in receipt of all pertinent information necessary to complete the application. The final determination letter was sent to the applicant on September 2, 2015, approximately seven months after receipt of all required information.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, the GUCP must submit to the FTA Office of Civil Rights a process for ensuring that:

- certification decisions are made within 90-days of the receipt of all required information; and
- all certification participants are adhering to the requirement.

E) Annual Updates

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

Once the UCP has certified a DBE, it shall 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.

Discussion

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

The GUCP Procedures state, “A certified DBE firm shall submit annually, on the anniversary of DBE certification, a No Change Affidavit”. The procedures further states:

1. *Each firm may be notified by the GUCP Certifying Partner at least thirty (30) days in advance of its anniversary date, of the annual submission requirement and shall be provided with the necessary affidavits to complete and return.*
2. *Any firm failing to comply with the annual submission requirement shall be notified in writing thirty (30) days from the date that the submission was due, of the GUCP's intent to decertify the DBE in accordance with §26.87 of the regulation.*
3. *Any firm failing to comply with the annual submission requirement shall be decertified under the procedures of §26.87. The GUCP shall make reasonable attempts to notify firms prior to decertification in accordance with applicable regulations.*

The 2012 DBE Plan and the pending 2016 DBE Plan further states that the Annual Affidavit must include supporting documentation of the firm's “size and gross receipts.

The review team found that the following certification files did not include all required annual update documentation:

- CodeRed Business Solutions, Inc. (MARTA)
- Deanna, Inc. (GDOT)
- Moon Trucking, Inc. (GDOT)
- People's Transit LTD (MARTA)
- R&G Business Enterprises, LLC (MARTA)

CodeRed Business Solutions, Inc. – The firm was certified in January 2015. The certification file contained an Annual Affidavit dated April 12, 2016 with 2015 business taxes. The 2017 Annual Affidavit with 2016 business taxes was missing. The file contained no documentation requesting the outstanding Annual Affidavit.

Deanna, Inc. – The firm was certified in May 2016. The file contained a signed annual affidavit dated April 19, 2017 without the required 2016 business taxes.

Moon Trucking, Inc. – The firm was certified in January 2015. An Annual Affidavit for 2016 was not submitted. The file contained a letter dated March 21, 2017, acknowledging receipt of the 2017 Annual Affidavit. The affidavit was accepted without the 2016 business taxes.

People's Transit LTD – The firm was certified in March 2011. The certification file contained Annual Affidavits with the required business taxes for 2014 and 2015. No other updates were in the file.

R&G Business Enterprises, LLC – The firm was certified in June 2015. An Annual Affidavit for 2016 was not submitted. The file did not contain evidence that the outstanding annual update was requested.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, the GUCP must submit to the FTA Office of Civil Rights UCP procedures for:

- tracking and ensuring that annual updates are collected from DBEs and maintained in the certification files
- ensuring that all certification participants are adhering to the requirement

6.9 Interstate Certification

Basic Requirement (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 compliance review, deficiencies were found with the requirement for Interstate Certification.

The GDOT 2016 DBE Program Plan provides detailed procedures regarding the processing of interstate certification requests. A firm currently certified in its home state is not required to submit a new uniform certification application when seeking certification in the State of Georgia. The Georgia UCP has opted to exercise Option B for accepting requests for Interstate Certification. The DBE firm is required to complete a streamlined DBE Interstate Application Affidavit and DBE Interstate Application Checklist. The Checklist provides the

list of items to be submitted with the DBE Interstate Application Affidavit, which includes a complete copy of the home state DBE application along with all supporting documentation and correspondence.

The procedures state that before certifying the firm, the GUCP will confirm that the applicant has a current valid certification from its home state, search the home state's electronic directory and request a copy of the home state's on-site report.

Based on the review of two interstate firms, CodeRed Business Solutions, Inc. and R&G Enterprises, LLC, the GUCP accepted and processed full-fledged GUCP applications instead of following the streamlined review process.

