

**U.S. Department of Transportation Recipients
California**

**MEMORANDUM OF AGREEMENT
(MOA)**

for a

Unified Certification Program

Pursuant to 49 CFR Part 23 & Part 26

**Submitted to Secretary, U.S. Department of Transportation
May 1, 2001**

**Approved by Secretary, U.S. Department of Transportation
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**MEMORANDUM OF AGREEMENT
WITH U.S. DOT RECIPIENTS IN CALIFORNIA
FOR THE ESTABLISHMENT OF A
UNIFIED CERTIFICATION PROGRAM**

This Memorandum of Agreement (“Agreement”) was made, entered into and effective as of January 1, 2002, by and between all United States Department of Transportation (U.S. DOT) RECIPIENTS in the State of California which are listed on Exhibit A attached, or as determined by U.S. DOT and its operating administrators (herein called “RECIPIENTS”), as amended from time to time.

RECITALS

WHEREAS, RECIPIENTS have established a Disadvantaged Business Enterprise (DBE) Program and/or Airport Concession Disadvantaged Business Enterprise (ACDBE) Program in accordance with regulations of the U.S. DOT, 49 CFR Part 26 and/or Part 23 as applicable (Part 26 https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr26_main_02.tpl; Part 23: https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title49/49cfr23_main_02.tpl, and

WHEREAS, RECIPIENTS receive federal financial assistance from U.S. DOT and, as a condition of receiving this assistance, RECIPIENTS have signed an assurance that they will comply with 49 CFR Part 26 and/or Part 23; and

WHEREAS, RECIPIENTS recognize that under 49 CFR Part 26 Subpart E – Certification Procedures Section 26.81, all RECIPIENTS in California must participate in a statewide Unified Certification Program (UCP); and

WHEREAS, RECIPIENTS will ensure that the UCP shall cooperate fully with the requirements of U.S. DOT and its operating administrations; and

WHEREAS, RECIPIENTS will ensure that the UCP shall implement U.S. DOT directives and guidance concerning certification matters; and

WHEREAS, RECIPIENTS will ensure that the RECIPIENTS, as members of the UCP, shall make all DBE and ACDBE certification decisions on behalf of all U.S. DOT RECIPIENTS

in the State of California with respect to participation in the U.S. DOT DBE/ACDBE Programs;
and

WHEREAS, RECIPIENTS will ensure that the UCP shall provide “one-stop shopping” to all firms applying for DBE or ACDBE certification located in the State of California, such that an applicant is required to apply only once for a DBE or ACDBE certification that will be honored by all U.S. DOT RECIPIENTS in California; and

WHEREAS, RECIPIENTS will ensure that the UCP maintains an electronic certification database (and printed DBE/ACDBE Directory) of all firms certified by the UCP, which will be available to the public on the internet and in print and continuously updated with additions, deletions, and other changes; and

WHEREAS, RECIPIENTS will ensure and agree that the UCP shall have sufficient resources and expertise to carry out the requirements of 49 CFR Part 26 Subpart E – Certification Procedures Section 26.81; and

NOW, THEREFORE, in consideration of the foregoing, all U.S. DOT RECIPIENTS in the State of California agree to the following terms and conditions; amended from time to time in accordance with the federal certification requirements for UCPs.

ARTICLE 1 – VISION

RECIPIENTS acknowledge that we share the common goals of creating a level playing field on which DBE and ACDBE firms can compete fairly for U.S. DOT-assisted contracts; ensuring that the DBE/ACDBE Program is narrowly tailored in accordance with applicable law; removing barriers to the participation of DBEs and ACDBEs in U.S. DOT-assisted contracts; and assisting with the development of firms to compete successfully in the market place outside the DBE/ACDBE Program. To achieve these common goals, RECIPIENTS have established the California UCP (CUCP) in accordance with U.S. DOT requirements.

ARTICLE 2 – DEFINITIONS

- 2.01 **RECIPIENT**: Any entity, public or private, to which U.S. DOT financial assistance is extended over \$250,000 annually from programs of the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA) and/or Federal Transit Administration (FTA), whether directly as the primary RECIPIENT or indirectly as a sub-RECIPIENT through a primary RECIPIENT, or which entity has applied for such assistance.
- 2.02 **Sub-RECIPIENT**: Any entity, public or private, to which U.S. DOT financial assistance is extended through a primary RECIPIENT over \$250,000 annually.
- 2.03 CUCP Members: California U.S. DOT RECIPIENTS and Sub-RECIPIENTS as defined in Section 2.01.
- 2.04 **Certifying Member (CM) Agencies**: Those CUCP members that elect to perform DBE and/or ACDBE certifications.
- 2.05 **Non-Certifying Member (NCM) Agencies**: Those CUCP members that elect not to perform DBE or ACDBE certifications.
- 2.06 **Executive Committee**: The committee that will function as the final decision-making body with respect to the day-to-day operations of the CUCP.
- 2.07 **Standing Committees**: Committees established to oversee the development and implementation of on-going CUCP programs and processes. Any CUCP member may chair or serve on a Standing Committee.
- 2.08 **CUCP Monthly Review Meeting**: The Certifying Agencies of California U.S. DOT RECIPIENTS meet regularly to coordinate certification processes, review and provide oversight of CM agencies' certification decisions, assist with training activities, and oversee other activities of the CUCP. Members shall report U.S. DOT appeals and remands when completed.
- 2.09 **CUCP Reviews**: An informal review of CUCP Certifying Agencies for compliance with CUCP Certification Standards and Processes to ensure DBE/ACDBE certification quality and consistency.

(See 49 CFR Part 26.5 for additional definitions.)

ARTICLE 3: ORGANIZATION OF THE CUCP

3.01 Members of the CUCP:

- (a) The CUCP shall consist of all U.S. DOT RECIPIENTS (see Exhibit A) in the State of California as defined in Section 2.01. Each RECIPIENT shall choose to become either a CM agency or a NCM agency by using the CUCP Agreement/Declaration of Status Letter attached hereto as Exhibit B. If the number of CUCP agencies that elect to be or to remain “certifying” is or becomes too few for the CUCP to function efficiently and effectively, the California Department of Transportation (Caltrans) agrees to assume the duties and responsibilities of statewide DBE and ACDBE certifications for the CUCP.
- (b) The CUCP Executive Committee shall be comprised of all CM agencies and two NCM agencies on a rotation basis, with each individual agency exercising one vote at Executive Committee meetings to transact CUCP business. If an agency is unable to attend a scheduled CUCP Executive Committee meeting, that agency may elect to cast a vote by written or voice proxy.
- (c) The officers of the CUCP Executive Committee consist of a Chair, Vice Chair, Treasurer, and Secretary, which are filled by certifying members. The CUCP officers may convene meetings between the quarterly CUCP Executive Committee meetings if necessary. The officer positions shall rotate as agreed upon by the certifying members or as needed. All CMs shall participate in the rotation and shall serve on subcommittees as needed (see Exhibit C, Executive Committee Guidelines). The CUCP Chair or designee (must be an officer or chair of a standing committee) may conduct CUCP Reviews.
- (d) The Executive Committee will ensure that the CUCP follows all certification procedures and standards of 49 CFR Parts 23 and 26; that the CUCP cooperates fully with oversight, review and monitoring activities of U.S. DOT and its operating administrations; and that the CUCP implements U.S. DOT directives and guidance concerning certification matters.

- (e) The Executive Committee shall meet as agreed upon by members to provide oversight and ensure compliance with 49 CFR Section 26.81. The Executive Committee shall seek the participation, or call special meetings, of the entire CUCP membership to ensure compliance with 49 CFR Section 26.81.
- (f) The Executive Committee will establish standing and special committees as necessary.
- (g) The Executive Committee shall ensure that the CUCP has sufficient resources and expertise to carry out the requirements of 49 CFR Section 26.81.
- (h) The Executive Committee shall resolve disputes between or among CM Agencies.
- (i) In the proceedings of the Executive Committee meetings, each individual agency is entitled to one (1) vote. A quorum of the committee shall be the majority of Executive Committee members, and no action of the Executive Committee shall be passed, but upon the affirmative vote of at least a majority of a quorum. Voting shall be by voice unless the Executive Committee Chair or an Executive Committee member requests that a roll call vote be taken.
- (j) The Executive Committee is responsible for oversight, collection of membership fees, investment, and expenditures of CUCP funds. The CUCP Treasurer will oversee accounts and provide quarterly, or as needed, updates to the CUCP Executive Committee.

