

EXHIBIT A

March 4, 2018 FHWA DBE Program Plan Approval



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

Colorado Division

March 14, 2018

12300 W. Dakota Ave., Suite #180
Lakewood, Colorado 80228
720-963-3000

Michael P. Lewis
Executive Director
Colorado Department of Transportation
4201 E. Arkansas Avenue
Denver, Colorado 80222

Subject: Disadvantaged Business Enterprise (DBE) program plan

Dear Mr. Lewis:

I am pleased to advise you that the DBE program plan for the State of Colorado is approved per 49 CFR 26.21(b). FHWA's review has verified that the DBE program plan submitted by CDOT on 12/01/2017 contains all elements required under 49 CFR Part 26.

The DBE program plan is a living document and minor updates can be made to the program plan without FHWA approval, as long as CDOT remains in compliance. However, per 49 CFR 26.21(b)(2), any significant changes in the program plan must be submitted to FHWA for approval.

The Colorado Division and the Civil Rights Business Resource Center staff thanks you for CDOT's diligence and effort in getting this program plan to the approval state.

Sincerely,

John M. Cater, P.E.
Division Administrator

EXHIBIT B

Memorandum of Understanding for FTA Recipients



COLORADO DEPARTMENT OF TRANSPORTATION
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
SUBRECIPIENT MEMORANDUM OF UNDERSTANDING

This MEMORANDUM OF UNDERSTANDING (MOU) is made and entered into as of _____, 2015, by and between _____ (Subrecipient) and the Colorado Department of Transportation (CDOT).

WHEREAS, CDOT and Subrecipient are both direct recipients of federal funds from the United States Department of Transportation (USDOT) or a USDOT modal operating administration; and

WHEREAS, pursuant to 49 CFR Part 26, Subrecipient has a Disadvantaged Business Enterprise (DBE) Program Plan that was approved by _____ on _____ and valid until _____; and

WHEREAS, via a grant or other agreement CDOT also distributes USDOT funds to Subrecipient; and

WHEREAS, the guidance issued by USDOT provides that a direct recipient and subrecipient with a USDOT-approved plan may enter into an agreement whereby funds allocated to the subrecipient shall be incorporated into the subrecipient's DBE program and deducted from the base of the direct recipient's program (See FHWA Q & A 26.21, Posted 6/18/08); and

WHEREAS, CDOT and Subrecipient desire to enter into such agreement;

NOW THEREFORE, CDOT and Subrecipient agree to the following:

- Subrecipient will incorporate all USDOT funds received from CDOT in its reporting to the applicable USDOT operating administration and CDOT will reduce its base for reporting and goal calculations by the total amount of such funds;
- Subrecipient will continue to maintain a USDOT-approved DBE Program Plan and to set overall annual goals and contract goals in accordance with such plans;
- Subrecipient will provide CDOT with a copy of its semi-annual DBE report prior to June 1 and December 1 of each year;
- Subrecipient will monitor DBE compliance on USDOT-assisted projects and will provide CDOT's designated liaison with DBE reports and information upon request; and
- Subrecipient will promptly notify CDOT of concerns or complaints relating to subrecipient's DBE program or to DBE participation on USDOT-assisted projects.

This MOU sets forth the intent of the signatories hereto. This MOU may be executed in counterparts, each of which is an original and constitutes the same instrument. This MOU shall expire upon termination of Subrecipient's USDOT-approved DBE program.

SUBRECIPIENT

By: _____

Date: _____

Name: _____

Title: _____

COLORADO DEPARTMENT OF TRANSPORTATION

By: _____

Date: _____

Greg Diehl, CDOT DBE Liaison

EXHIBIT C
Policy Directive 604.0

STATE OF COLORADO

DEPARTMENT OF TRANSPORTATION
Office of Government Relations
4201 East Arkansas Avenue, Room 275
Denver, Colorado 80222
(303) 757-9772



To: All CDOT Employees

From: Heidi Humphreys – DAS / Herman Stockinger – OPGR / Katherine Williams - CRBRC

Re: Policy Directive 604.0 “Policy on Non-Discrimination”

Date: January 27, 2014

Background Policy Directive 604.0 “Policy on Non-Discrimination” updates Policy Directive 604.0 “Non-Discrimination in Federally Funded Programs Policy,” adopted July 7, 2004.

Rationale for Policy Directive Outlines CDOT’s general non-discrimination policy for all CDOT programs and activities. Also identifies and describes the forms of discrimination that are prohibited by federal law and highlights objectives related to access for persons with disabilities, access for persons with limited English proficiency, principles of environmental justice, and fair competition for federally funded contracts. This directive does not include CDOT’s Equal Employment Opportunity policy, which is set forth in Policy Directive 600.0.

Individuals/Entities Impacted in Policy Directive This Policy Directive applies to all operations of CDOT, including all offices, divisions, regions, and branches of CDOT, its contractors and anyone who acts on CDOT’s behalf. This Policy Directive also applies to the operations of any department or agency to which CDOT extends federal financial assistance. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance.

Implementation The Division of Administrative Services (DAS), Civil Rights and Business Resource Center shall implement this directive.

Effective Date January 22, 2014

Review Date On or before January 2019

COLORADO DEPARTMENT OF TRANSPORTATION		<input checked="" type="checkbox"/> POLICY DIRECTIVE <input type="checkbox"/> PROCEDURAL DIRECTIVE
Subject POLICY ON NON-DISCRIMINATION		Number 604.0
Supersedes 604 (7/1/04) 611 (4/15/10)	Effective 1.22.14	Originating Office Civil Rights & Business Resource Center, Division of Administrative Services

I. Purpose

To ensure that no person shall, on the ground of race, color, national origin, sex, disability, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in the operations of the Colorado Department of Transportation (“CDOT”) or of any department or agency to which CDOT extends federal financial assistance.

II. Authority

See Appendix A. This Policy Directive is intended to meet Federal Highway Administration and Federal Transit Authority requirements.

III. Applicability

This Policy Directive applies to all operations of CDOT, including all offices, divisions, regions, and branches of CDOT, its contractors and anyone who acts on CDOT’s behalf. This Policy Directive also applies to the operations of any department or agency to which CDOT extends federal financial assistance. Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance.

IV. Policy

1. It is CDOT’s policy that no person shall on the ground of race, color, national origin, sex, disability, or age, be excluded from participation in, be denied the benefits of, or be subjected to discrimination in any operation of CDOT or of any department or agency to which CDOT extends federal financial assistance.

A. Examples of prohibited types of discrimination based on race, color, national origin, sex, disability, or age include:

- (1) Denial to an individual any service, financial aid, or other benefit;
- (2) Distinctions in the quality, quantity, or manner in which a benefit is provided;
- (3) Segregation or separate treatment;
- (4) Restriction in the enjoyment of any advantages, privileges, or other benefits provided;

(5) Discrimination in any activities related to highway and infrastructure or facility built or repaired; and

(6) Discrimination in employment.

B. Prohibited discrimination may be intentional or unintentional. Seemingly neutral acts that have disparate impacts on individuals of a protected group and lack a substantial legitimate justification are a form of prohibited discrimination. Instances where seemingly neutral acts may result in discrimination include:

(1) Utilizing criteria or methods of administration that have the effect of subjecting persons to discrimination or have the purpose or effect of substantially reducing the likelihood that persons can benefit from the objectives of a program or activity with respect to persons;

(2) Using different standards or requirements for determining whether a person satisfies any admissions, enrollment, quota, eligibility, membership, or other requirement for any service, financial aid, or other benefit; and

(3) Determining the site or location of a facility that has the effect of excluding persons, denying them the benefits of, or otherwise subject to them discrimination.