CodeRed Business Solutions, Inc. – The firm is approved for DBE certification in its home State of Missouri. GDOT sent the firm a letter acknowledging receipt of their application and identified MARTA as the certifying partner. Subsequently, MARTA sent the firm two requests for additional information, dated August 20, 2014 and September 3, 2014. The file also contained a copy of an email dated August 18, 2014 from MARTA to the Missouri UCP requesting a copy of the firm's site visit report and current certification letter. A copy of the Missouri Regional Certification Committee (MRCC) on-site report dated October 12, 2012 was included in the file.

R&G Enterprises, LLC – The firm was originally certified in its home state of Connecticut, in 2009. The firm applied for GUCP certification in June of 2014. All documentation and correspondence found within the file pertained to R&G Enterprises, LLC's certification application submitted to MARTA. The file contained a copy of the Connecticut UCP on-site report dated August 3, 2009.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, GDOT must submit to the FTA Office of Civil Rights a plan that will:

- ensure that interstate firms seeking certification in the State of Georgia complete the correct GDOT DBE Interstate Application Affidavit and Checklist; and
- ensure that all certification participants are adhering to the procedures for processing GUCP interstate certification requests.

6.10 Denials of Certification

A) Initial Request Denials

Basic Requirement (49 CFR Part 26.86)

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 support 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 compliance review, no deficiencies were found with the requirement for Initial Request Denials.

The GUCP Procedures outline the process for denials of initial requests for certification. Specifically, the procedures state:

- A. A firm shall be notified in writing by the Certifying Partner that it has been denied DBE certification by the GUCP.*
- B. The firm shall be provided with a written explanation of the reasons for denial, specifically referencing the evidence(s) in the record that supports each reason for the denial.*
- C. All documents and information used to render a determination of denial shall be made available for inspection by the applicant, upon written request.*
- D. A firm that is denied DBE certification may not re-apply for certification with the GUCP for a period of one year (12 months).*
- E. A firm that has been denied DBE certification may appeal the denial to the USDOT in accordance with §26.89 of the regulation.*
- F. Coordination of Denial Hearings and request for certification appeals, hearings and or meetings shall be coordinated and administratively handled by the certifying GUCP Partner.*

Two files were reviewed for the denial requirements:

- Rhema Construction, LLC (GDOT)
- S&C Hospitality, LLC (MARTA)

Rhema Construction, LLC – was denied entry into the program by letter dated February 27, 2015.

S&C Hospitality, LLC – was denied entry into the DBE program by letter dated September 2, 2015.

In both cases, the denial letters explained the reasons for the denial, cited the regulatory provisions for each of the reasons, 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. Both firms are listed in the USDOT's database of *Decertified DBEs, Denials and DBE Appeal Decisions*.

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, 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 firm notifies the firm that there is reasonable cause to remove its certification, the UCP must allow the firm an

opportunity for an informal hearing. Following the final decision, the UCP must provide written notice of the final decision and a rationale for that decision.

Discussion

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

The GUCP Procedures includes a section entitled *Removal of DBE Eligibility*.

The section states,

(f) *“The decision to remove eligibility will not be based on reinterpretation or changed opinion of information available to us at the time of a firm’s original certification. The decision will only be based on one or more of the following:*

- *Changes in the firm’s circumstances since the certification of the firm by the GUCP that renders the firm unable to meet the eligibility standards;*
- *Information or evidence not available to the UCP at the time the firm was certified;*
- *Information that was concealed or misrepresented by the firm in previous certification actions by a recipient;*
- *A change in the certification standards or requirements of the Department since we certified the firm; or*
- *A documented finding that our determinations to certify the firm was factually erroneous;*
- *The firm has failed to cooperate with you (i.e., failure to file a timely annual affidavit)*
- *The firm has exhibited a pattern of conduct indicating its involvement in attempts to subvert the intent or requirements of the DBE program (i.e., not performing a commercially function);*
- *The firm has been suspended or debarred for conduct related to the DBE program.*

(g) *Following the decision, the GUCP will provide the affected firm written notice of the decision and reasons for it, including specific references to data in the record.”*

The procedures also state, the DBE firm will be afforded the opportunity for an informal hearing.