3.02 **Standing Committees:** Standing committees shall be established and shall operate in an ad hoc manner and shall report directly to the Executive Committee. Every CM agency shall be a member of at least one (1) standing committee. Each standing committee will have a chair who ensures minutes are taken at each meeting. Each chair is responsible for housing all documents in a central CUCP repository pertaining to their standing committee. Standing committees will include the following:

- (a) **Oversight Committee:** The roles and responsibilities of the Oversight Committee are to ensure a common understanding among all stakeholders of the objectives of the DBE/ACDBE programs. Governance is the structure and process established to

ensure a common understanding and provide oversight of implementation and decisions of the CUCP regarding the DBE/ACDBE programs. This committee is responsible for:

- Structure and Process
- Development and Implementation of Procedures
- Operations and Responsibilities

(b) **Systems & Reporting Committee:** The roles and responsibilities of the Systems and Reporting Committee are to oversee and monitor the statewide certification database, identify technical issues, make recommendations for improvements, and ensure pertinent DBE/ACDBE information from applicants is thoroughly and securely captured. The committee is responsible for:

- Database Management
- Database Training Manual (will become part of the CUCP Standard Operating Procedures)
- CUCP Website

(c) **Documents Committee:** The roles and responsibilities of the Documents Committee are to ensure the CUCP Agreement is amended as necessary and to ensure the CUCP is consistently using the most current application and forms related to the DBE/ACDBE programs. The committee is responsible for documents such as:

- CUCP MOA
- Standard Operating Procedures (“SOP”)
- Standard Forms Booklet
- DBE/ACDBE Application
- Personal Net Worth Statement

- Site Visit Questionnaire/Supplemental Questionnaires
- CUCP Roster of Certifying Agencies
- U.S. DOT CUCP Contact Updates
- In-house CUCP Contact and E-mail Lists
- Repository of CUCP Documents

(d) **Operations Committee:** The roles and responsibilities of the Operations Committee are to ensure consistent application of processes and procedures used among the CUCP certifying agencies. The committee is responsible for:

- Reconsideration Hearings and U.S. DOT Remands
- Strategic Management Plan
- Succession Planning
- Agency Retention

(e) **Training Committee:** The roles and responsibilities of the Training Committee are to ensure that the DBE/ACDBE certification programs are meeting the specified requirements of the U.S. DOT, to coordinate mandatory annual training for CUCP certifying agencies, as well as training for new certification staff at the various agencies. The committee is responsible for:

- Maintaining Training Plan
- Assigning Mentors
- Monitoring Training
- Planning Mandatory CUCP Annual Training Workshop
- Quality Assurance

3.03 **CUCP Monthly Review Meeting:** Certifying Agencies will meet monthly to provide oversight of each of the agency's certification activities and provide a forum for discussion between the agencies. There will be a CUCP Monthly Review Meeting Chair

who schedules the Certifying Agencies meetings, prepares the agenda, maintains attendance records, and prepares or delegates the responsibility of meeting minutes. All CM agencies will serve as Chair on a rotation basis and must have a representative attend meetings. If a CM agency misses two consecutive meetings, the agency will be suspended from the CUCP Executive Committee until compliant with meeting attendance.

Due to the size of California, the meetings are a vital component of the overall CUCP. The value and purpose of CM agencies is far reaching in that the agencies will provide oversight and a forum for discussions between CM agencies. All CM agencies shall participate in the CUCP Monthly Review Meeting.

The scope and responsibilities of the CMs are included in the Structure and Process Exhibit D.

- 3.04 **Records Retention of Committee Activities:** All records shall be maintained by each chair of a standing committee, the CUCP Monthly Review Meeting Chair, and the Secretary for the CUCP Executive Committee. Records shall be kept indefinitely in a central repository.
- 3.05 **CM Agency Responsibilities:** All RECIPIENTS that elect to become CM agencies shall maintain and continue with the processes involved in DBE or ACDBE certification programs by collecting and maintaining certification application files, conducting site visits, making certification decisions, and handling appeals, and remands from the U.S. DOT, and complaints. CM agencies shall utilize the Uniform Certification Application form issued by U.S. DOT located at: <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/ready-apply> and must comply with the CUCP.
- 3.06 **CM Agencies Using Certification Database:** After completing mandatory training and obtaining the Training Committee Chair's approval, CMs will be allowed to access, input and change information in the California DBE/ACDBE certification database for their

specific DBE/ACDBE files. All CMs shall use their database access responsibly and keep their access information confidential to safeguard the safety and integrity of the certification database. Only employees of Certifying Agencies may have access to edit the California DBE/ACDBE certification database.

- 3.07 **Caltrans Responsibility:** RECIPIENTS hereby acknowledge that Caltrans, as the major RECIPIENT of FHWA funds in the State of California, is responsible for reporting CUCP activities to FHWA, maintaining the CUCP website, conducting periodic compliance reviews, and participating in CUCP Executive Committee, Standing Committees and CUCP Monthly Review Meetings. Caltrans is required to have a database (California DBE/ACDBE certification database) and directory of all certified firms for other U.S. DOT RECIPIENTS, contractors and other interested members of the public.
- 3.08 **Caltrans Certification Database Manager:** Caltrans agrees to serve as the CUCP Certification Database Manager for all DBE and ACDBE certifications made by CM agencies, including maintaining the California DBE/ACDBE certification database. The California DBE/ACDBE certification database shall be maintained by the Caltrans Certification Database Manager, using industry standard state-of-the-art software. All CM agencies to the best of their ability shall maintain compatible or mutually accessible software and systems to best use the California DBE/ACDBE certification database, and to provide certification information and updates for the California DBE/ACDBE certification database in a timely manner.

ARTICLE 4 – RIGHTS AND OBLIGATIONS OF RECIPIENTS

- 4.01 **Types of RECIPIENTS:** The parties hereto understand that this CUCP shall consist of two types of members - CM agencies (certifying) and NCM agencies (non-certifying) - and that each shall have the rights and obligations set forth hereinafter.

4.02 **CM Agencies Roles:**

- (a) Any RECIPIENT may choose to become a CM agency by submitting a CUCP Agreement/Declaration of Status Letter (see Exhibit B) to the CUCP Executive Committee.
- (b) Must actively participate in the Executive Committee, Certifying Agencies, standing committees and subcommittee meetings, and as officers.
- (c) Agree to keep the California DBE/ACDBE certification database current with all updated information (Annual Update Declaration, removals, change of address, etc.). CM agencies are responsible for processing annual declarations. A CM agency that fails to ensure, for three (3) consecutive months, that at least 75 percent of its certified firms possess updated Annual Update Declarations shall be suspended (unless CM submits remediation plan) from the Executive Committee until the CM Agency is in compliance.
- (d) Are responsible for entering information on denied, decertified, rejected firms and DBE/ACDBE appeal decisions in the U.S. DOT's Office of Civil Rights (DOCR) database. The DOCR's database link can be found on the U.S. DOT's website.
<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/search-dbe-appeals-and-denials>
- (e) Must participate in CUCP remand reviews, hearings, site visits, reconsideration document review/hearing as needed or requested by the Executive Committee.
- (f) Will collect, evaluate and process DBE and/or ACDBE certification applications, conduct site visits and make certification decisions in accordance with 49 CFR Part 26 and/or Part 23, as applicable and as specified in the CUCP Standard Operating Procedures.
- (g) May contract DBE/ACDBE certification activities with outside consulting firms. Consultants must accurately and consistently apply federal requirements for DBE and ACDBE certification standards and follow the CUCP Standard Operating Procedures. The CM agency remains responsible for administration of its contracts and actions of its consultants. The CM agency must remain responsible for the certification decisions. CM agencies, not the consultant(s), shall notify firms of certification, decertification, denial and removal decisions. Consulting firms shall

not have access to the California DBE/ACDBE certification database, nor be allowed to represent a CM agency at a CUCP Monthly Review Meeting, Executive Committee Meeting, and CUCP Annual Training Workshop and reconsideration hearing.

- (h) CM agencies will assist other CM agencies to the extent possible in conducting site visits to a DBE/ACDBE applicant when requested.
- (i) CM agencies will process, maintain, and retain their complete certification files for currently certified firms. CM agencies may purge certification files for firms not currently certified in accordance with requirements of 49 CFR Part 26 and Part 23 or the CM agency's document retention policy, whichever is longer.
- (j) In the event of an appeal to US DOT, the CM agency whose action is being appealed shall be the contact agency for US DOT, Office of Civil Rights, to obtain records for reviewing the appeal in accordance with 49 CFR Part 26.89(d).
- (k) An ineligibility complaint regarding certification decisions of CM agencies are to be filed with the certification office of that CM agency and processed in accordance with 49 CFR, Part 26, Section 26.87. CM agencies must make every effort possible to cooperate with the investigation.
- (l) A previously rejected applicant firm shall be referred to the CM agency that issued the denial, removal or decertification.
- (m) A CUCP member that elects to become a NCM agency or change its status from a CM agency to a NCM agency shall notify the CUCP Executive Committee Chair and CUCP Monthly Review Meeting Chair within 30 days from the date of signing the CUCP Agreement/Declaration of Status Letter (see Exhibit B) in compliance with the File Transfer procedures in the CUCP Standard Operating Procedures. Changing from a CM agency to a NCM agency may incur an annual fee to be assessed to support the CUCP's certification capacity. (Please note: See Page 15 of this MOA-Article 9 - FEES/COSTS, Section 9.01 - CUCP Membership Fee, fourth sentence, for minimum/maximum annual fee that may be charged to NCM agencies).

4.03 **NCM Agencies:**

- (a) A NCM member may support the CUCP's certification capacity with an annual sliding scale fee based on federal funding received.
- (b) NCM agencies will refer applicants to CM agencies in the geographical area where the firm's principal place of business is located. The NCM agencies shall in no way act to influence the CM agency's certification decision. Since the certification issue may be contract related, the CM agency shall cooperate to the fullest extent possible in expediting such certification.
- (c) NCM agencies are encouraged to participate in Executive Committee and CUCP Monthly Review Meetings and inform CM members of any issues or concerns in the DBE/ACDBE community. NCM agencies must be excused from an agenda item(s) pertaining to specific certification file issues (i.e., removals, proposed removals, denials, etc.). NCM agencies may receive copies of the monthly certification reports from the various CM agencies.

4.04 **Ineligibility Complaints:** Any CUCP member has the right to initiate an ineligibility complaint of any DBE or ACDBE certified firm included in the California DBE/ACDBE certification database. The complaint must be in writing and specify the alleged reasons why the firm is ineligible.

If a CUCP member has cause to believe a firm is ineligible for certification, they must forward an ineligibility complaint to the firm's current CM agency, pursuant to 49 CFR 26.87. Upon receipt of the ineligibility complaint, the current CM agency will review any new evidence, request additional information from the firm, and/or conduct a site visit review, if deemed necessary, and make its determination. The CM agency will report its findings at the CUCP Monthly Review Meeting. Information on this action shall be entered into the California DBE/ACDBE certification database by the CM agency after the firm has been afforded due process under 26.87 and 26.89 if applicable.