C. Harassment and retaliation are also forms of discrimination. Harassment includes a wide range of abusive and humiliating verbal or physical behaviors that are directed against a particular person because of race, color, national origin, sex, disability, or age. This Policy Directive prohibits retaliation against any person because he or she has reported alleged discrimination under this Policy Directive or has testified, assisted or participated in any manner in an investigation of such report, or has opposed such discrimination. No one shall intimidate, threaten, coerce, or discriminate against any individual for the purpose of interfering with their rights against discrimination.

D. As part of this Policy Directive, CDOT adheres to the following objectives, which shall not be interpreted in any way to limit the general policy stated above:

(1) Access for Persons with Disabilities – No qualified disabled person shall, solely by reason of his or her disability, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination. Aids, benefits, and services, to be equally effective, are not required to produce the identical result or level of achievement for disabled and non-disabled persons, but must afford persons with disabilities equal opportunity to obtain the same result, to gain the same benefit, or to reach the same level of achievement, in the most integrated setting that is reasonably achievable. Even if separate or different aid, benefits, or services are available to handicapped persons, a qualified disabled person shall

not be denied the opportunity to participate in the programs or activities that are not separate or different.

(2) Access for Persons with Limited English Proficiency – Individuals who have a limited ability to read, write, speak, or understand English are considered limited English proficient (“LEP”). Language for LEP individuals can be a barrier to accessing important benefits or services, understanding and exercising important rights, complying with applicable responsibilities, or understanding other information provided by CDOT. Ignoring LEP populations may constitute discrimination on the basis of national origin. CDOT shall seek to communicate with LEP populations and provide LEP individuals meaningful access to CDOT programs and activities.

(3) Principles of Environmental Justice – CDOT will meaningfully engage all sectors of the public, including low-income and minority populations, potentially affected by CDOT projects. To help ensure the fair distribution of the benefits and burdens associated with CDOT programs and activities, CDOT will be guided by the following environmental justice principles:

(a) To avoid, minimize, or mitigate disproportionately high and adverse human health and environmental effects, including social and economic effects, on minority and low-income populations;

(b) To ensure the full and fair participation by all potentially affected communities in CDOT’s decision-making process; and

(c) To prevent the denial of, reduction in, or significant delay in the receipt of benefits by minority and low-income populations.

(4) Fair Competition for Federally-Funded Contracts – A Disadvantaged Business Enterprise (“DBE”) is a business that is owned and controlled by a socially and economically disadvantaged individual or individuals. The objectives of CDOT’s DBE program are to:

(a) To ensure nondiscrimination in the award and administration of federally-assisted contracts in CDOT’s highway, transit, and airport programs;

(b) To create a level playing field on which DBEs can compete fairly for federally-assisted contracts;

(c) To ensure that CDOT’s DBE program is narrowly tailored in accordance with applicable law;

(d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;

Subject Policy on Non-Discrimination	Number 604.0
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(e) To help remove barriers to the participation of DBEs in federally-assisted contracts; and

(f) To assist the development of firms that can compete successfully in the marketplace outside the DBE program.

V. Implementation Plan

1. This Policy Directive shall be effective immediately upon approval by the Transportation Committee.
2. The Civil Rights & Business Resource Center (“CRBRC”) shall implement this Policy Directive and will coordinate education and training to ensure compliance with this Policy Directive. All CDOT employees, its contractors, and anyone who acts on behalf of CDOT, including any department or agency to which CDOT extends federal financial assistance, shall be responsible for assuring that the proscribed discrimination does not occur. Should the potential for discrimination be discovered, action to eliminate the potential shall be taken.
3. Notices informing individuals of their rights under this Policy Directive will be posted on CDOT’s internal and external webpages, and be displayed in public office areas. These notices will also be consistent with CDOT’s policy for communicating with LEP populations.
4. As required by federal law, the CRBRC and regional civil rights staff shall be responsible for acquiring non-discrimination assurances, investigating discrimination complaints, conducting reviews of program areas, and preparing required reports.

VI. Review Date

This Policy Directive shall be reviewed on or before January 2019.

Herman J. Stroking III
Secretary, Transportation Commission

1-22-14
Effective Date

Subject Policy on Non-Discrimination	Number 604.0
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APPENDIX A: Authority for Policy Directive 604.0

Federal Statutes

Title VI of the 1964 Civil Rights Act, 42 U.S.C. § 2000d

Age Discrimination Act of 1975, 42 U.S.C. § 6101

Federal Aid Highway Act of 1970, 49 U.S.C. § 306

Federal Aid Highway Act of 1973, 23 U.S.C. § 324

Civil Rights Restoration Act of 1987, Pub. L. No. 100-259, 102 Stat. 28

Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. §§ 12101 – 12213

Rehabilitation Act of 1973 § 504, 29 U.S.C. § 794

Federal Transit Laws, 49 U.S.C. § 5332

Federal Regulations

23 CFR §1.36 – Compliance with Federal laws and regulations

23 CFR pt. 200 – Title VI Program and Related Statutes – Implementation and Review Procedures

23 CFR pt. 771 – Environmental Impact and Related Procedures

28 CFR pt. 35 – Nondiscrimination on the Basis of Disability in State and Local Government Services

28 CFR pt. 36 – Nondiscrimination on the Basis of Disability in Public Accommodations and in Commercial Facilities

28 CFR pt. 42, subpart C – Nondiscrimination in Federally Assisted Programs – Implementation of Title VI of the Civil Rights Act of 1964

49 CFR pt. 21 – Nondiscrimination in Federally-Assisted Programs of the Department of Transportation – Effectuation of Title VI of the Civil Rights Act of 1964

49 CFR pt. 26 – Participation By Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs

49 CFR pt. 27 – Nondiscrimination on the Basis of Disability in Programs or Activities Receiving Federal Financial Assistance

49 CFR § 37.5 – Nondiscrimination – Transportation Services for Individuals with Disabilities (ADA)

Executive Orders

Exec. Order No. 12898, 59 Fed. Reg. 7629 – Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations

Exec. Order No. 13166, 65 Fed. Reg. 50121 – Improving Access to Services for Persons with Limited English Proficiency

EXHIBIT D
Organizational Chart



CRBRC Organization Chart

(As of 8/13/2018 - 12 filled positions, 3 vacancies, approx. 1-2 interns ongoing)