“When the GUCP notifies a firm that there is reasonable cause to remove its eligibility ... GDOT will give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.”

For Neal Properties, LLC, the firm was issued a “*Notice of Decertification*” letter dated February 5, 2016, and notified that the request for a hearing was due on or before February 19, 2016. However, the firm was non-responsive to the notice and subsequently decertified as of February 19, 2016. The file did not contain the initial letter of “Intent to Remove

Certification". The firm's name is listed in the search of the USDOT's database of *Decertified DBEs, Denials and DBE Appeal Decisions*.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, GDOT must submit to the FTA Office of Civil Rights a plan to follow the certification removal process outlined in the GUCP's procedures and to ensure that all certification participants are adhering to the requirement.

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 compliance review, no deficiencies were found with the requirement for Mandatory Summary Suspension.

The Certification Standards included in GDOT's 2016 updated DBE Program Plan include procedures for "*Summary Suspension of Certification*". The procedure states,

(a) *"The GUCP will immediately suspend a DBE's certification without adhering to the requirements of §26.87(d)... when an individual owner whose ownership and control of the firm is necessary to the firm's certification dies or is incarcerated. If the GUCP determines after hearing from the DBE that the period of incarceration has ended or will end in 30 days, the GUCP may lift the suspension (i.e., reinstate the DBE's certification) without initiating removal proceedings."*

In the review of Neil Properties, LLC file, it was found that the business owner was incarcerated. The GDOT office attempted, but was unable to confirm the arrest and booking of the owner. According to the GDOT, the agency proceeded to decertify the firm for failure to respond to Annual Affidavit requests, instead of processing a summary suspension.

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 as required by §26.83(i) of this part or fails to timely file an affidavit of no change under §26.83(j).

Discussion

During this compliance review, no deficiencies were found with the requirement for Optional Summary Suspension.

The GUCP Procedures states that the certifiers will adhere to the requirements of this section which state,

“(b)(1) The GUCP 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 as required by §26.83(i) of this part or fails to timely file an affidavit of no change under §26.83(j). (2) In determining the adequacy of the evidence to issue a suspension under paragraph (b)(1) of this section, the GUCP will consider all relevant factors, including how much information is available, the credibility of the information and allegations given the circumstances, whether or not important allegations are corroborated, and what inferences can reasonably be drawn as a result.”

There was no documentation in any file reviewed indicating a DBE's certification status was suspended based on evidence that there had been a material change in circumstances that affected the firm's continued eligibility, or for a firm's failure to file an affidavit of no change timely.

E) Appeals to USDOT

Basic Requirement (49 CFR Part 26.89)

When the Department 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 Department's request.

Discussion

During this compliance review, no deficiencies were found with the requirement for Appeals to USDOT.

The GUCP Procedures outline the procedures for appeals to the US DOT, and state that a firm denied certification or whose eligibility is removed has 90-days to appeal the decision to the U.S. Department of Transportation, Departmental Office of Civil Rights, 1200 New Jersey Avenue, SE, Washington, DC 20590-0001.

When the Department requests a copy of the administrative record, the GUCP Procedures states, “The GUCP provides the administrative record, including a hearing transcript, within 20 days of the Department's request”.

Neither of the two firms denied certification (Rhema Construction, LLC and S&C Hospitality Services, LLC) appealed the GUCP's decision to the U.S. Department of Transportation.

6.1 I 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 proceedings against the firm under 49 CFR Part 29.

Discussion

During this compliance review, no deficiencies were found with the requirement for DBE Enforcement Actions.

The GUCP utilizes the USDOT Uniform Certification Application, which includes the penalties for fraudulent or false statements. The review team also observed the use of the USDOT Uniform Certification Application while reviewing certification files.