- 4.05 **Disputes:** The CUCP Executive Committee shall resolve certification eligibility disputes that cannot be resolved between or among CM agencies.

The CUCP Monthly Review Meeting Chair will notify the Executive Committee when complaints have not been resolved between agencies. The Executive Committee can resolve the matter using one of the following options (based on the complexity of the issue):

- a) The Executive Committee will assign a subcommittee of at least three members not involved in the initial dispute to review the case or conduct their own investigation. If the Executive Committee utilizes this method, the subcommittee will report its findings to the Executive Committee. The Executive Committee, through a vote of members as defined in Section 3.01, will affirm the subcommittee's decision, or
- b) The Executive Committee Chair will call a special meeting of all Executive Committee members to discuss the case and make a determination via vote of all members [refer to Section 3.01(e)]. The Executive Committee decision will be final.

Information on the final action will be entered into the California DBE/ACDBE certification database by the CM agency after the firm has been afforded due process under 49 CFR Parts 26.87 and 26.89 if applicable.

ARTICLE 5 – RIGHTS AND OBLIGATIONS OF THE CUCP

- 5.01 **CUCP Members Responsibilities:** The CUCP and individual CM agencies shall be responsible for maintaining CUCP processes and procedures that conform to the overall certification standards set out in 49 CFR Part 26 and Part 23 as applicable. The CUCP shall adhere to the standards of §26.81(b) as applicable.
- 5.02 **CUCP Compliance:** The CUCP will comply with the provisions of section §26.109(a)(b)(c) regarding information, confidentiality and cooperation including not releasing any business information to third parties, maintain confidentiality regarding complaints, and ensuring no retaliation for anyone involved in the complaints.

The CUCP complies with provisions of the Federal Freedom of Information and Privacy Acts (5 U.S.C. 552 and 552a). The CUCP may make available to the public any information concerning the DBE/ACDBE Program that is not prohibited by federal law. In addition, the CUCP will safeguard from disclosure to unauthorized persons information gathered as part of the certification process that may reasonably be regarded as proprietary or other confidential business information, consistent with applicable Federal, state and local law.

In accordance with 49 CFR §26.83(g) and §26.109, California Government Code Section 6250 et seq., California Civil Code Section 1798 et seq., and the Information Practices Act, certification documents are safeguarded and held according to the following criteria:

DBE/ACDBE files are maintained in a locked and enclosed area that is accessible only to authorized personnel. All documents submitted by the applicant, as part of the initial certification process, becomes a permanent part of the file and are not purged from the file. Active files are held by certifying member agencies for an indefinite period of time. Active is defined to mean any firm that has filed annual updates. Notwithstanding the provisions of paragraph (a) of this section, the identity of complainants shall be kept confidential at their election. If such confidentiality will hinder the investigation, proceeding, or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing. All participants in the DBE program (including Caltrans, the CUCP, DBE/ACDBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE/ACDBE firms to meet contract goals) will cooperate fully and promptly with USDOT and any Operating Administrators (OAs) in compliance reviews, certification reviews, investigations, and other requests for information.

- 5.03 **Continued CUCP Monitoring:** The CM agencies must participate in the in-person mandatory CUCP Annual Training Workshop, as well as the Executive Committee, standing committees and CUCP Monthly Review Meeting for continued monitoring of the CUCP. Caltrans may conduct periodic CUCP reviews of individual CM agencies to determine adherence with certification procedures, availability of sufficient staffing resources, and other related practices (i.e., file maintenance, information security, etc.). Information gathered shall be reported to the Executive Committee and used to identify focus areas for the CUCP Strategic Management Plan. If a CM agency shows a pattern of failure to follow its responsibilities as stated in this MOA, the Executive Committee reserves the right to suspend a CM agency from its voting rights until the CM agency resumes its active participation in the CUCP.
- 5.04 **CUCP Member Suspension:** By determination of the Executive Committee, CUCP CM agencies that fail to remain compliant with this MOA may be suspended from access to the California DBE/ACDBE certification database and Executive Committee voting privileges until the CUCP Member is in compliance.

ARTICLE 6 – DBE/ACDBE CERTIFICATION PROCEDURES

- 6.01 See most updated CUCP Standard Operating Procedures and Standard Forms Booklet.

ARTICLE 7 – DBE/ACDBE DUE PROCESS

- 7.01 **Appeals:** The CM agencies shall adhere to 49 CFR Part 26.89, which provide for the appeal process to be afforded to firms whose eligibility is denied (see Exhibit F, DBE/ACDBE Due Process: Reconsideration and U.S. DOT Appeals/Remands).
- 7.02 **Reconsideration:** The CUCP shall use a Reconsideration Panel composed of CMs, with the options of using individual CMs when a firm requests reconsideration. With the agreement of the Executive Committee, other alternatives may be used for reconsideration (e.g., Administrative Law Judge, etc.). Individual CM agencies shall bare the cost of a transcriber for their firms seeking reconsideration. If the

reconsideration is done at the initiating certifying agency, the Reconsideration Officer(s) must not be in the chain of command of that agency, as described in Exhibit F, DBE/ACDBE Due Process: Reconsideration and U.S. DOT Appeals/Remands. Anyone serving as a Reconsideration Official must have had the mandatory CUCP training (see Standard Operating Procedures).

- 7.03 **US DOT Remands:** All CM agencies shall follow US DOT remand instructions and respond by the designated time frame.

ARTICLE 8 – TRAINING

- 8.01 **Training Committee:** A standing Training Committee shall be organized by the CUCP to develop training materials, arrange for instructors/mentors, and prepare a proposed training course and schedule for all DBE/ACDBE certification processes and procedures, all as described in Exhibit E, Training Procedures.

- 8.02 **Course Training:** A course of training on DBE/ACDBE certification processes and procedures is facilitated by the CUCP Training Committee for all CM agencies and those NCM agencies that agree to assist with site visits as determined by the Training Committee and described in Exhibit E attached. Since some CM agencies may contract out certification activities with private consultant firms, the contracting CM agencies must ensure their consultants receive proper and adequate training as required by the CUCP Training Procedures.

ARTICLE 9 – FEES/COSTS

- 9.01 **CUCP Membership Fee:** An annual membership fee may be assessed for operating and maintaining the CUCP. CM agencies already bear the cost of certification; therefore, the membership fee applies only to NCM agencies. The fees will be based on total annual federal funding. RECIPIENTS and sub-RECIPIENTS may be assessed a minimum fee of \$1,000 or a maximum of \$100,000 per year. The cost of operating and maintaining the

CUCP will be re-evaluated by the CUCP Executive Committee and may be adjusted with the approval of the CUCP Executive Committee members.

9.02 **DBE/ACDBE Applicant Firms:** There shall be no costs to DBE or ACDBE applicant firms for certification application processing.

ARTICLE 10 – GENERAL PROVISIONS

10.01 **Attachments to the Agreement:** All exhibits attached to this Agreement are incorporated herein by reference and made a part hereof.

10.02 **Interpretation of Agreement:** Article and section headings and Table of Contents are for convenience only and shall not affect construction of this Agreement.

10.03 **Amendments to the Agreement:** This Agreement may be amended, modified, supplemented or waived by an instrument in writing agreed to by the CUCP Executive Committee. Should any provisions of 49 CFR, Part 26 and 23, and 13 CFR, Part 121, be changed or modified, corresponding provisions of this Agreement shall be modified accordingly. This Agreement shall be reviewed on an on-going basis and amended as agreed upon by the CUCP Executive Committee with advisement to the CUCP members. The CUCP MOA may only be amended with the majority approval of a quorum of the CUCP certifying member agencies.

10.04 **Compliance with Law:** CUCP members agree that the operation of this Agreement and performance of all obligations hereunder shall comply with 49 CFR Parts 26 and 23 and with applicable Federal and State laws, as amended.

10.05 **Signed Agreement:** This Agreement must be signed by the CM and NCM agencies and by the Chair of the Executive Committee of the CUCP. Participation by a RECIPIENT in this CUCP will become effective immediately upon execution and submission by the RECIPIENT of a CUCP Agreement/Declaration of Status Letter (see Exhibit B) to the CUCP.

Upon such submission, each RECIPIENT shall be a CM agency. All CUCP members must accept the terms of this Agreement. The initial CUCP became effective on January 1, 2002 with the approval of the Agreement by the Secretary of the U.S. DOT. This amended Agreement became effective February 12, 2020.

10.06 **Severability:** Should any part, term, portion, or provision of this Agreement be in conflict with any law of the United States or of the State of California, or otherwise be unenforceable or ineffectual, the remaining provisions shall be deemed valid and severable, and not affected thereby.

10.07 **Successors:** This Agreement shall be binding upon and inures to the benefit of any successors or assigns of the CUCP and its members.

