



U.S. Department of Transportation Federal Aviation Administration

DBE AND ACDBE CERTIFICATION COMPLIANCE REVIEW REPORT Wayne County Human Relations Division

JURISDICTION AND AUTHORITIES

The Federal Aviation Administration (FAA) Office of Civil Rights is authorized by the Secretary of the U.S. Department of Transportation (DOT) to conduct civil rights compliance reviews. Reviews are undertaken to ensure compliance of applicants, recipients, and sub-recipients with 49 CFR, Part 26 Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs and 49 CFR, Part 23 Participation by Disadvantaged Business Enterprises in Airport Concessions, referenced in this report as Part 26 and Part 23, respectively. Also, specific sections of the programs are referenced using the nomenclature (23.xx) and (26.xx)

SCOPE OF REVIEW

The review process is a top level examination of certifying agency's compliance with certification procedures. Unlike an audit where testing and extensive examination of records are normal procedures, the compliance review is designed where oversight funding is limited. A review provides a cost effective means of assessing an organization's general understanding and implementation of procedures to meet requirements. The primary purpose of the compliance review is to determine the extent to which the certifying agency has met its DBE certification program goals as objectives as required by regulation and guidance. This compliance review is intended to be a fact-finding process to: (1) examine certifying agency's certification files, (2) make recommendations regarding corrective actions deemed necessary and appropriate, and (3) provide technical assistance.

With limited resources available for the review process, the breadth and depth of the examination in each area was restricted to what could be accomplished within the allotted review period. To improve the effectiveness of the review, FAA identified regulatory requirements prior to the review that had higher priorities in the review process. This compliance review is not to directly investigate whether there has been discrimination against disadvantaged businesses by the grant recipient or its sub-recipients, nor to adjudicate these issues in behalf of any party.

REVIEW PROCESS

The review process began a random selection of 35 certification files. This review focused only on the files processed by this certifying agency. During a review, areas can get more scrutiny as a result of information learned during the review. Also some areas may be examined in more detail based upon other information available to the FAA prior and during. Interviews were held with certifying staff.

Review Conducted By FAA Staff: Nancy Cibic and Gene Roth Wayne County Human Relations Division Staff: Victoria Inniss-Edwards, Janet Newell, Angie Kelly	Site Visit Date(s): June 26-27, 2014
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DESCRIPTION OF THE CERTIFYING AGENCY

Subpart E – Certification Procedures of 49 CFR Part 26.81 requires DOT recipients to participate in a state Unified Certification Program (UCP) that shall provide “one-stop shopping” to applicants for DBE and ACDBE certification. The Wayne County Human Relations Division (WCHRD) is a certifying partner with the Michigan UCP. As a certifying agency, staff is dedicated to certification, processing approximately 145 new applications and 115 no change affidavits annually. WCHRD began using the Vendor Management System in December 2012 for processing certifications that will eventually replace paper application and files; all certification applications and processing will be online using the Vendor Management System. Also, WCHRD is developing a searchable database for NAICS codes through a keyword search to provide applicants and firms with a more refined resource for finding specific work or business categories.

FINDINGS PART I - PROCESS REVIEW

REQUIREMENT	REGULATION REFERENCE	FINDINGS / CORRECTIVE ACTION	CORRECTIVE ACTION / DUE DAT
1. Uniform Application	26.83(c)(7) (7)Require potential DBEs to complete and submit an appropriate application form, unless the potential DBE is an SBA certified firm applying pursuant to the DOT/SBA MOU. (i) You must use the application form provided in Appendix F to this part without change or revision. However, you may provide in your	WCHRD is using the unaltered application.	N/A

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	DBE program, with the approval of the concerned operating administration, for supplementing the form by requesting additional information not inconsistent with this part.		
2. Processing of Applications	49 CFR 26.83 (k) (k) If you are a recipient, you must make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under this part. You may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension. You may establish a different time frame in your DBE program, upon a showing that this time frame is not feasible, and subject to the approval of the concerned operating administration. Your failure to make a decision by the applicable deadline under this paragraph is deemed a constructive denial of the application, on the basis of which the firm may appeal to DOT under §26.89.	WCHRD does not process applications within the necessary time parameters. <u>RECOMMENDED CORRECTIVE ACTION:</u> Increase and/or reallocate staff and/or other resources to ensure that the applications are processed within the required time limits.	10/01/2014
3. Annual Updates	49 CFR 26.83 (j) If you are a DBE, you must provide to the recipient, every year on the anniversary of the date of your certification, an affidavit sworn to by the firm's owners before a person who is authorized by state law to administer oaths or an unsworn declaration executed under penalty of perjury of the laws of the United States. This affidavit must affirm that there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material changes in the information provided in its application form, except for changes about which you have notified the recipient under paragraph (i) of this section. The affidavit shall specifically affirm that your firm continues to meet SBA business size criteria and the overall gross receipts cap of this part, documenting this affirmation with supporting documentation of your firm's size and gross receipts. If you fail to provide this affidavit in a timely manner, you will be deemed to have failed to cooperate under §26.109(c).	WCHRD is currently collecting information beyond what is required. WCHRD is in process of correcting their procedures to only collect the no change affidavit and business tax return. WCHRD will coordinate this change with the State of Michigan UCP. <u>RECOMMENDED CORRECTIVE ACTION:</u> As soon as possible, WCHRD must change its procedures for annual update procedures to collect only the no change affidavit and business tax return.	08/31/2014
4. Certification Reviews	49 CFR 26.83(h) (h) Once you have certified a DBE, it shall remain certified until and	WCHRD is not conducting certification reviews. WCHRD plans to reallocate or	