B) Confidentiality

Basic Requirement (49 CFR Part 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 compliance review, no deficiencies were found with the requirement for Confidentiality.

The Uniform Certification Application includes a statement pertaining to the Federal Freedom of Information and Privacy Acts. The GUCP Procedures state,

"26.83(g) The GUCP safeguards disclosures to unauthorized persons information gathered as part of the certification process that may reasonably be regarded as proprietary or other confidential business information, consistent with applicable Federal, state, and local law. In responding to requests for information concerning any aspect of the DBE program, the GUCP complies with the provisions of the Federal Freedom of Information and Privacy Act (5 U.S.C. 552 and 552a). The GUCP may make available to the public any information concerning the DBE program and certification, release of which is not prohibited by Federal Law. The GUCP will 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 applications for DBE certification and supporting documentation. All requests must be filed with the GDOT. MARTA will be apprised of any requests and asked to provide input on how to respond, as needed."

“26.109(a) Availability of records. (1) In responding to requests for information concerning any aspect of the DBE program, GDOT complies with provisions of the Georgia Open Records Act, 50-18-70, et seq. The Department may make available to the public any information concerning the DBE program, release of which is not prohibited by Georgia or Federal law. GDOT will safeguard from disclosure to third parties, information that may reasonably be regarded as confidential business information, consistent with federal, state and local law. 2) Notwithstanding any contrary provisions of state or local law, GDOT will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without written consent of the submitter. 3) Notwithstanding any provision of federal or state law, GDOT will not release information that may be reasonably construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting documentation. However, GDOT will transmit this information to DOT in any certification appeal proceeding under 49 CFR 26.89 of this part or to any other state to which the individual's firm has applied for certification under 49 CFR 26.85. 4) The Department will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with federal, state and local law. All information submitted by applicant firms with their applications for certification and affidavits of continued eligibility, including their personal net worth statements, are confidential and exempt from the requirements of Georgia's public records laws.”

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 the UCP's 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 compliance review, no deficiencies were found with the requirement for Cooperation.

The GUCP Procedures state, *“DBE firms and firms seeking DBE certification shall cooperate fully with GUCP requests (and DOT requests) for information relevant to the certification process. Failure or refusal to provide such information is a ground for a denial or removal of certification”*. The GUCP's *Administrative Closure Letter* includes a statement that reads, *“An applicant's failure to permit an on-site and/or job site inspection shall be grounds for denial of DBE certification for failure to cooperate. The firm will be denied certification and cannot reapply for twelve 12 months. The firm may appeal the denial determination to U.S. DOT in accordance with the procedures set forth in §26.89.”*

The reviewers found the DBE firms to be fully cooperative with the GUCP's certification requirements and requests for information. In cases where a firm was not cooperative with responding to requests for information, GUCP initiated the process to either administratively close the firm's file or remove the firm's certification eligibility from the program.

6.12 Record Keeping

A) Certification Files

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 three (3) years unless otherwise provided by applicable record retention requirements for the recipient's financial assistance agreement, whichever is longer.

Discussion

During this compliance review, deficiencies were found with the requirement for Certification Files.

The GUCP Procedures state, "The GUCP certifying partner/s maintains records documenting a firm's compliance with the requirements of this part. The GUCP certifying partner/s keep a complete application package for each certified firm and all affidavits of no-change, change notices, and onsite reviews. These records are retained indefinitely. Other certification or compliance related records are retained for a minimum of three (3) years. The confidentiality of the information is secured through very limited access. Building and floor access is limited to current employees and registered visitors. The records are further filed and stored in locked cabinets. Access to the cabinets is limited to employees performing the firm's certification analysis".

Several certification files examined during the compliance review were missing required documentation. Refer to "Section 2 – Business Size", and "Section 4 – Ownership", for further details regarding this deficiency.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, GDOT must submit to the FTA Office of Civil Rights a process that will:

- ensure that certification files are maintained, complete with all required documentation for each firm applying for DBE certification; and
- ensure that all certification participants are adhering to the requirement.