RESOLUTIONS OF CUCP EXECUTIVE COMMITTEE (ATTACHED)

SIGNATURE OF THE CALIFORNIA UNIFIED CERTIFICATION PROGRAM EXECUTIVE COMMITTEE CHAIR:


Janice Salais (Feb 25, 2020)

**Janice Salais, Chair
CUCP Executive Committee**

SIGNATURES OF CERTIFYING CUCP MEMBERS:

CALIFORNIA DEPARTMENT OF TRANSPORTATION


Janice Salais (Feb 25, 2020)

Janice Salais
Assistant Director, Office of Civil Rights

CITY OF FRESNO


Melissa Perales (Feb 25, 2020)

Melissa Perales
Purchasing Manager

LOS ANGELES COUNTY METROPOLITAN TRANSIT AUTHORITY



Debra Avila
Chief, Vendor/Contract Management Officer

CITY OF LOS ANGELES


John L. Reamer, Jr (Feb 25, 2020)

John L. Reamer, Jr.
Inspector, Public Works and Director, Bureau of Contract Administration

SAN DIEGO COUNTY REGIONAL AIRPORT AUTHORITY


Maria A. Quiroz (Feb 23, 2020)

Maria A. Quiroz

Interim Manager, Small Business Development

SAN FRANCISCO BAY AREA RAPID TRANSIT DISTRICT


Maceo Wiggins (Feb 26, 2020)

Maceo Wiggins

Director of Office of Civil Rights

SAN FRANCISCO INTERNATIONAL AIRPORT


Emylene Aspilla (Feb 27, 2020)

Emylene Aspilla

Director of Social Responsibility and Community Sustainability, Administration and Policy

SAN FRANCISCO MUNICIPAL TRANSPORTATION AGENCY


Virginia Harmon (Feb 27, 2020)

Virginia Harmon

Manager, Contracts & Procurement


SAN MATEO COUNTY TRANSIT DISTRICT


Hayden Lee (Feb 27, 2020)

Hayden J. Lee
Acting Manager, Office of Civil Rights

SANTA CLARA VALLEY TRANSPORTATION AUTHORITY

SF


Sylvester Fadal

Sylvester Fadal
Director of Human Resources and Procurement & Contracts

RESOLUTION NO. 2004-02

**EXECUTIVE COMMITTEE, UNIFIED CERTIFICATION PROGRAM
STATE OF CALIFORNIA**

* * *

**RESOLUTION ADOPTING REVISIONS TO THE MEMORANDUM OF AGREEMENT FOR A
UNIFIED CERTIFICATION PROGRAM, STATE OF CALIFORNIA**

WHEREAS, effective January 1, 2002, recipients of financial assistance from United States Department of Transportation (“DOT”) have entered into a Memorandum of Agreement authorizing the establishment of a Unified Certification Program (“UCP”) pursuant to Title 49 Code of Federal Regulations, Part 26 (“Regulations”); and

WHEREAS, the Secretary of DOT approved the Memorandum of Agreement on March 13, 2002, authorizing the establishment and implementation of the California Unified Certification Program (“CUCP”); and

WHEREAS, the General Membership of the CUCP, comprised of Certifying and Non-Certifying Member Agencies of the CUCP, held a general election on March 24, 2003 and ratified the adoption of a revised Memorandum of Agreement effective immediately; and

WHEREAS, the March 24, 2003 revisions to the Memorandum of Agreement were submitted to DOT for approval and DOT has not disapproved of the revisions; and

WHEREAS, Section 11.03 of the Memorandum of Agreement, revised on March 24, 2003, authorizes the Executive Committee of the CUCP to further amend the Memorandum of Agreement; and

WHEREAS, effective July 16, 2003, DOT issued amending regulations to Title 49 Code of Federal Regulations, Part 26; and

WHEREAS, the Executive Committee finds that it is necessary to revise the Memorandum of Agreement to conform the Exhibits to the agreement and conform the agreement to the amending Regulations.

NOW, THEREFORE, BE IT RESOLVED that the Executive Committee of the California Unified Certification Program hereby adopts the revised Memorandum of Agreement attached hereto as Attachment A; and

BE IT FURTHER RESOLVED that the Executive Committee authorizes the Chair and Secretary to take further actions as may be necessary to give effect to this resolution, including transmitting a copy of the amended Memorandum of Agreement to DOT for concurrence.

Regularly passed and adopted this **November 16, 2004** by the following vote:

AYES: Peindl (City of Los Angeles); Wright (San Diego County Regional Airport); Lee (SamTrans); Giles-Potter (OCTA); Nelson (Caltrans); McDowell (San Joaquin); Hollingsworth (Contra Costa); L Davis (BART); Healy (Fresno); Madrigal (CCCTA); Evan-Peguese (MUNI); and Crumpler (SFIA)

NOES: none

ABSENT: Reitz (Yolo); G Davis (City of San Diego); Zaragoza (Riverside Transit); Hernandez (Metro); and Flores (VTA)

ABSTENSIONS: none

/s/ Raymond Lee
Chair, Executive Committee of the California
Unified Certification Program

ATTEST:

/s/ Tina Giles-Potter
Secretary, Executive Committee,
California Unified Certification Program

RESOLUTION NO. 2006-01

**EXECUTIVE COMMITTEE, UNIFIED CERTIFICATION PROGRAM
STATE OF CALIFORNIA**

* * *

**RESOLUTION ADOPTING REVISIONS TO THE MEMORANDUM OF AGREEMENT FOR A
UNIFIED CERTIFICATION PROGRAM, STATE OF CALIFORNIA**

WHEREAS, effective January 1, 2002, recipients of financial assistance from United States Department of Transportation (“DOT”) have entered into a Memorandum of Agreement authorizing the establishment of a Unified Certification Program (“UCP”) pursuant to Title 49 Code of Federal Regulations, Part 26 (“Regulations”); and

WHEREAS, the Secretary of DOT approved the Memorandum of Agreement on March 13, 2002, authorizing the establishment and implementation of the California Unified Certification Program (“CUCP”); and

WHEREAS, the General Membership of the CUCP, comprised of Certifying and Non-Certifying Member Agencies of the CUCP, held a general election on March 24, 2003 and ratified the adoption of a revised Memorandum of Agreement effective immediately; and

WHEREAS, the March 24, 2003 revisions to the Memorandum of Agreement were submitted to DOT for approval and DOT has not disapproved of the revisions; and

WHEREAS, Section 11.03 of the Memorandum of Agreement, revised on March 24, 2003, authorizes the Executive Committee of the CUCP to further amend the Memorandum of Agreement; and

WHEREAS, the Executive Committee at its regularly scheduled meeting of April 19, 2005 approved a motion to grant individual agency discretion to approve its certification actions and discontinue certification decisions at the cluster level effective immediately; and

WHEREAS, effective April 21, 2005, DOT issued amending regulations to Title 49 Code of Federal Regulations, Part 23; and

WHEREAS, the Executive Committee finds that it is necessary to revise the Memorandum of Agreement to memorialize the authority of individual certifying agencies to make certification decisions and conform the agreement to the amending Regulations.

NOW, THEREFORE, BE IT RESOLVED that the Executive Committee of the California Unified Certification Program hereby adopts the revised Memorandum of Agreement attached hereto as Attachment A; and

BE IT FURTHER RESOLVED that the Executive Committee authorizes the Chair and Secretary to take further actions as may be necessary to give effect to this resolution, including transmitting a copy of the amended Memorandum of Agreement to DOT for concurrence.

Regularly passed and adopted this **21st day of March, 2006** by the following vote:

AYES: Evans-Peguese (SFMTA); Hernandez (Metro); G. Davis (City of San Diego); Berriman (City of Los Angeles); Madrigal (CCCTA); R. Lee (SamTrans/JPB); Wright (SDCRAA); Crumpler (SFIA); Nelson (Caltrans); Hollingsworth (Contra Costa County); Reitz (Yolobus via written consent); Healy (City of Fresno via written consent); Zaragoza (Riverside Transit via written consent)

NOES: none

ABSENT: SF BART; VTA; OCTA

ABSTENSIONS: none

/s/ Patricia Wright
Chair, Executive Committee of the California
Unified Certification Program

ATTEST:

/s/ Tina Giles-Potter
Secretary, Executive Committee,
California Unified Certification Program

RESOLUTION NO. 2020-01

**EXECUTIVE COMMITTEE, UNIFIED CERTIFICATION PROGRAM
STATE OF CALIFORNIA**

* * *

**RESOLUTION ADOPTING REVISIONS TO THE MEMORANDUM OF AGREEMENT FOR A
UNIFIED CERTIFICATION PROGRAM, STATE OF CALIFORNIA**

WHEREAS, effective January 1, 2002, recipients of financial assistance from United States Department of Transportation (“DOT”) have entered into a Memorandum of Agreement authorizing the establishment of a Unified Certification Program (“UCP”) pursuant to Title 49 Code of Federal Regulations, Part 23 and Part 26 (“Regulations”); and

WHEREAS, the Secretary of DOT approved the Memorandum of Agreement on March 13, 2002, authorizing the establishment and implementation of the California Unified Certification Program (“CUCP”); and

WHEREAS, the General Membership of the CUCP, comprised of Certifying and Non-Certifying Member Agencies of the CUCP, held a general election on February 12, 2020 and ratified the adoption of a revised Memorandum of Agreement effective immediately; and

WHEREAS, the February 12, 2020 revisions to the Memorandum of Agreement were submitted to DOT for approval and DOT has not disapproved of the revisions; and

WHEREAS, Section 11.03 of the Memorandum of Agreement, revised on March 24, 2003, authorizes the Executive Committee of the CUCP to further amend the Memorandum of Agreement; and

WHEREAS, the Executive Committee at its regularly scheduled meeting of April 19, 2005 approved a motion to grant individual agency discretion to approve its certification actions and discontinue certification decisions at the cluster level effective immediately; and

WHEREAS, effective April 21, 2005, June 12, 2008, January 8, 2011, January 28, 2011, October 2, 2014 and October 14, 2014, DOT issued amending regulations to Title 49 Code of Federal Regulations, Part 23 and Part 26; and

WHEREAS, the Executive Committee finds that it is necessary to revise the Memorandum of Agreement to memorialize the authority of individual certifying agencies to make certification decisions and conform the agreement to the amending Regulations.

NOW, THEREFORE, BE IT RESOLVED that the Executive Committee of the California Unified Certification Program hereby adopts the revised Memorandum of Agreement attached hereto as Attachment A, including all Exhibits; and

BE IT FURTHER RESOLVED that the Executive Committee authorizes the Chair and Secretary to take further actions as may be necessary to give effect to this resolution, including transmitting a copy of the amended Memorandum of Agreement to DOT for concurrence.