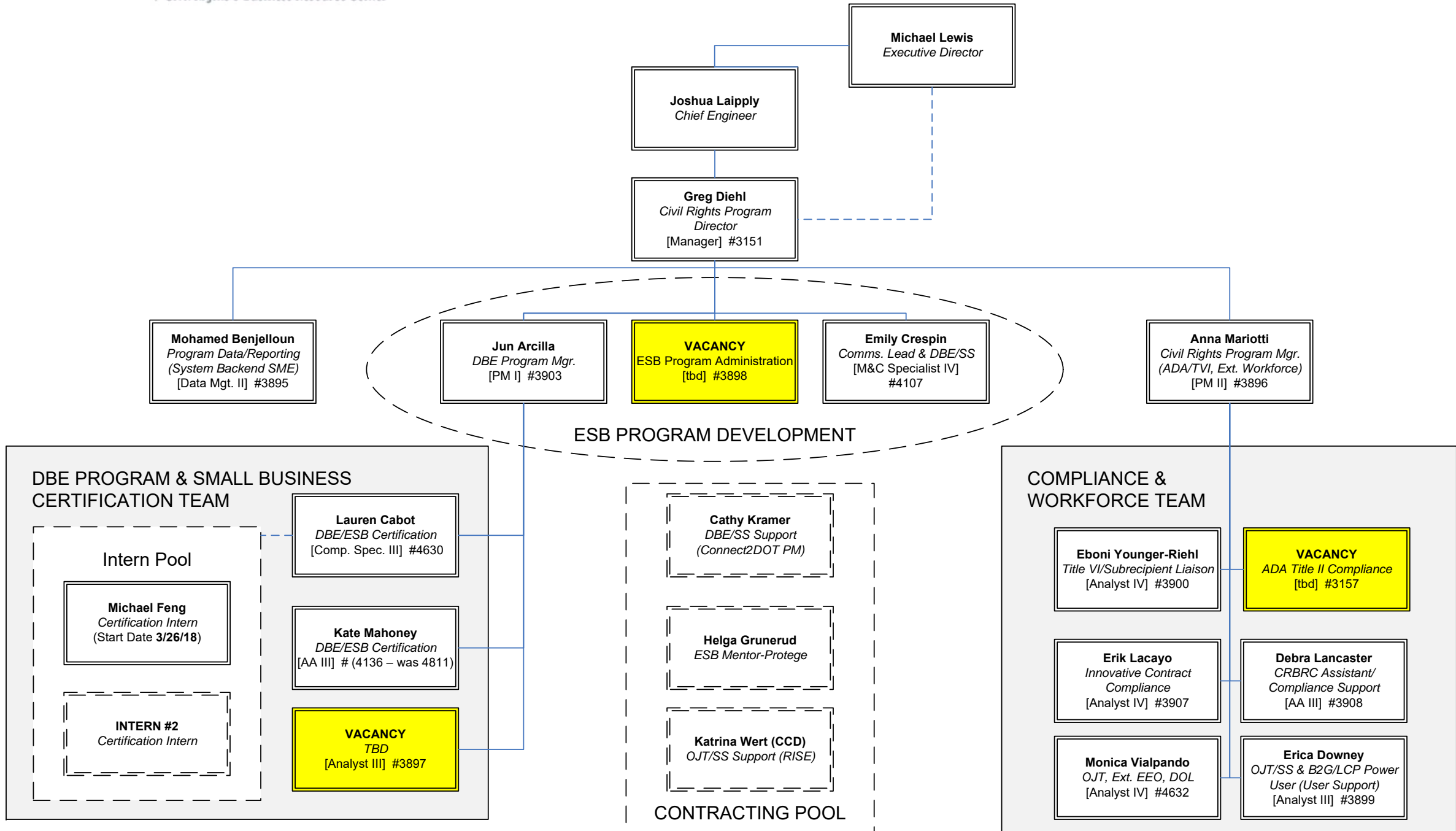


EXHIBIT E

Direct and Independent Access

Assurance of Direct and Independent Access

Provided to CDOT's DBE Liaison Officer, Title VI Coordinator, and ADA Coordinator

SUMMARY: The issues of access, justice, equity, and fairness are interwoven in the fabric of the Colorado Department of Transportation (CDOT). Whether it is the utilization of Disadvantaged Business Enterprise (DBE) firms or the active dissemination of and equal access to information and resources (Title VI/ADA), the effective implementation of these civil rights programs play a critical role in defining CDOT's true success as a federal-funded agency.

Through this notice, CDOT assures its U.S. Department of Transportation (USDOT) partners that CDOT is actively committed to maintaining full compliance with the USDOT requirements for direct access to the head of the organization by CDOT's DBE Liaison Officer, Title VI Coordinator, and ADA Coordinator as further described in Section B below.

DATE: Effective upon signature.

FOR FURTHER INFORMATION CONTACT: Greg Diehl, *CDOT Civil Rights Program Director*, 4201 East Arkansas Ave., Suite 150, Denver, CO 80220, (303) 757-9599, greg.diehl@state.co.us.

Section A. Direct and Independent Access

1. CDOT continues to recognize the importance of streamlined communication in connection with the implementation of its DBE program, Title VI Nondiscrimination program and Americans with Disability Act (ADA) program. Therefore, to ensure an effective and ongoing communication channel for addressing key DBE, Title VI, and ADA program matters, CDOT hereby assures the DBE Liaison Officer, Title VI Coordinator and ADA Program Coordinator have direct and independent communication access to CDOT's Chief Executive Officer.
2. All three of these responsibilities are currently held by CDOT's Civil Rights Program Director. In the event the CDOT Civil Rights Program Director is unavailable, such duty may be delegated to staff in the CDOT Civil Rights and Business Resource Center (CRBRC).

Section B. USDOT Regulation Authorities

- **DBE - 49 C.F.R. §26.25:** What is the requirement for a [DBE] liaison officer? You must have a DBE liaison officer, who shall have direct, independent access to your Chief Executive Officer concerning DBE program matters. The liaison officer shall be responsible for implementing all aspects of your DBE program. You must also have adequate staff to administer the program in compliance with this part.

- **Title VI - 23 C.F.R. § 200.9(b)(1):** Establish a civil rights unit and designate a coordinator who has a responsible position in the organization and easy access to the head of the State highway agency. This unit shall contain a Title VI Equal Employment Opportunity Coordinator or a Title VI Specialist, who shall be responsible for initiating and monitoring Title VI activities and preparing required reports.
- **ADA/504 - 28 C.F.R. § 35.107(a):** Designation of responsible employee. A public entity that employs 50 or more persons shall designate at least one employee to coordinate its efforts to comply with and carry out its responsibilities under this part, including any investigation of any complaint communicated to it alleging its noncompliance with this part or alleging any actions that would be prohibited by this part.
- **49 C.F.R. § 27.13(a):** Designation of responsible employee. Each recipient shall designate at least one person to coordinate its efforts to comply with this part.

Section C. Signatory Authorities

 <hr/> Shailen P. Bhatt, <i>CDOT Executive Director</i>	<hr/> <i>1/6/2016</i> Dated
 <hr/> Michael P. Lewis, <i>CDOT Deputy Executive Director/COO</i>	<hr/> <i>12/29/15</i> Dated
 <hr/> Joshua Laipply, <i>CDOT Chief Engineer</i>	<hr/> <i>12/28/2015</i> Dated
 <hr/> Greg Diehl, <i>CDOT Civil Rights Program Director</i>	<hr/> <i>12/18/15</i> Dated

EXHIBIT F

Professional Services DBE/ESB Requirements

DISADVANTAGED BUSINESS ENTERPRISE (DBE) & EMERGING SMALL BUSINESS (ESB) REQUIREMENTS

I. Definitions

Commercially Useful Function. Responsibility for the execution of work by actually performing, managing, and supervising the work, as described in 49 CFR 26. 55(c).

Commitment. A portion of the contract, identified by dollar amount and work area, designated by the Consultant for participation by a particular DBE or ESB firm in order for participation to count toward a contract goal or Small Business Target.

Contract Goal. The percentage of the contract established by CDOT for participation by DBEs. The contract goal is stated in the Invitation for Consultant Services.