B) Submitting Reports to USDOT

Basic Requirement (49 CFR 26.11(e))

Each year, the State department of transportation in each UCP must report to USDOT the number of certified DBEs its DBE Directory that are minority female, non-minority female, and male.

Discussion

During this compliance review, no deficiencies were found with the requirement for Submitting Reports to USDOT.

GDOT submitted the required annual reports to the USDOT of the number of certified DBEs in the GUCP DBE Directory that are minority-female, non-minority female and male. During the on-site visit, the reviewer examined a copy of the January 2017 report submitted in compliance with the USDOT requirement.

According to the January 2017 report, the GUCP's DBE Directory contains 2,469 firms: Minority Female - 652; White Female - 491; and Male - 1,326.

7. Summary of Files Review and Findings

Georgia Department of Transportation

File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification <1 year	Maesawyr, LLC	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	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
Existing Certification >1 year	Moon Trucking, Inc.	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
		N / N	N	N/A	Y	N	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Existing Certification >1 year	Deanna, Inc.	Y	Y	N	N	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 / N	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
Removal/Decertification	Neal Properties	Y	Y	Y	N/A	Y/ 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
		N / N	N	N/A	Y	N	N	Y	Y
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification Denial	Rhema Construction	Y	Y	N	N/A	N/A	N/A	Y	Y
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y / N	N/A	N/A	Y	Y	N/A	N/A	N/A

Metropolitan Atlanta Rapid Transit Authority

File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification <1 year	House of Preparation	Y	N	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 / N	Y	N/A	Y	N	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Removal/Decertification	Clanton's Trucking	Y	Y	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
		N / N	Y	N/A	Y	Y	Y	Y	Y
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Initial Certification Denial	S & C Hospitality Services, LLC	Y	Y	Y	N/A	Y / Y	N/A	Y	Y
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		N / A	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
Interstate Certification	People's Transit LTD	Y	Y	Y	N	N/Y	Y	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	Y	Y	Y	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Interstate Certification	R&G Business Enterprises, LLC	Y	Y	N	N	N / N	N	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/ N	Y	N	Y	Y	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Streamline Application	Denial Letter	Appeal Letter
Interstate Certification	CodeRed Business Solutions, Inc.	Y	Y	Y	N	N / N	N	N/A	N/A
		Cert. Decision	SBA Size	Inter. Cert.	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		N / N	Y	N	Y	N	N/A	N/A	N/A

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	Procedures do not include providing a written explanation when membership is questioned.	Provide revised procedures that include the entire process for making group membership determinations.	Within 60 days of the issuance of the final report
2. Business Size	26.65	D	Tax returns are missing in some files (including that of affiliates) to accurately determine business size.	Provide revised procedures to ensure the collection of required business tax documents (including applicable requests for extensions), affiliate tax returns and a process for how gross receipts are to be calculated; and ensure that all certification participants are adhering to business size standards.	Within 60 days of the issuance of the final report
3. Social/Economic Disadvantage					
A) Presumption of Disadvantage	26.67	ND	-	-	-
B) Personal Net Worth	26.67	D	PNW statements incomplete - additional documentation required to substantiate applicant's claim on PNW statement not requested.	Provide a procedure to ensure that PNW forms are thoroughly analyzed for errors and omissions; additional investigation is conducted into pertinent errors and omissions for revision; and ensure all certification participants are adhering to these procedures.	Within 60 days of the issuance of the final report