Regularly passed and adopted this February 12, 2020 by the following vote:

AYES: Salais (CALTRANS); Licea (LACMTA); Medina (VTA); Lu (SFO); Miglino (CALTRANS); Stewart (CALTRANS); Shimoda-Kobayashi (LAWA); Luong-Huynh (City of LA); Ortiz (LACMTA); Wong (LACMTA); Pham (SDCRAA); Quiroz (SDCRAA); Tuason (City of LA); Evans-Peguese (SFMTA); Hubbard (SAMTRANS); and Perales (City of Fresno); Wiggins (BART)

NOES: none

ABSENT: none

ABSTENSIONS: none

/s/Janice Salais-CALTRANS
Chair, Executive Committee of the California
Unified Certification Program

ATTEST:

/s/Queen Lu
Secretary, Executive Committee,
California Unified Certification Program

EXHIBIT “A”

To California Unified Certification Program

MEMORANDUM OF AGREEMENT

**LIST OF U.S. DOT RECIPIENTS
IN CALIFORNIA**

Name of Agency	Address	City
Access Services, Inc. (*)	633 West 5th Street, 9th Floor	Los Angeles
Alameda Contra Costa Transit District	10626 International Boulevard	Oakland
Alameda County Public Works Agency	951 Turner Court, Room 115	Hayward
Alameda County Transportation Improvement Authority (ACTIA)	426 17th Street, Suite 100	Oakland
Antelope Valley Transit Authority	1031 West Avenue, L-12	Lancaster
Arcadia, City of	240 West Huntington Drive	Arcadia
Bay Area Air Quality Management District	375 Beale Street, Suite 600	San Francisco
Bay Area Rapid Transit District	300 Lakeside Drive, 18th Floor	Oakland
Benicia, City of	City Hall, 250 East L Street	Benicia
Buena Park, City of	6650 Beach Boulevard	Buena Park
Burbank, City of, Dept. of Public Works	275 East Olive Avenue	Burbank
Burbank-Glendale-Pasadena Airport Authority	2627 Hollywood Way	Burbank
Butte County Association of Governments	965 Fir Street	Chico
Butte, County of, Dept. of Public Works	7 County Center Drive	Oroville
Calaveras Council of Governments	P.O. Box 280	San Andreas
Calaveras, County of, Dept. of Public Works	891 Mountain Ranch Road	San Andreas
California Department of Transportation	1820 Alhambra Boulevard	Sacramento
Central Contra Costa Transit Authority	2477 Arnold Industrial Way	Concord
Chico, City of	411 Main Street	Chico
Claremont, City of	207 Harvard Avenue	Claremont
Coachella Valley Association of Govs (CVAG)	73710 Fred Waring Dr, #200	Palm Desert
Commerce, City of	5555 Jillson Street	Commerce
Contra Costa Transportation Authority	3478 Buskirk Avenue, Suite 100	Pleasant Hill
Contra Costa, County of	651 Pine Street, 10th Floor	Martinez
Corona, City of	815 West Sixth Street	Corona
Culver, City of	4343 Duquesne Avenue	Culver City
Davis, City of/UNITRANS	23 Russell Boulevard	Davis
Del Norte County Transportation Commission	900 Northcrest Dr, PMB 16	Crescent City
Del Norte, County of	981 H Street, Suite 110	Crescent City
Downey, City of	11111 Brookshire Avenue, 3rd floor	Downey
Eastern Contra Costa Transit Authority/Tri Delta Transit	801 Wilbur Avenue	Antioch
Fairfield, City of	1000 Webster Street	Fairfield
Folsom, City of	50 Natoma Street	Folsom
Foothill Transit Zone	100 North Barranca Avenue, Suite 100	West Covina
Fresno County Governments, Council of	2100 Tulare Street, Suite 619	Fresno
Fresno, City of**	2101 G Street, Bldg A	Fresno

Name of Agency	Address	City
Gardena, City of/Gardena Muni. Bus Lines	1700 West 162nd Street	Gardena
Golden Empire Transit District	1830 Golden State Avenue	Bakersfield
Golden Gate Bridge, Highway & Trans. District	1011 Andersen Drive	San Rafael
Humboldt Transit Authority	133 V Street	Eureka
Inglewood, City of	One Manchester Boulevard	Inglewood
Kern Council of Governments	1401 19th Street, Suite 300	Bakersfield
Kern County Airports	1401 Skyway Drive, Suite 200	Bakersfield
Kern Regional Transit, Kern Co. Roads Dept.	2700 M Street, Suite 400	Bakersfield
La Mirada, City of	13700 La Mirada Boulevard	La Mirada
Laguna Beach, City of	505 Forest Avenue	Laguna Beach
Lancaster, City of, Dept. of Public Works	4493 North Fern Avenue	Lancaster
Lemon Grove, City of	3232 Main Street	Lemon Grove
Livermore-Amador Valley Transit Authority/Wheels	1362 Rutan Court, Suite 100	Livermore
Lodi, City of	P.O. Box 3006	Lodi
Lompoc, City of	100 Civic Center Plaza	Lompoc
Long Beach Public Transp. Co./Long Beach Transit	1963 E Anaheim Street	Long Beach
Long Beach, City of	333 W. Ocean Boulevard, 9th Floor	Long Beach
Long Beach, Port of	925 Harbor Plaza	Long Beach
Los Angeles Co. Metropolitan Trans. Authority	One Gateway Plaza	Los Angeles
Los Angeles Department of Transportation	221 West Figueroa Street, Suite 500	Los Angeles
Los Angeles World Airports	1 World Way	Los Angeles
Los Angeles, City of, Bureau of Contract Admin.	600 South Spring Street, Suite 1300	Los Angeles
Los Angeles, County of, Office of Small Business	2 Coral Circle	Monterey Park
Los Angeles, County of, Public Works	P.O. Box 1460	Alhambra
Los Angeles-San Diego Rail Corridor Agency	810 Mission Avenue	Oceanside
Los Banos, City of	830 Sixth Street	Los Banos
Madera County Transportation Commission	2001 Howard Rd.	Madera
Mendocino Transit Authority	241 Plant Road	Ukiah
Merced County Association of Governments	369 West 18th Street	Merced
Merced County Transit Joint Powers Authority	880 Thornton Road	Merced
Metropolitan Transit Development Board (MTDB), San Diego	1255 Imperial Avenue, Suite 1000	San Diego
Metropolitan Transportation Commission (ref 29)	101 - 8th Street, 3rd Floor	Oakland
Metropolitan Transportation Commission (ref 30), Oakland	375 Beale St, #800	San Francisco
Modesto, City of	1010 Tenth Street, Suite 4500	Modesto
Modoc County Transportation Commission	202 West 4th Street	Alturas
Modoc Transportation Agency	202 West 4th Street	Alturas
Mono County Transportation Commission c/o County of	PO Box 347	Mammoth Lakes

Name of Agency	Address	City
Mono, Department of Public Works	P.O. Box 457, 74 North School Street	Bridgeport
Montebello, City of	400 South Taylor Avenue	Montebello
Monterey Bay Area Governments, Association of	445 Reservation Road, Suite G	Marina
Monterey County Transportation Agency	55 B Plaza Circle	Salinas
Monterey Peninsula Airport District	200 Fred Kane Drive, Suite 200	Monterey
Monterey-Salinas Transit	1 Ryan Ranch Road	Monterey
Napa County Transportation Planning Agency	707 Randolph Street, Suite 100	Napa
Nevada County Transportation Commission	101 Providence Mine Road, Suite 102	Nevada City
North County Transit District	810 Mission Avenue	Oceanside
Norwalk, City of	12700 Norwalk Boulevard	Norwalk
Oakland, City of	250 Frank H. Ogawa Plaza, #3341	Oakland
Oakland, Port of/International Airport	530 Water Street	Oakland
Omnitrans	1700 West 5th Street	San Bernardino
Orange County Transportation Authority	550 South Main Street	Orange
Orange, County of, John Wayne Airport	3160 Airway Avenue	Costa Mesa
Palm Desert, City of	73510 Fred Waring Drive	Palm Desert
Palm Springs Regional Airport	3400 E. Tahquitz Canyon Way	Palm Springs
Palm Springs, City of, Public Works & Engineering	3200 E. Tahquitz Canyon Way	Palm Springs
Palmdale, City of, Public Works	38250 Sierra Highway	Palmdale
Peninsula Corridor Joint Powers Board	1250 San Carlos Avenue	San Carlos
Placer, County of	11444 B Avenue	Auburn
Redding, City of, Airports Division	3751 Woodrum Cir. #200	Redding
Redding Area Bus Authority	777 Cypress Avenue	Redding
Richmond, City of, Public Services Agency	2600 Barrett Avenue	Richmond
Riverside County Transportation Commission	4080 Lemon Street, 3rd Floor	Riverside
Riverside Transit Agency	1825 Third Street	Riverside
Riverside, City of	3900 Main Street, 6th Floor	Riverside
Roseville, City of	316 Vernon Street #100	Roseville
Sacramento Area Council of Governments (SACOG)	1415 "L" Street, Suite 300	Sacramento
Sacramento County Airport System	6900 Airport Boulevard	Sacramento
Sacramento Housing Redevelopment	201 12th St.	Sacramento
Sacramento Regional Transit District	1400 29th Street	Sacramento
Sacramento, City of	921 Tenth Street, Room 402	Sacramento
Sacramento, County of	827 Seventh Street, Room 304	Sacramento
San Bernardino, County of	385 N. Arrowhead Ave.	San Bernardino
San Bernardino Inl Airport & Trade Center	294 S. Leland Norton Way, Suite 1	San Bernardino
San Diego Association of Governments	401 B Street	San Diego
San Diego County Regional Airport Authority	P.O. Box 82776	San Diego