Disadvantaged Business Enterprise (DBE). A Colorado-certified Disadvantaged Business Enterprise listed on the Colorado Unified Certification Program (UCP) DBE Directory at www.coloradodbe.org.

Emerging Small Business (ESB). A CDOT-certified Emerging Small Business firm listed on the ESB Directory at www.coloradoesb.org.

Good Faith Efforts. All necessary and reasonable steps to achieve a contract goal or Small Business Target which by their scope, intensity, and appropriateness to the objective could reasonably be expected to obtain sufficient participation. Guidance on good faith efforts is provided in 49 CFR Part 26, Appendix A.

Reduction. Reduction occurs when the consultant reduces a commitment to a DBE or ESB. A reduction is a partial termination.

Small Business Targets. Promises to utilize DBEs or ESBs for which the Consultant received incentive points during the selection process.

Subconsultant. An individual, firm, corporation or other legal entity to whom the consultant sublets part of the contract. For purposes of these requirements, the term subconsultant includes vendors.

Substitution. Substitution occurs when a consultant seeks to find another certified firm to perform work on the contract as a result of a reduction or termination.

Termination. Termination occurs when a Consultant no longer intends to use a DBE and/or ESB for fulfillment of a commitment. This includes, but is not limited to, instances in which a consultant seeks to perform work originally designated for a DBE and/or ESB subconsultant with its own forces or those of an affiliate, a non-DBE and/or ESB firm, or with another DBE and/or ESB firm.

Work Code. A code to identify the work that a DBE is certified to perform. A work code includes a six digit North American Industry Classifications System code plus a descriptor. Work codes are listed on a firm's profile on the UCP DBE Directory. The consultant may contact CRBRC to receive guidance on whether a work code covers the work to be performed.

II. NON-DISCRIMINATION AND SUBCONTRACTING REQUIREMENTS

The following requirements apply to all contracts and subcontracts.

- a. *Consultant Assurance.* By submitting a proposal for this contract, the Consultant agrees to the following assurance: The consultant, sub recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Contract. The Consultant shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the Consultant to carry out these requirements is a material breach of this Contract, which may result in the termination of this Contract or such other remedy as CDOT deems appropriate, which may include, but is not limited to: withholding monthly progress payments; assessing sanctions; liquidated damages; and/or disqualifying the consultant from future bidding as non-responsible.
- b. *Prompt Payment.* Payments to all Subconsultants shall be made within seven (7) days of receipt of payment from CDOT or no later than ninety (90) days from the date of the submission of a complete invoice from the Subconsultant, whichever occurs first. If the Consultant has good cause to dispute an amount invoiced by a Subconsultant, the Consultant shall notify CDOT no later than the required date for payment. Such notification shall include the amount disputed and justification for the withholding. The Consultant shall maintain records of payment that show amounts paid to all Subconsultants. Good cause does not include failure to timely submit an invoice to CDOT or to deposit payments made. The Consultant shall electronically submit prompt payment reports to CDOT by the 15th of each month through the B2G software each month. If no payment has been made, the Consultant shall document this in the prompt payment audit report.
- c. *Subcontract Terms.* The assurance provided in subsection (b) and the prompt payment terms outlined in subsection (c) of this section shall be included in all subcontracts or other agreements for the performance of work on the project.

III. Good Faith Effort Requirement

In accordance with 49 CFR 26.53, CDOT may not award a contract until it has determined that the Consultant has demonstrated good faith efforts to meet the contract goal. In negotiated procurements, such as professional services contracts, the Consultant must make a contractually binding commitment to meet the goal at the time of the submission of the proposal and more detailed commitments must be submitted prior to final award.

- a. The Affidavit of Small Business Participation is the Consultant’s contractually binding commitment and must be submitted with the Consultant’s statement of interest. Failure to submit the Affidavit of Small Business Participation will result in the Consultant being deemed non-responsive and ineligible for award. In section [] of the Affidavit of Small Business Participation, the Consultant shall outline its approach to meeting the contract goal and affirm, under oath, that the Consultant will make Good Faith Efforts to meet the contract goal. For as needed contracts, the Consultant is affirming it will make Good Faith Efforts on the overall contract and on each task order.
- b. For fund encumbered contracts, commitments are due prior to contract award. For as needed contracts, commitments are due with each task order proposal.

IV. Small Business Targets and Scoring

The Affidavit of Small Business Participation also provides space for the Consultant to identify the Small Business Targets for which it is seeking points.

- a. Small Business Targets are binding obligations of the Contract subject to enforcement actions, including withholding of payments and /or future task order approvals, if not fulfilled. Failure by the Consultant to meet the Small Business Targets will results in sanctions unless CDOT determines that the Consultant demonstrated good faith efforts to fulfill the targets.
- b. Small Business Target points will be awarded as follows:

ESB Prime:	10 points
DBE Prime:	6 points

ESB Participation: 0.5 points for each percentage of ESB participation committed
New Relationship: 1 point for a new relationship with an ESB or DBE Subconsultant.
Level 1: 1 point for the use of a certified Level 1 ESB Subconsultant.

Non-DBE/ESB Consultants can only receive a maximum of 7 points. A new relationship occurs when the Consultant is not teamed with the ESB/DBE Subconsultant on a CDOT contract in the past 3 years. Teaming relationships will be tracked starting on August 1, 2016, thus, all relationships can be considered a new relationship starting on this date. By making the commitment to a New Relationship or Level 1 firm, the Consultant is committing to use this Subconsultant for at least \$50,000 or 2% of the work, whichever is less. The ESB Participation, New Relationship and Level 1 points may all be combined.

V. Submission of Utilization Plan in B2G Now

Prior to contract award, the selected Consultant must submit a utilization plan using B2G Now Software. CDOT will initiate the utilization plan and the Consultant will have five days to return it to CDOT.

- a. If the contract is fund-encumbered, the Consultant must document all team members the Consultant expect to utilize on the contract. Additionally, the Consultant must submit commitments to meet the contract goal and/or Small Business Targets. The commitments must include the Subconsultant(s) the Consultant will use, the work area(s) the Subconsultant(s) will be performing, and the value of the work that the Subconsultant(s) will perform. The Consultant must attach the project cost worksheet for each commitment. If a project cost worksheet is not available, the Consultant must attach a letter of intent confirming the firm's participation on the contract. If the Consultant is a certified firm, it shall include itself in the utilization plan for DBE credit. If the Consultant does not obtain sufficient participation to meet the DBE Contract Goal, the Consultant shall provide an explanation of its Good Faith Efforts to obtain participation by submitting a Good Faith Efforts Report and supporting documentation in the utilization plan.
- b. If the contract is an as-needed, task order-based contract, the Consultant must only document all team members the Consultant expect to utilize on the contract. However, the team members must be consistent with the participation promised in the Affidavit of Small Business Participation. The Consultant may document 0% participation for each team member in the utilization plan, with the exception of New Relationships and Level 1 ESBs, which must have a commitment of at least 2%.

VI. Task Order Process for As Needed Contracts

CDOT will not award a task order unless the Consultant provides commitments sufficient to meet the contract goal and ESB participation Small Business Target on the task order and the overall contract or otherwise demonstrates good faith efforts. The applicable regional civil rights office may also withhold approval and/or request additional information if the Consultant is not on track to meet its other Small Business Targets.