Requirement of 49 CFR Part 26	Ref.	Site Visit Finding	Deficiencies	Corrective Action(s)	Response Days/Date
C) Rebutting & Presumption of Disadvantage	26.67	D	Procedures not followed to rebut disadvantage status.	Provide a plan to ensure that all certification participants are adhering to GUCP Standard Operating Procedures and requirements of this section.	Within 60 days of the issuance of the final report
D) Individual Determination	26.67(d)	ND	-	-	-
4. Ownership	26.69	D	Documentation not provided to substantiate ownership requirements.	Provide procedures for ensuring that all applicants applying for DBE/ACDBE Certification submit documented proof of contributions, for each owner, used to acquire ownership interest in the firm.	Within 60 days of the issuance of the final report
5. Control	26.71	D	Procedures not followed to clarify apparent control issues in some files.	Provide a plan to ensure that control determinations are appropriately addressed and documented in the file.	Within 60 days of the issuance of the final report
6. Other Certification Rules	26.73	ND	-	-	-
7. UCP Requirements					
A) UCP Agreement	26.81	D	GUCP does not have a final due date for receipt of all updated MOU signatures requested from participating agencies.	Provide a scheduled due date for receipt of all updated MOU signatures requested from GUCP participating agencies; and plan to ensure that all updated MOU signatures are received by the scheduled date.	Within 60 days of the issuance of the final report

Requirement of 49 CFR Part 26	Ref.	Site Visit Finding	Deficiencies	Corrective Action(s)	Response Days/Date
B) UCP Directory	26.31	D	DBE Directory is not updated with firm's address change; contains both 5 and 6 digit NAICS codes; and does not provide a description of the type of work DBEs are certified to perform.	Provide a plan to ensure that the GUCP directory is updated as soon as DBE changes are made; is consistent in how NAICS codes are listed; and is modified to include the description of the types of work each DBE has been certified to perform.	Within 60 days of the issuance of the final report
8. UCP Procedures					
A) Uniform Application	26.83	ND	-	-	-
B) On-Site Visits	26.83	D	File missing evidence that an on-site visit was performed.	Provide a plan to ensure that on-site visits are conducted and documented in the certification files, and that all certification participants are adhering to the requirement.	Within 60 days of the issuance of the final report
C) 30-Day Notification	26.83	D	30-day notification requirement not followed.	Provide a process to ensure that firms are notified of the status of their application within 30 days of receipt; and all certification participants are adhering to the process	Within 60 days of the issuance of the final report
D) 90-Day Processing	26.83	D	Files exceed 90-days to process.	Provide a process to ensure that certification decisions are made within 90-days of the receipt of all required information; and all certification participants are adhering to the requirement.	Within 60 days of the issuance of the final report

Requirement of 49 CFR Part 26	Ref.	Site Visit Finding	Deficiencies	Corrective Action(s)	Response Days/Date
E) Annual Updates	26.83	D	Annual updates missing in some files.	Provide GUCP procedures for tracking and ensuring that annual updates are collected from DBEs and maintained in the certification files; and ensuring that all certification participants are adhering to the requirement.	Within 60 days of the issuance of the final report
9. Interstate Certification	26.85	D	Not following procedures for the receipt and processing of interstate certification requests.	Provide a plan that will ensure that interstate firms seeking certification in the State of Georgia complete the correct GDOT DBE Interstate Application Affidavit and Checklist; and ensure that all certification participants are adhering to the procedures for processing GUCP interstate certification requests.	Within 60 days of the issuance of the final report
10. Denials of Certification					
A) Initial Request Denials	26.86	ND	-	-	-
B) Removing Existing Certification	26.87	D	File did not contain the intent to remove letter.	Provide a plan to follow the certification removal process outlined in the GUCP's procedures, and ensure that all certification participants are adhering to the requirement.	Within 60 days of the issuance of the final report
C) Mandatory Summary Suspension	26.88(a)	ND	-	-	-