Name of Agency	Address	City
San Diego Metropolitan Transit Dev. Board	1255 Imperial Avenue, Suite 1000	San Diego
San Diego Unified Port District	P.O. Box 120488	San Diego
San Diego, City of	1010 Second Avenue, #500	San Diego
San Diego, County of, Public Works	5555 Overland Avenue, Bldg. 6	San Diego
San Francisco International Airport	P.O. Box 8097	San Francisco
San Francisco Redevelopment	1 Van Ness Ave., #5	San Francisco
San Francisco Municipal Transportation Agency	1 South Van Ness Avenue, 6 th Floor	San Francisco
San Joaquin Council of Governments	555 E. Weber Avenue	Stockton
San Joaquin Regional Rail Commission	949 E. Channel Street	Stockton
San Joaquin Regional Transit District/SMART Buses	1533 East Lindsay Street	Stockton
San Jose, City of/San Jose International Airport	4 North Second Street, Suite 925	San Jose
San Luis Obispo Airport System	1087 Santa Rosa Street	San Luis Obispo
San Luis Obispo Council of Governments	1150 Osos Street, Suite 202	San Luis Obispo
San Luis Obispo, City of	955 Morro Street	San Luis Obispo
San Luis Obispo, County of DGS	1055 Monterey Street	San Luis Obispo
San Mateo County Transit District	1250 San Carlos Avenue	San Carlos
Santa Ana, City of	20 Civic Center Plaza, Ross Annex-M22	Santa Ana
Santa Barbara County Association of Governments	260 North San Antonio Road, Suite B	Santa Barbara
Santa Barbara Metropolitan Transit District	550 Olive Street	Santa Barbara
Santa Clara Valley Transportation Authority	3331 North First Street	San Jose
Santa Clarita, City of	23920 Valencia Boulevard, Suite 295	Santa Clarita
Santa Cruz Metropolitan Transit District	370 Encinal Street, Suite 100	Santa Cruz
Santa Maria, City of, Dept. of Public Works	110 East Cook Street	Santa Maria
Santa Monica, City of	612 Colorado	Santa Monica
Santa Rosa, City of/Santa Rosa Transit	P.O. Box 1678	Santa Rosa
Shasta County Regional Transportation Agency	1855 Placer Street	Redding
Simi Valley, City of	2929 Tapo Canyon Road	Simi Valley
Sonoma, County of, Dept. of Public Works	2300 County Center Drive, Room B-100	Santa Rosa
South Coast Area Transit	P.O. Box 1146	Oxnard
Southern California Association of Governments	818 West 7th Street, 12th Floor	Los Angeles
Southern California Regional Rail Authority	700 S Flower Street, 26th Floor	Los Angeles
Stanislaus Council of Governments	900 H Street, Suite D	Modesto
Sunline Transit Agency	32-505 Harry Oliver Trail	Thousand Palms
Torrance, City of	20500 Madrona Avenue	Torrance
Tulare County Association of Governments	5961 S. Mooney Boulevard	Visalia
Union City, City of	34009 Alvarado-Niles Road	Union City
Vacaville, City of, Public Works	650 Merchant Street	Vacaville
Vallejo, City of	555 Santa Clara Street	Vallejo

Name of Agency	Address	City
Ventura County Transportation Commission	950 County Square Drive, Suite 207	Ventura
Victor Valley Transit Authority	11741 East Santa Fe Avenue	Hesperia
Visalia, City of	P.O. Box 4002	Visalia
Western Contra Costa Transit Authority	601 Walter Avenue	Pinole
Yolo County Transportation District	350 Industrial Way	Woodland
Yuba-Sutter Transit Authority	2100 B Street	Marysville

EXHIBIT “B”

To California Unified Certification Program

MEMORANDUM OF AGREEMENT

**CUCP AGREEMENT
SAMPLE DECLARATION
OF
STATUS LETTER**

**CUCP AGREEMENT
DECLARATION OF STATUS LETTER**

TO: CALIFORNIA UNIFIED CERTIFICATION PROGRAM

FROM (Recipient): _____

ADDRESS: _____ **City:** _____ **State:** _____

Zip Code: _____ **EMAIL:** _____ **PHONE #:** _____

Recipient hereby acknowledges and agrees that:

- (1) As a recipient of Federal financial assistance from the United States Department of Transportation (US DOT), recipient has an established Disadvantaged Business Enterprise (DBE) Program in accordance with 49 CFR Part 26 and or Airport Concession Disadvantaged Business Enterprise (ACDBE) Program in accordance with 49 CFR Part 23.
- (2) By this letter, recipient officially becomes a signatory to the Memorandum of Agreement (MOA) for the establishment of a Unified Certification Program among all US DOT recipients in California, as approved by the Secretary of Transportation on March 13, 2002 and amended on _____.
- (3) In accordance with said MOA, recipient hereby makes a declaration to become either a Certifying CUCP Member or a Non-Certifying CUCP Member.
 - (a) A Certifying CUCP Member maintains DBE/ACDBE certification processes including reviewing DBE/ACDBE applications, conducting site visits and making decisions on DBE/ACDBE status; processing annual updates, maintaining DBE/ACDBE certification files; and conducting appeal and third party challenge hearings. A Certifying CUCP Member is responsible for providing certification information and updates for inclusion in the California DBE/ACDBE certification database.
 - (b) A Non-Certifying CUCP Member does not process DBE/ACDBE certifications for inclusion in the California DBE/ACDBE certification database.
- (4) CUCP Members may be requested to contribute funds to support the CUCP.
- (5) All CUCP Members will accept the DBE/ACDBE status of firms included in the California DBE/ACDBE certification database for use in their contracting activities.

Based on the foregoing, Recipient hereby declares its status as:

A CERTIFYING CUCP MEMBER **A NON-CERTIFYING CUCP MEMBER**

(Recipient may change its status upon submission of a new Declaration Letter to the Chair of the CUCP.)

Name and Title of Recipient Agency Official Date: _____

Signature of Recipient

PARTICIPATION IN CUCP ACKNOWLEDGEMENT:

Chair, California Unified Certification Program / Date

Secretary, California Unified Certification Program / Date

EXHIBIT “C”

To California Unified Certification Program

MEMORANDUM OF AGREEMENT

**EXECUTIVE COMMITTEE
GUIDELINES**

CALIFORNIA UNIFIED CERTIFICATION PROGRAM EXECUTIVE COMMITTEE GUIDELINES

A. Purpose

The purpose of the Executive Committee is to oversee the development and implementation of the applicable California Unified Certification Program (CUCP) and to ensure CUCP certifying members are adequately informed by:

- 1) Identifying immediate and long-range needs
- 2) Planning and coordinating activities
- 3) Developing annual budgets if necessary
- 4) Monitoring all aspects of the standing committees' processes.

B. Duties and Responsibilities

The Executive Committee will develop a two-year Strategic Plan, which will include at a minimum, 1) developing annual goals and objectives for the CUCP; 2) developing annual funding plan requirements; 3) instituting appropriate methods and procedures to ensure implementation of effective programs; 4) conducting and/or overseeing sessions; 5) developing, producing, and distributing materials; 6) ensuring information and related materials are posted on the CUCP website; and 7) conducting ongoing analysis of the CUCP's objectives.

C. Members and Compensation

The number of members on the Executive Committee shall be determined by the current Memorandum of Agreement ("Agreement") as stated in Section 3.01 (c). Members shall represent CM and NCM agencies. Executive Committee members shall receive no fees or compensation for their services.

D. Term of Membership

CUCP officers shall serve a two-year term. Officers shall rotate among CUCP certifying member agencies as agreed upon by the members or as needed. Officers' term of office shall be effective on the first day of January each year.

Where an officer is no longer able to complete his/her term of office, the Executive Committee shall elect a replacement at the next scheduled Executive Committee meeting. The replacement member shall complete the term of office of the vacating officer.

E. Officers/Duties

The Executive Committee shall have four officers, a Chair, Vice Chair, Treasurer and Secretary. Prior to the end of each two-year term, the Executive Committee shall approve the rotation of officers.

The Chair is responsible for scheduling Executive Committee meetings, preparing the agenda, and conducting the meetings.

The Vice Chair shall perform the duties of the Chair in his/her absence.

The Treasurer shall perform the duties of the Chair in the absence of the Chair and the Vice Chair. The Treasurer is responsible for developing annual budgets, monitoring costs during the current year, and keeping accurate accounting records.

The Secretary shall perform the duties of the Chair in the absence of the Chair, the Vice Chair and the Treasurer. The Secretary is responsible for preparing and distributing the minutes of the meetings and for retention of official Committee documents as filed in central repository.

The Chair may assign other tasks, duties and/or responsibilities to any member on the Executive Committee and may establish subcommittees to work on special projects.

F. Meetings and Locations

The Executive Committee may adopt rules and procedures to govern and to conduct its meetings. The Executive Committee shall meet quarterly and have at least one in-person meeting annually. Meeting locations shall rotate among CM agencies. Special meetings may be called at any time by an officer or by two members requesting such a meeting in writing. Seven days' written notice of a regular and/or special meeting shall be given to all members.

The agenda for each Executive Committee quarterly meeting shall contain at least the following information: call to order/confirm quorum, approval of minutes, Treasurer's report, old business, new business, and adjournment.

G. Voting/Quorum

Each individual agency may exercise one vote at Executive Committee meetings in order to transact CUCP business. In the event that an agency is unable to attend a scheduled CUCP Executive Committee meeting, that agency may elect to cast a vote by written or voice proxy. A quorum of the Executive Committee shall be a majority of all CM agencies, and no action of the Executive Committee shall be passed but upon the affirmative vote of at least a majority of a quorum. Voting shall be by voice provided that the Chair or a member may request that a roll call vote be taken.