- a. With each task order proposal, the Consultant shall submit an Anticipated Participation Plan for Task Orders that documents all DBE and/or ESB Subconsultants that will be used to complete the work of the Task Order. If the Consultant has not obtained any Commitments, the Consultant shall state so. If the Consultant is a certified firm, it shall include itself on the Anticipated Participation Plan for Task Orders.
- b. The Project Cost Worksheet shall constitute confirmation of the commitment by the DBE or ESB Subconsultant. The Consultant must submit a Letter of Intent confirming the commitment for any vendor Subconsultant for which a Project Cost Worksheet is not provided.

- c. If, on a task order the Consultant does not obtain sufficient participation to meet the DBE contract goal or an ESB participation Small Business Target, the consultant shall provide an explanation of its Good Faith Efforts to obtain participation by submitting a Good Faith Efforts Report and supporting documentation. The Consultant may include an explanation of proposed participation on future task orders.
- d. If the applicable civil rights office determines the consultant has not made Good Faith Efforts, the contract and/or task order proposal will not be approved. The determination of the regional civil rights office may be appealed to the Regional Transportation Director. The determination of the Civil Rights and Business Resource Center shall be appealable to the Chief Engineer.

VII. Eligible DBE and ESB Participation

The following rules will be used to determine whether work performed by a Subconsultant qualifies as eligible participation to count toward the Contract Goal or Small Business Target:

- a. The work performed by the DBE and/or ESB Subconsultant must be identified in an approved Commitment.
- b. The Subconsultant must be certified upon submission of the Commitment and prior to starting work. For DBE firms this includes being certified in the work to be performed. CDOT will evaluate whether the work to be performed can reasonably be construed to fall under the Work Codes in which the DBE is certified. If a Subconsultant is decertified after the issuance of a contract and/or task order, the participation on such contract and/or task order by that DBE or ESB will continue to count.
- c. Only work performed by a DBE and/or ESB that performs a Commercially Useful Function in the work of the Contract will count.
- d. When a DBE and/or ESB subcontracts part of the work of its contract to another firm, the value of the subcontracted work may only be counted if the subcontractor is also a certified firm. Work that a DBE and/or ESB subcontracts to a non-certified firm does not count. DBE and ESB firms may use an employee leasing company. Such participation will count if the certified firm maintains an employer-employee relationship with the leased employees. This includes being responsible for hiring, firing, training, assigning, and otherwise controlling the on-the-job activities of the employees, as well as ultimate responsibility for wage and tax obligations related to the employees.
- d. The Consultant may count fees or commissions charged for providing a bona fide service, such as professional, technical, consultant or managerial services and assistance in the procurement of essential personnel, facilities, equipment, materials or supplies required for performance of the Contract, provided that the fee or commission is determined by CDOT to be reasonable and not excessive as compared with fees customarily allowed for similar services.
- e. Unless certified in the work to be performed, staffing agencies only count toward the contract goal for placement fees and any hourly fee beyond the temporary employee's actual rate of pay.
- f. When a DBE and/or ESB performs as a participant in a joint venture, only the portion of the total dollar value of the contract equal to the distinct, clearly defined portion of the work of the contract that the DBE and/or ESB performs with its own forces may count toward the contract goal. In order to receive credit, the joint venture agreement must be submitted as an attachment in the utilization plan submitted through B2G software and be reviewed by CDOT.

- g. For purposes of determining whether the Consultant has met the contract goal and/or Small Business Targets at the end of the Contract, eligible participation shall be calculated based upon the total amount paid to DBEs and/or ESBs under the Contract.

VIII. PLAN MODIFICATIONS

Termination or Reduction of Commitments shall only be permitted at the discretion of CDOT based upon a demonstration of good cause by the Consultant. Consultants may request modification approval by submitting revised Small Business Participation Plan to CDOT. The Consultant may not Terminate or Reduce a Commitment without CDOT approval.

- a. Before requesting CDOT approval, the Consultant must give notice in writing to a DBE and/or ESB Subconsultant of the Consultant's intent to Terminate or Reduce the Subconsultant's work, with a copy to CDOT. Unless otherwise waived in writing by the DBE or ESB, the Consultant must give the DBE/ESB five (5) days to respond to the Consultant's notice and advise CDOT of the reasons, if any, that it objects to the proposed Termination or Reduction and why the Consultant's action should not be approved. If required as a matter of public necessity (e.g., safety), CDOT may waive or reduce the period to respond. The DBE/ESB firm may also voluntarily waive the response period.
- b. A Consultant must have good cause to terminate or reduce the work. Examples of good cause justifications can be found in 49 CFR Part 26.53(f)(3).
- c. When a Commitment is Terminated or reduced or a small business fails to complete its work on the Contract for any reason, the Consultant shall make Good Faith Efforts to find another firm to perform at least the same amount of work under the Contract. For as needed contracts, the Consultant may make the work up on the applicable task order or on another task order under the contract.
- d. Following the five (5) day response period for termination or reductions, the Consultant shall request the termination or reduction from CDOT by submitting a revised Small Business Participation Plan for approval. If the Consultant is unable to find commensurate substitution, the Consultant shall provide documentation of the Consultant's Good Faith Efforts to CDOT within seven (7) days, which may be extended for an additional seven (7) days if necessary at the request of the Consultant. CDOT shall provide a written determination to the Consultant stating whether or not Good Faith Efforts have been demonstrated.
- e. A Consultant shall not be entitled to payment for any work or material performed by an unapproved DBE or ESB Subconsultant as a result of an unapproved Termination or Reduction of a certified Subconsultant. Additionally, the Consultant shall not receive payment for any portion of the Contract in which the Consultant did not demonstrate Good Faith Efforts to meet the Contract Goal or Small Business Targets. The Consultant will not be subject to duplicate reduction for the same offense. CDOT may adjust the payment reduction wherein the Consultant demonstrates Good Faith Efforts.

IX. ENFORCEMENT

- a. CDOT may conduct reviews or investigations of participants as necessary. All participants, including, but not limited to, DBE Subconsultants and applicants for DBE certification, ESB Subconsultants and applicants for ESB certification, complainants, and Consultants using Subconsultants to meet the contract goal are required to cooperate fully and promptly with compliance reviews, certification reviews, investigations, and other requests for information.
- b. If CDOT determines that a Consultant or Subconsultant was a knowing and willing participant in any intended or actual subcontracting arrangement contrived to artificially inflate DBE and/or ESB

participation or any other business arrangement determined by CDOT to be unallowable, or if the Consultant engages in repeated violations, falsification or misrepresentation, CDOT may:

- i. Refuse to count any fraudulent or misrepresented DBE/ESB participation;
 - ii. Withhold progress payments to the Consultant commensurate with the violation;
 - iii. Reduce the Consultant's prequalification status;
 - iv. Refer the matter to the Office of Inspector General of the US Department of Transportation for investigation; and/or
 - v. Seek any other available contractual remedy.
- c. CDOT may withhold approval of task orders and/or payment to the Consultant for failure to comply with these requirements.

COLORADO DEPARTMENT OF TRANSPORTATION
AFFIDAVIT OF SMALL BUSINESS PARTICIPATION

Project Name:	DBE Contract Goal:	ESB Contract Goal:
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Section 1. Consultant Information.

Consultant:	Contact Name:	Consultant is an ESB: <input type="checkbox"/>
Contact E-mail:	Contact Phone #:	Consultant is a DBE: <input type="checkbox"/>

Section 2. Participation & Incentive Scoring.