Requirement of 49 CFR Part 26	Ref.	Site Visit Finding	Deficiencies	Corrective Action(s)	Response Days/Date
D) Optional summary Suspension	26.88(b)	ND	-	-	-
E) Appeals to USDOT	26.89	ND	-	-	-
11. Compliance/and Enforcement					
A) DBE Enforcement Actions	26.107	ND	-	-	-
B) Confidentiality	26.109	ND	-	-	-
C) Cooperation	26.109	ND	-	-	-
12. Record Keeping					
A) Certification Files	26.11(d)	D	Files do not contain all required information	Provide a procedure to ensure that certification files are maintained, complete with all required documentation, for each firm applying for DBE certification, and ensure that all certification participants are adhering to the requirement.	Within 60 days of the issuance of the final report
B) Submitting Reports to USDOT	26.11(e)	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 the Georgia Department of Transportation



U.S. Department
Of Transportation
Federal Transit
Administration

Headquarters

East Building, 5th Floor, TCR
1200 New Jersey Ave., SE
Washington, D.C. 20590

March 20, 2017

Mr. Russell McMurry
Commissioner
Georgia Department of Transportation
600 W. Peachtree Street, NW
Atlanta, GA 30308

Dear Mr. McMurry:

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 (DOT) 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 compliance reviews of these grant recipients. For this reason, the Georgia Department of Transportation (GDOT) has been selected for a review of its Unified Certification Program to take place June 21 – 23, 2017.

The purpose of this review will be to determine whether GDOT is honoring its commitment, 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), visit to certifying agencies, interviews with UCP certifying agency staff and non-certifying members, DBE applicants, DBE certified firms, firms that were denied DBE certification, 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 and Company, LLC (Milligan) of Philadelphia, PA to conduct this compliance review. Milligan and FTA representatives will participate in the opening and exit conferences, with FTA participating by telephone.

We request your attendance at an opening conference scheduled **Wednesday, June 21, 2017 at 9:00 a.m. EST**, to introduce the Milligan team and FTA representatives to GDOT. 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 GDOT's liaison with

the review team and will coordinate the on-site review and address questions that may arise during the visit.

The Georgia Department of Transportation (GDOT) and the Metropolitan Atlanta Rapid Transit Authority serve as the certification agents for the Georgia State UCP. So that we may properly prepare for the site visit, we request that each certification agency provide the information described in Enclosure 1, which consists of items that the review team must receive within 21 days of the date of this letter. Electronic copies of the documents are preferred. Please upload them to Milligan's 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. You also have the option of sending the documents via email to Lillie Claitt at lclaitt@milligancpa.com.

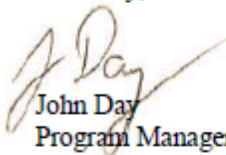
We request the exit conference be scheduled for **Friday, June 23, 2017 at 2:00 p.m. EST**, to afford an opportunity for the reviewers to discuss their observations with you and your agency. We request that you and other key staff attend the exit conference.

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 GDOT, will be considered public documents subject to release under the Freedom of Information Act, upon request.

GDOT 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 me at 202-366-1671, or via e-mail at john.day@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 for Policy & Technical Assistance

Enclosure

cc: Yvette G. Taylor, Regional Administrator, FTA Region IV
Dee Foster, Regional Civil Rights Officer, FTA Region IV
Kimberly A. King, GDOT, EEO Director

Georgia Department of Transportation (GDOT)
Unified Certification Program Compliance Review

Enclosure 1

You must submit the following information to Milligan within 21 calendar days from the date of this letter.

1. Current Memorandum of Understanding or similar documents forming the GDOT's Unified Certification Program (which should be signed by all members of the UCP).
2. The certification criteria/guidelines used in determining DBE eligibility.
3. 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, etc.
4. A list of all firms certified, denied, and decertified or removed by the UCP in FYs 2015-current. 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.
5. Explanation of GDOT's UCP appeals process(es). List the individuals involved in the appeals process and how they are selected.
6. Any third party complaints regarding DBE firms certified by GDOT and actions taken to resolve the matter.
7. Any Freedom of Information or similar request for certification information.
8. Any enforcement action against a DBE firm (e.g., suspension, debarment, etc.) regarding certification.
9. Other pertinent information determined by GDOT's staff to shed light on its UCP operations and procedures.