H. Budget

For each calendar year, the Executive Committee shall adopt a comprehensive budget. It shall be consistent with available funding, including anticipated revenues and fees from CUCP CM and NCM agencies, and any additional financial assistance. The Executive Committee may request that CUCP CM and NCM agencies provide additional financial assistance to support the CUCP budget.

I. Compliance with Federal and Other Standards

In the preparation of its financial documents and records and in the development and operation of its program, the Executive Committee shall comply with all applicable requirements of the CUCP, the U.S. DOT, 49 CFR Part 26 and 23, and any other applicable acts, statutes, rules, or regulations.

J. Amendment

This document may be amended by a majority vote of Executive Committee members.

EXHIBIT “D”

To California Unified Certification Program

MEMORANDUM OF AGREEMENT

STRUCTURE AND PROCESS

CALIFORNIA UNIFIED CERTIFICATION PROGRAM STRUCTURE AND PROCESS

A. PURPOSE

All recipients of federal financial assistance from the United States Department of Transportation (U.S. DOT) in the State of California must participate in a Unified Certification Program (UCP) pursuant to 49 CFR, Part 26 and Part 23, the federal Disadvantaged Business Enterprise (DBE/ACDBE) Program regulation. The purpose of the structure and process of the California UCP (CUCP) is to design, implement, and monitor all U.S. DOT-assisted DBE/ Airport Concession Disadvantaged Business Enterprise (ACDBE) certification activities in the State of California.

B. BACKGROUND

The Oversight Committee was established to define the CUCP structure and integrate the policies and procedures used to implement the CUCP, in accordance with the articles included in the Memorandum of Agreement (MOA), for a UCP for U.S. DOT recipients in the State of California. These policies and procedures are based on Article 6 of the MOA entitled, DBE/ACDBE CERTIFICATION PROCEDURES. The intent of the Oversight Committee is to integrate these policies and procedures into a CUCP structure that will focus on, but not be limited to, the following activities:

- The CUCP application process and form
- The process all CUCP members will use to handle certification applications
- The process all certifying CUCP members will use to review certification applications
- The policies and procedures to follow for processing appeals and third-party challenges
- The process all CUCP members will use to access and input, if applicable, data into the CUCP DBE/ACDBE database

C. POLICY

It is the policy of the CUCP to provide structure and continuity to participating members so that they may accept and process data and information; make appropriate DBE/ACDBE certification decisions and report such decisions to the CUCP Monthly Meeting for oversight, as applicable to certifying members; and maintain a statewide database of certified DBE/ACDBE firms (California DBE/ACDBE certificate database). This policy is intended to ensure that all CUCP members will adhere to basic principles of the CUCP and facilitate the DBE/ACDBE requirements of the individual agencies. This structure and process may be subject to further refinement by the CUCP Executive Committee.

The following is presented to assist the CUCP with a structure within which to accept and process data and information, make DBE/ACDBE certification decisions and reports for CUCP Monthly Meeting oversight, and maintain a statewide database of certified DBE/ACDBE firms.

1. Structure

This structure is intended to simplify the certification process and take advantage of the certification consortiums and experience already in existence.

All CUCP members understand that failure to adopt the policies and procedures governing the operation of the CUCP and sign the declaration letter in the MOA may result in the loss of federal assistance and disqualification from the CUCP.

The CUCP will certify applicant firms according to the intent of the DBE/ACDBE regulation regarding offering a one-stop DBE/ACDBE certification system in California.

The CUCP Executive Committee will represent all CUCP members. The Executive Committee will meet on a regular basis, no less than once each quarter, to discuss and review the operation and status of the CUCP. The Executive Committee will review the relative success or weakness of the statewide CUCP. The review will include, but not be limited to, the examination of any problem areas that CUCP members experience. The Executive Committee will also resolve disputes between or among CUCP members that cannot be resolved at the CUCP Monthly Meeting. The Executive Committee will submit written reports to CUCP members outlining the issues discussed and any relevant actions pertaining thereto within 15 working days after each meeting.

Once the CUCP has been ratified by each member agency and approved by U.S. DOT, each of the existing committee chairs will submit a written report to the Executive Committee within 15 working days. The Chair of the Executive Committee, or his/her designee, will serve as the recipient of the reports from the various committees and will schedule a meeting of the entire Executive Committee to review the reports. The Chair of the Executive Committee will send the various committee reports via e-mail to the Executive Committee members no less than 10 working days prior to the scheduled meeting.

2. Data and Information

All CUCP members shall have access to distribute the "standardized" DBE/ACDBE certification application form. This application form shall also be available on the Internet. Only CUCP certifying members may receive completed applications from firms seeking DBE/ACDBE certification. Non-certifying CUCP members must inform the applicant firm of the closest certifying member to where the applicant firm maintains its principal place of business. Applications shall be submitted to an authorized certifying member located closest to where the applicant firm maintains its principal place of business unless an alternate certifying agency has been mutually agreed upon.

All CUCP members will use the official CUCP statewide database of certified DBE/ACDBE firms (California DBE/ACDBE Certification Database) which will be maintained by the California Department of Transportation (Caltrans).

3. Process

All recipients who elect to perform certification activities will follow the processes and procedures set out in 49 CFR Parts 26 and 23, and in the MOA to which this exhibit is attached.

All recipients who elect not to perform certification activities will serve as outlined in Article 4 of the MOA.

4. Decisions

All CUCP members will accept the DBE/ACDBE certification of any firm presenting an official letter or confirmation that firm is listed in the DBE/ACDBE directory from a certifying CUCP member which identifies the firm as certified as a DBE/ACDBE under 49 CFR, Part 26 or Part 23 for airport concessions.

Once a certifying CUCP member approves a firm and the certification has been entered into the California statewide database as a final DBE/ACDBE certification, the DBE/ACDBE will not be subjected to another DBE/ACDBE application process in the State of California, unless the DBE/ACDBE firm was removed from the DBE/ACDBE Program and it has been 12 months since its removal.

CUCP members may accept DBE/ACDBE certification recommendations that are a result of review and evaluation of private consultants working under contract for any CUCP certifying members. However, certifying CUCP members are responsible for the actions of their consultants and agree to ensure that consultants receive proper and adequate training. Consultants may not make final DBE/ACDBE eligibility decisions or represent a certifying agency at a reconsideration hearing.

To ensure a CUCP member is not required to accept the certification of a firm previously found ineligible for certification, the CUCP will reflect when a firm has been denied or decertified. CUCP members will have access to the California DBE/ACDBE certification database and will refer the DBE/ACDBE applicants to the CUCP member that previously denied or decertified the firm. In addition, CUCP members may file an ineligibility complaint with the certifying agency setting forth the reasons and providing information on why they believe the firm is ineligible for certification. The CUCP certifying member will follow the guidelines in Section 26.87 when responding to any ineligibility complaints.

D. SCOPE AND RESPONSIBILITY OF CUCP MONTHLY REVIEW MEETING

The CUCP members of Part 23 and Part 26, agree to meet monthly. As lead agency, Caltrans shall participate in the meeting.

The CUCP agrees the DBE/ACDBE certification process is a vital component of the overall CUCP for all U.S. DOT recipients in California. The value and purpose of the CUCP Monthly Meeting is far reaching in that it will provide a forum for discussions between certifying member agencies.

Certifying agencies will follow the same DBE/ACDBE certification process. A basic description of the multi-phase DBE/ACDBE certification process to be used is as follows:

1. The individual certifying member agency will complete a file review of all the required paperwork, conduct a site visit, determine the eligibility or ineligibility of a firm, and report its decision to the CUCP Monthly Meeting for oversight purposes.

2. The CUCP shall meet monthly at the CUCP Monthly Meeting and review a synopsis of the DBE/ACDBE certification activity submitted by its members. If a member (or members) disagrees with the decision of a certifying member, the dissenting member(s) may file a written ineligibility complaint with the certifying member and will provide the certifying member any information it has that may not have been considered when the certifying member rendered its decision. The certifying member is obligated to investigate the complaint in accordance with the regulations.
3. The certifying agency will enter information on the approved and certified firms in the California DBE/ACDBE certificate database.
4. The certifying agency will also enter information in the CUCP database of firms that have been denied or became ineligible.
5. For firms certified, the certifying agency will maintain the DBE/ACDBE file, request annual update information, and provide updated information to the DBE/ACDBE database. As stated in CFR 49 Part 26, DBE certified firms are required to update their certification annually. An Annual Update Affidavit or 5-Year Review application must be completed by the anniversary date of the firm's certification. CUCP will send the following:
 - 1st Notice to submit Annual Update Form or 5-Year Review Annual Update Declaration Form 3 months prior to their anniversary date;
 - 2nd Notice to submit Annual Update Declaration or 5-Year Review Annual Update Declaration Form 2 months prior to their anniversary date;
 - Proposal to Remove letter on the 1st day of their anniversary month;
 - If there is no response and/or submission, Certification Removal letter will be sent one month following the anniversary date.

Firms that do not complete an Annual Update Declaration or 5-Year Review Annual Update Declaration Form by 30 calendar days past their anniversary date will have their DBE/ACDBE certification removed as a result of being non-responsive.

Firms removed for not being responsive within the given time frame must wait 12 months from the date of removal before reapplying for certification.

6. For firms denied or found ineligible, the certifying agency will remain the primary agency for such denied or ineligible firms for any future certification attempt by the firm. Each agency shall maintain all files in an orderly manner to facilitate any review by U.S. DOT.
7. Firms that are denied certification or that are found ineligible will be provided due process as set out in 49 CFR 26.87 and 26.89.
8. If the firm files an appeal with U.S. DOT, the certifying agency will report at the CUCP Monthly Meeting of the U.S. DOT decision and shall take any necessary steps to comply with U.S. DOT directives. Certifying members shall also report the outcome of U.S. DOT appeals and remands at the CUCP Monthly Meeting.