DBE Participation Plan (mandatory):

Work Area	Approximate Percentage of Participation

Small Business Targets (optional for incentive points): Check all that apply and include the number of applicable firms in the underlined blank space. This section will be evaluated for incentive point scoring. Teaming relationships will be tracked starting on August 1, 2016, thus, all relationships can be considered a new relationship starting on this date. To receive credit for new teaming relationships and Level 1 ESB participation, each firm must perform at least \$50,000 or 2% of the work, whichever is less.

- The consultant commits to ___ Level 1 ESB firm(s).
- The consultant commits to ___ DBE/ESB firm(s) not teamed with in the past 3 years.
- The consultant commits to ___% of ESB participation (The total of all ESB participation should be indicated in the blank space).

Section 3. Affidavit

The Consultant affirms that:

The Consultant shall make good faith efforts to meet the contract goal on the overall contract and each task order. The consultant understands that making good faith efforts to achieve the contract goal is a condition of contract award. The consultant understands that promised participation is a binding obligation of the contract, if awarded. The consultant attests that the information above is true and understands that a fraudulent misrepresentation or failure to make good faith efforts to meet the contract goal or promised participation may result in the withholding of progress payments, reduction of prequalification status, referral of the matter to the Office of Inspector General of the US DOT, and/or other contractual remedies.

By signing below, the consultant affirms that the statements made in this document are true and complete.

I, _____, am the _____ of _____.

(Owner or Executive Officer Name) (Title) (Consultant Company Name)

(Signature)

(Date)

EXHIBIT G

Reporting and FAQs for Grant Partners



DBE FAQs for Grant Partners

1. What is a DBE?

Disadvantaged business enterprise or DBE means a for-profit small business concern—

(1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and

(2) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

A DBE must be certified by the Colorado UCP.

2. What is the purpose of the DBE Program?

- (a) To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs;
- (b) To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
- (c) To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- (d) To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;
- (e) To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- (f) To promote the use of DBEs in all types of federally-assisted contracts and procurement activities conducted by recipients.
- (g) To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- (h) To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

3. As a sub-recipient do I have requirements to include any DBE provisions in my contracts?

Each federal aid contract signed by your agency with a contractor, and each subcontract the prime contractor signs with a subcontractor must include the following assurance exactly as it is stated:

“The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate, which may include, but is not limited to:

- (1) Withholding monthly progress payments;
- (2) Assessing sanctions;
- (3) Liquidated damages; and/or
- (4) Disqualifying the contractor from future bidding as non-responsible.”

4. Are there any specific provisions that I, as a sub recipient, must adhere to regarding the payment of DBEs?

The DBE regulation requires that all subcontractors be paid within thirty (30) days of payment to the prime for work completed by the subcontractor. Colorado law requires payment within seven days on all construction contracts. Additionally, prime contractors must pay subcontractors all retainage within 30 days after the subcontractor's work is satisfactorily completed. This must be accomplished by one of the following methods:

- (1) decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors;
- (2) decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed; or
- (3) withhold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

You must have methods to enforce the requirements of this section.

5. What are the DBE reporting requirements for subrecipients?

All sub recipients are responsible for reporting DBE participation. Direct recipients need to submit a copy of their FTA submitted semi-annual report. If you are not a direct recipient please complete all portions of the survey.

The Semi-Annual Survey was created by CDOT to collect information from grant partners regarding contracting opportunities and DBE participation. A contracting opportunity refers to the procurement of any goods or services for which federal funds are used, not including salaries, benefits, utilities, or agreements with/payments to other public agencies. You will need to report the following information on the Semi-Annual Survey:

- In the Awarded/Committed section, you must report all contracts and subcontracts awarded during the reporting period. “Awarded” can include contracts awarded via a letting process or the procurement of goods and services in any other manner (i.e. purchasing supplies at a store).
- In the Actual Payment section, you must report payments on all completed contracts and subcontracts. “Completed” can include final payment (from you to the prime) on a large contract or more informal procurements that are awarded and completed in the same instant (i.e. purchasing supplies at a store). Therefore, informal purchases should be reported on both forms in the same period.
- In the “In progress” section, you must report payments on all contracts and subcontracts that have not yet been completed.

6. How often do I have to report?

The first reporting period is from October 1 to March 31st and the semi-annual Survey will be due no later than May 15th. The second reporting period is April 1st to September 30th and the semi-annual survey will be due no later than November 15th. At the end of each semi-annual reporting period, an e-mail will be sent to all grant partners containing the link to the survey. Each grant partner will have 2-3 weeks to complete the survey.

7. Where can I go to learn more about CDOTs DBE program?

CDOT’s DBE webpage can be accessed at

<https://www.codot.gov/business/civilrights/dbe>

CDOT’s DTR grant partner webpage can be accessed at

<https://www.codot.gov/business/civilrights/DTR>

8. Where can I go to find DBE certified firms?

CDOT ‘s DBE directory can be found at www.coloradodbe.org.



DBE Flowchart

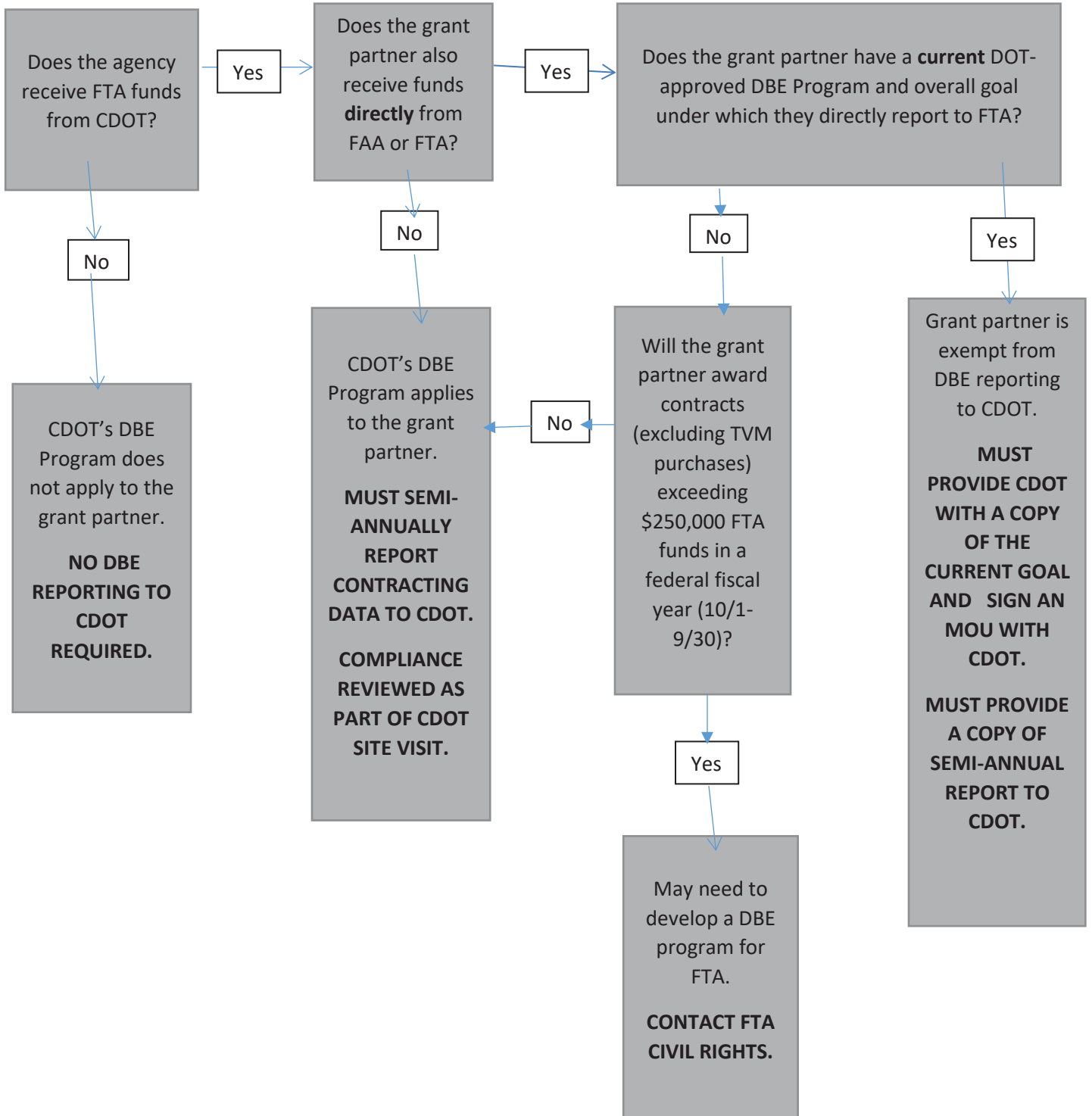


EXHIBIT H
FHWA ESB Approval



U.S. Department
of Transportation

Headquarters

1200 New Jersey Avenue, SE
Washington, DC 20590

March 30, 2012

Mr. John Cater
Division Administrator
Federal Highway Administration
Colorado Division Office
12300 W. Dakota Avenue, Suite 180
Lakewood, CO 80228

Small Business Element – Approval


Dear Mr. Cater:

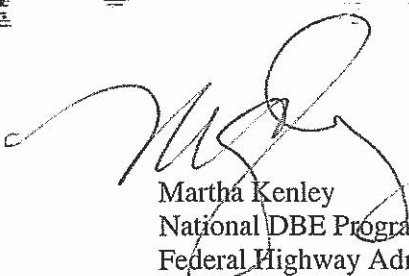
This letter is to confirm that the Federal Transit Administration (FTA) and the Federal Highway Administration (FHWA) have received the Colorado Department of Transportation's Disadvantaged Business Enterprise (DBE) Program Submission containing the new *Fostering Small Business Participation Element*. This submission is required pursuant to Section 1101 (b) of Transportation Equity Act for the 21st Century and 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs," particularly the Final Rule set forth in the Federal Register [76 FR 5083 – Disadvantaged Business Enterprise: Program Improvements] published January 28, 2011.

In reviewing your small business element, both operating administrations have determined that you have sufficiently established a provision that fulfills the intent of this part. This letter serves as an acknowledgment of both FTA and FHWA's approval of your Small Business Element.

If you need further assistance please feel free to contact Britney Berry of FTA at britney.berry@dot.gov, Martha Kenley of FHWA at martha.kenley@dot.gov.

Sincerely,


Britney Berry
Equal Opportunity Specialist
Federal Transit Administration


Martha Kenley
National DBE Program Manager
Federal Highway Administration

Cc: Linda Ford, Acting Director, Office of Civil Rights, FTA
Warren Whitlock, Associate Administrator, Office of Civil Rights, FHWA
Terry Rosapep, Region VIII Administrator, FTA
Rebecca Tanrath, Region VIII Civil Rights Officer, FTA

EXHIBIT I
FTA ESB Approval



U.S. Department
of Transportation

1200 New Jersey Avenue, SE.
Washington, D.C. 20590

**Federal Railroad
Administration**

February 29, 2012

Katherine M. Williams
Small Business/Civil Rights Specialist
Center for Equal Opportunity
Colorado Department of Transportation
4201 East Arkansas Ave., Room 200
Denver, CO 80222

Dear Ms. Williams:

The Office of Civil Rights at the Federal Railroad Administration has reviewed your Small Business Integration Plan Program document outlining your compliance to the small business provisions of Colorado's Cooperative Agreement – FR-IPR-0064-11-01-00. No deficiencies were found. We noted the question asked and are in the process of revising our guidance to include information on the issue you raised. Once completed, you will receive a new copy of our guidance.

If you have any questions about this matter, please contact me at 202-493-6012 or via electronic mail at rosanne.goodwill@dot.gov.

Sincerely,

A handwritten signature in cursive script that reads "Rosanne Goodwill".

Rosanne Goodwill
Acting Director
Office of Civil Rights

EXHIBIT J

Good Faith Effort Administrative Reconsideration Process

CDOT Good Faith Effort Administrative Reconsideration Process

1. If the CDOT Disadvantaged Business Enterprise Liaison Officer (DBELO) determines that the Bidder did not demonstrate good faith efforts to meet the contract goal, the DBELO shall notify the Bidder in writing, via the email address provided on the Form 1416.
2. The notice shall state that the Bidder is entitled to administrative reconsideration. CDOT's independent administrative reconsideration official is the Chief Engineer or his or her designee, provided that such designee did not participate in the original determination. The DBELO shall provide the administrative reconsideration official with a copy of the notice to the Bidder.
3. The Bidder has five business days from the date of the notice from the DBELO to submit a request for administrative reconsideration to the email addresses and/or fax numbers provided in the notice.
 - a. The request shall include the Bidder's basis for the appeal and any supporting documentation that the Bidder would like considered as part of the reconsideration.
 - b. The request shall also include a statement as to whether the Bidder would like a hearing and specify whether the Bidder would like an in-person or a telephone hearing. If the Bidder does not include a request for a hearing, the right to a hearing is waived.
4. If the Bidder has requested a hearing, the administrative reconsideration official will establish a date and time for the hearing and send written notice via email to the DBELO and Bidder at least two business days in advance of the hearing. If schedules permit, the parties may waive the two day requirement.
5. The administrative reconsideration official may request additional documentation from the Bidder and/or the DBELO. A copy of all requests and responses shall be provided to the other party and the other party shall be given an opportunity to respond.
6. The administrative reconsideration official shall issue the final determination as to whether the Bidder made good faith efforts to meet the contract goal. The determination of the administrative reconsideration official is not appealable.

EXHIBIT K
UCP Program Plan

UNIFIED CERTIFICATION PROGRAM PLAN



STATE OF COLORADO

Revised April 2017

Purpose of the UCP

Federal regulations require all United States Department of Transportation recipients within the State of Colorado to participate in the Colorado Unified Certification Program (UCP). The purpose of the UCP is to provide “one-stop shopping” to applicants for Disadvantaged Business Enterprise (DBE) and Airport Concession Disadvantaged Business Enterprise (ACDBE) certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state. The UCP certifying agencies make certification decisions on behalf of all USDOT recipients in the state with respect to participation in the USDOT DBE and ACDBE Programs. Certification decisions made by the UCP are binding on all DOT recipients within the state. All participants in the UCP must cooperate fully with oversight, review, and monitoring activities of USDOT and its operating administrations.

UCP Directory

The directory of all Colorado UCP certified firms is available at www.coloradodbe.org. It is updated as certification decisions are made. The Colorado UCP does not have any reciprocity agreements with other states or entities. Only those firms certified by a UCP certifying agency and listed on the UCP DBE Directory may count as a DBE or ACDBE in Colorado.