Members shall enter into the California DBE/ACDBE certification database information on newly-certified DBE/ACDBEs and any changes to existing certified DBE/ACDBE profiles in the database. Certifying members will also provide information on denied or ineligible firms. The current California DBE/ACDBE certification database will be retrievable on the Caltrans website. Caltrans will update the California DBE/ACDBE certification database weekly (or more frequently at its discretion).

E. BENEFITS OF THE CUCP MONTHLY MEETING

The validity and reliability of CUCP DBE/ACDBE certifications will benefit through the CUCP Monthly Meeting. Through the CUCP Monthly Meeting, certifying agencies will be able to share the DBE/ACDBE certification workload in the CUCP regions, assist each other in recognizing and addressing DBE/ACDBE 'front' organizations, and help ensure that all CUCP member agencies are in compliance with the federal DBE/ACDBE regulations.

The CUCP Monthly Meeting will maximize the total number of certified DBE/ACDBEs, minimize the duplication of DBE/ACDBE certification efforts, and ensure that the certification process is consistent and reliable regardless of personnel turnover at participating certifying agencies.

The structure of the CUCP Monthly Meeting provides a vehicle for certifying agencies to create and maintain a comprehensive, centralized, and reliable California DBE/ACDBE certification database. It will assist member agencies to remain current with transportation industry issues and regulatory requirements, cultivate effective working relationships with State and federal officials who monitor DBE/ACDBE Programs, and develop productive rapport with the business community. In addition, it will provide a foundation for coordinating regional outreach events to involve the public in developing the individual DBE/ACDBE Programs and overall annual goals of the member agencies.

F. COORDINATION AND OUTREACH OF THE CUCP MONTHLY MEETING

Through the CUCP Monthly Meeting, CUCP members will meet or communicate to review the DBE/ACDBE certification activities of the individual certifying agencies to maintain the integrity of the CUCP process. This will contribute to the assurance that only eligible firms are included in the California DBE/ACDBE certification database. CUCP members will enter DBE/ACDBE certification activities into the California DBE/ACDBE certification database using the same format.

The CUCP members participating in the CUCP Monthly Meeting will assist the CUCP Training Committee with hosting and coordinating training activities.

For more details, see the CUCP Standard Operating Procedures.

EXHIBIT “E”

To California Unified Certification Program

MEMORANDUM OF AGREEMENT

**TRAINING
PROCEDURES**

CALIFORNIA UNIFIED CERTIFICATION PROGRAM TRAINING PROGRAM

A. PURPOSE

The California Unified Certification Program (CUCP) has been designated oversight, review, and monitoring responsibility for certification activities of 49 CFR Part 26 and 23. To that end, the CUCP has developed the following Training Program to provide all CUCP members responsible for Disadvantaged Business Enterprise (DBE) and Airport Concessions (ACDBE) certification, including DBE and ACDBE Liaison Officers, with a comprehensive overview of the CUCP processes and procedures. The goal is to ensure consistency and accuracy in the certification process and provide information to firms attempting to become certified with the CUCP and prime contractors seeking certified DBE/ACDBE firms via the CUCP.

B. INSTRUCTIONAL OBJECTIVES

After completing the Training Program, CUCP members will:

- Understand the DBE/ACDBE certification process.
- Become proficient at making determinations of qualification for DBE/ACDBE certification including, but not limited to, the areas of personal net worth, small business size standards, affiliations of businesses, ownership, control and North American Industry Classification System and Work Category codes.
- Become proficient at using the California DBE/ACDBE certification database.

C. TRAINING OVERVIEW

1. Training Committee

- The Training Committee is one of the standing committee(s) of the CUCP responsible for oversight training, development and implementing the CUCP Training Program (Program). The Program is to ensure CUCP certifying members are adequately trained and to ensure consistency and quality in DBE certification.
- The Training Committee will:
 - (1) Implement a training Program
 - (2) Institute appropriate methods and procedures to ensure compliance with the Program
 - (3) Plan and implement a mandatory CUCP Annual Training Workshop
 - (4) Distribute training materials.

2. Cost

- For the mandatory CUCP Annual Training Workshop, CUCP funds will be used to provide training materials, mailing and administrative costs and rental of facilities as needed. CUCP members will host the training sessions by providing training rooms (where feasible). Costs for other expenses (i.e., travel, meals, hotel, etc...) will be borne by the trainers and attendees, but these expenses may be reimbursed through CUCP funds when such reimbursements are deemed appropriate by the Executive Committee.

3. Course Content

- Course content will be tailored to the specific training(s) scheduled. The course content will be periodically updated when there are significant changes to 49 CFR Part 26 and Part 23 requirements and training evaluation feedback submittals.

4. Training Requirements

- Successful completion of the DBE/ACDBE Training Checklist (see SOP) will be mandatory for all new CUCP certifying members.
- CUCP members will be asked to evaluate training session(s) and trainers at the end of each training session(s). The collected information will be used by the Training Committee to monitor the Training Program's success and to make any necessary revision(s).
- The CUCP Annual Training Workshop is mandatory for all certifying members/officers including the Airport Concession/Disadvantaged Business Enterprise Liaison Officers (AC/DBELO) who have the ultimate responsibility for his or her Certification Agency's certifications. The AC/DBELO's attendance may only be waived by the Executive Committee on a case-by-case basis.
- CUCP members may serve as trainers and mentors as designated by the Training Committee.
- All CUCP certifying members are required to complete all Department of Transportation (DOT) and all of DOT's operating administrations and bureaus required DBE/ACDBE Training.

For more details, see the Standard Operating Procedures.

EXHIBIT “F”

To California Unified Certification Program

MEMORANDUM OF AGREEMENT

**DBE/ACDBE DUE PROCESS:
RECONSIDERATION AND
U.S. DOT APPEALS/REMANDS**

CALIFORNIA UNIFIED CERTIFICATION PROGRAM DBE/ACDBE DUE PROCESS: RECONSIDERATION AND U.S. DOT APPEALS and REMANDS

A. PURPOSE

The Disadvantaged Business Enterprise (DBE)/Airport Concession (ACDBE) due process is designed to provide certifying members of the California Unified Certification Program (CUCP) with uniform procedures to ensure consistency, objectivity and fairness to a firm that requests reconsideration of a notice proposing to find the firm ineligible to continue participation in the DBE/ACDBE-s Program. This exhibit also briefly addresses the appeal process for a firm denied initial certification.

B. AUTHORIZATION

Title 49 of the Code of Federal Regulations (CFR), Part 26 and 23.

Due process is afforded to a firm that is currently participating in the DBE/ACDBE Program only if the firm is:

- denied continuation of certification; or
- decertified due to an ineligibility complaint (challenge), recipient-initiated proceedings, or U.S. Department of Transportation (U.S. DOT) directive.

C. NOTIFICATION OF RIGHT TO DUE PROCESS

Before a certifying member (CM) agency removes a firm's eligibility for any reason from the DBE/ACDBE Program except ineligibility based on personal net worth, the CM agency must issue a notice proposing to find a firm ineligible to participate in the DBE/ACDBE Program. The firm will be notified of its right to appeal the decision either in writing or in person (49 CFR 26.87). When the CM agency issues its administratively final decision to deny certification or, after rebuttal, to decertify a firm, the CM agency shall notify the firm of its right to appeal its decision to U.S. DOT.

D. CUCP RECONSIDERATION (49 CFR 26.87 (d))

1. Reconsideration Panel

Each CM agency must have staff who shall participate on Reconsideration Panels. Reconsideration Panel members must be knowledgeable about the certification requirements of the DBE/ACDBE Program and separate from the certification staff who proposed to find a firm ineligible to participate in the DBE/ACDBE Program [49 CFR, Part 26.87 (e)]. A firm remains certified until a decision is rendered by the Reconsideration Panel. If the panel upholds the CM agency's decision to deny NAICS/work codes, those codes are removed. If the firm is decertified for any reason, the firm is removed from the California DBE/ACDBE certification database. If the Reconsideration Panel overturns the CM agency's decision, the firm will remain certified.

2. Process

In the Reconsideration proceeding, the CUCP bears the burden of proving, by a preponderance of the evidence, that the firm does not meet the certification standards set forth in 49 CFR, Part 26 and 23.

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

The CUCP must ensure the decision to deny or remove a firm's eligibility is made by Reconsideration Officials who did not take part in actions leading to or seeking to implement the denial or removal of the firm's eligibility.

E. APPEAL to U.S. DOT

A firm may appeal a notice proposing to find the firm ineligible to the CM agency that issued the notice by:

- (1) Submitting a written appeal/rebuttal within 30 days from the date of the notice proposing to find the firm ineligible; or
- (2) Requesting an informal reconsideration hearing within 30 days from the date of the notice proposing to find the firm ineligible.
- (3) A firm may also appeal to the U.S. DOT within 90 days of the date of the denial letter. The informal reconsideration hearing does not need to be finalized.
- (4) All requests for certification files due to an appeal to U.S. Department of Transportation should be provided in flash drive format, email, mail or other method acceptable and approved by U.S. Department of Transportation. A short cover letter with the CM agency name and contact information should be included.

F. U.S. DOT REMAND

When U.S. DOT remands a CUCP decision to deny or decertify a firm to the CM agency, that CM agency is expected to promptly address any and all issues by the due date in the letter from U.S. DOT.

For more details, see Standard Operating Procedures.











CUCP MOA FINAL (Approved Feb. 12, 2020) For Signature 2020-2-25

Final Audit Report

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