Executive Committee

The UCP Executive Committee (EC) is responsible for ensuring the UCP is in compliance with federal regulations. The EC includes representatives from the following agencies: Colorado Department of Transportation, Regional Transportation District, City and County of Denver, Colorado Springs Airport or designated City of Colorado Springs representative, and a fifth member, representing the smaller, rural members.

For purposes of determining a quorum and voting, each EC agency is entitled to one vote. A quorum is defined as the presence of a majority of the EC members named at the time of the meeting. A vote of the majority of EC members in attendance at a meeting at which a quorum is established shall be the act of the EC on all normal matters.

The following rules will be in effect for matters described as extra-normal. A quorum is defined as the presence of a majority of the EC members named at the time of the meeting. A unanimous vote of all EC members at which a quorum is present is required to act on all such matters. Extra-normal matters may include alteration of this UCP Plan in any fundamental manner, admittance of new EC members, recognition of new Certifying Members.

EC meetings shall take place quarterly. Minutes are taken by the host agency and approved at the next meeting. Upon approval, meeting minutes are retained by CDOT’s Civil Rights & Business Resource Center. The certifying agencies shall provide a report of all certifications, denials, revocations and suspensions at each meeting or via electronic format in advance of each meeting.

Certifying Agencies

The Colorado UCP certifying agencies operate independently but are bound together by this UCP Agreement. The CDOT Civil Rights & Business Resource Center (CRBRC) and the City and County of Denver Division of Small Business Opportunity (DSBO) are the current Colorado UCP certifying agencies. The certifying agencies provide DBE and ACDBE certification services on behalf of all Colorado UCP members.

The certifying agency is responsible for making any changes to an existing certification. Those changes include address, phone number, contact person, email, and work codes. If another member receives a request to make changes, the request must be forwarded to the certifying agency administering the firm's DBE certification.

Any UCP member may apply to be a certifying agency by submitting a written request to the EC. The request must clearly demonstrate that the requesting agency possesses the necessary staff to process certification applications and the financial resources to adopt and maintain the software system employed to produce the UCP DBE Directory. It is highly recommended that staff possess expertise in the certification process and eligibility standards.

If any agency or individual feels that a particular certifying agency is not complying with the requirements of 49 CFR Parts 23 and 26, they may make a written complaint to the EC through CDOT's CRBRC. The EC will review the complaint and circumstances fully. If the EC, not including the complaining member or the agency in question, reaches a consensus that the certifying agency is not complying with the requirements, remedial action will be taken.

Remedial action may take the form of a formal written determination of the issues regarding that agency's certification procedures or practices. This determination will be sent to the senior management official or chief operating officer of the agency in question, the program administrator, and USDOT. The certifying agency shall review the procedures at issue and make improvements to the process in order to meet 49 CFR Parts 23 and 26.

The EC may also require a procedural review and concurrence process. The member in question will be required to obtain EC concurrence in certification determinations for a specific period of time. Depending upon the situation, the EC may "pair" the member with another certifying member or it may require concurrence on certification decisions by a majority of the EC. If the paired members' dispute the determination, the EC will make the final determination.

Should the EC make every effort to correct the deficiencies in an agency's certification process but is unsuccessful, the EC may submit its findings to USDOT and the relevant operating administration along with a formal request for assistance in resolving the issue.

Certification Standards and Process

The UCP certifying agencies must follow all certification procedures and standards of 49 CFR Part 26 and Part 23, as applicable, and as set forth in each certifying agency's respective DBE program manuals. The UCP certifying agencies must implement USDOT directives and guidance concerning certification matters. Firms seeking certification must provide a service that can be reasonably viewed as being able to count toward the DBE goals of at least one USDOT recipient.

Home State Certification Procedures

Certifying agencies may not process applications from firms that have been denied certification, or whose certification has been revoked, until one year has passed from the date of the denial or revocation.

Certified firms that withdraw from the DBE program by voluntarily relinquishing their certification will be considered revoked and may not reapply for certification until one year has passed from the date of the voluntary withdrawal.

Firms that are denied certification, withdraw their application, or have their certification revoked must reapply with the same certifying agency in the three years immediately following the date of denial,

withdrawal, or revocation. Applications that are closed by the certifying agency due to non-responsiveness by the applicant will be treated as an application withdrawal.

When a certifying agency revokes a firm's DBE certification, denies its DBE application, or permits the withdrawal of its DBE application, the firm may only reapply to that same certifying agency within three years from the date of the revocation, denial, or withdrawal even if the firm is subsequently certified by another recipient for one of its local programs. Exceptions can be made for good cause.

Applications must be processed by the certifying agency to which an application is first submitted. Applications will not be transferred between certifying agencies except for good cause. Once a firm has been certified, administration of that firm's certification record will remain with the certifying agency who conducted the review and granted certification. Certification records will not be transferred from one certifying agency to another except for good cause.

All firms seeking ACDBE certification must apply through the DSBO. The certifying agency that certified a firm as a DBE will continue to administer that firm's certification record, regardless of any subsequent ACDBE applications and/or certifications with the DSBO. Exceptions can be made for good cause.

The certifying agency that certified a firm as a DBE is responsible for updating that firm's existing certification record, including the processing of any work code change requests. If another certifying agency receives a work code change request, the request must be forwarded to the certifying agency responsible for administering that firm's DBE certification record.

Interstate Certification Procedures

The Colorado UCP has elected to process interstate applications pursuant to 49 CFR § 26.85(c).

NAICS

The work performed by a firm that is eligible to be counted for DBE participation will be identified by using the NAICS system's six-digit base number system plus the applicable "Corresponding Index Entry." The following is an example of a complete work code: 541330 Electrical engineering services.

Ratification

All USDOT recipients located in Colorado must ratify this UCP Agreement. In order to ratify the Agreement, the recipient must submit a signed copy of the Ratification Letter (see attachment 1) to the Colorado Department of Transportation Civil Rights and Business Resource Center at 4201 East Arkansas Avenue, Room 150, Denver, CO 80222 or dot_civilrights@state.co.us. Failure to ratify the Agreement may be grounds for USDOT, or one of its operating administrations, finding the recipient in noncompliance with 49 CFR Part 26. A finding of noncompliance may put the recipient's federal funds in jeopardy.

By ratifying the Agreement, an agency agrees that it will recognize as a certified DBE or ACDBE, any business that has obtained a valid certification from any certifying agency. If a UCP member is in receipt of information that is necessary or critical to making a determination of DBE or ACDBE eligibility, the agency shall notify and submit the information to the appropriate certifying member.

UCP members shall not independently execute any DBE or ACDBE certification reciprocity agreements with any other agency or entity, including city, county, state or federal agencies, binding that member, and subsequently the UCP, to a reciprocity agreement.

Attachments

1. Ratification Letter Template

<<Date>>

Colorado Department of Transportation
Civil Rights and Business Resource Center
Jun Arcilla, DBE Program Manager
2829 W. Howard Place, 1st Floor
Denver, CO 80204

Subject: Letter of Receipt and Ratification
State of Colorado Unified DBE Certification Program

This letter certifies that <<Agency name>> has received and reviewed a copy of the Colorado Unified DBE Certification Program Plan (UCP). We understand that as a recipient of US DOT funding we are required to participate in the UCP as outlined in 49 CFR Part 26.81.

This letter further certifies that <<Agency name>> ratifies the UCP and is in agreement with and will abide by its provisions.

<<Agency name>>

By _____
<<Name>>, <<Title>>