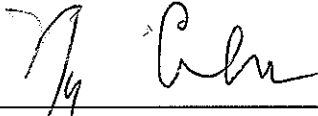
REQUIREMENT	REGULATION REFERENCE	FINDINGS / CORRECTIVE ACTION	CORRECTIVE ACTION / DUE DATE
	<p>unless you have removed its certification, in whole or in part, through the procedures of section 26.87. You may not require DBEs to reapply for certification or require "recertification" of currently certified firms. However, you may conduct a certification review of a certified DBE firm, including a new on-site review, three years from the date of the firm's most recent certification, or sooner if appropriate in light of changed circumstances...</p>	<p>increase staffing to be able to accomplish this task.</p> <p><u>RECOMMENDED CORRECTIVE ACTION:</u> Increase and/or reallocate staff and/or other resources to ensure that the certifications reviews are done at least every three years.</p>	<p>10/01/2014</p>
<p>5. Confidentiality</p>	<p>49 CFR 26.83 (g) (g) You must 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</p>	<p>WCHRD maintains confidentiality as required. Other than for a court ordered request, WCHRD does not release documents.</p>	<p>N/A</p>
<p>6. Site Visit</p>	<p>49 CFR 26.83 (c)(1) (1) Perform an on-site visit to the offices of the firm. You must interview the principal officers of the firm and review their résumés and/or work histories. You must also perform an on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation in your jurisdiction or local area. You may rely upon the site visit report of any other recipient with respect to a firm applying for certification.</p>	<p>26.85(f)(2) requires: As a UCP, you must check the DOCR website at least once every month to determine whether any firm that is applying to you for certification or that you have already certified is on the list.</p> <p>WCHRD is not checking the DOCR website as required.</p> <p><u>RECOMMENDED CORRECTIVE ACTION:</u> WCHRD must start this process for all current firms.</p>	<p>08/01/2014</p>
<p>7. Denials</p>	<p>49 CFR 26.86 (a) When you deny a request by a firm, which is not currently certified with you, to be certified as a DBE, you must provide the firm a written explanation of the reasons for the denial, specifically referencing the</p>	<p>N/A</p>	

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	evidence in the record that supports each reason for the denial. All documents and other information on which the denial is based must be made available to the applicant, on request.		
8. Certification Removal	<p>49 CFR 26.87</p> <p>If a UCP (certifying agency) determines that there is reasonable cause to believe that a currently certified firm is ineligible, certifying agency review the record to determine whether there is reasonable cause to remove the firm's eligibility. Agency must provide written notice to the firm it proposes ineligible, setting forth the reasons for the proposed determination and follow specific process.</p>	<p>WCHRD is not providing this opportunity. 26.87(d) states: <i>Hearing</i>. When you notify a firm that there is reasonable cause to remove its eligibility, as provided in paragraph (a), (b), or (c) of this section, you must give the firm an opportunity for an informal hearing, at which the firm may respond to the reasons for the proposal to remove its eligibility in person and provide information and arguments concerning why it should remain certified.</p> <p><u>RECOMMENDED CORRECTIVE ACTION:</u> WCHRD must revise its procedures to provide this opportunity.</p>	Immediately NLT 8/01/2014
9. Interstate Certification	<p>49 CFR 26.85</p> <p>(a) This section applies with respect to any firm that is currently certified in its home state.</p> <p>(b) When a firm currently certified in its home state ("State A") applies to another State ("State B") for DBE certification, State B may, at its discretion, accept State A's certification and certify the firm, without further procedures.</p> <p>(1) To obtain certification in this manner, the firm must provide to State B a copy of its certification notice from State A.</p> <p>(2) Before certifying the firm, State B must confirm that the firm has a current valid certification from State A. State B can do so by reviewing</p>	N/A	

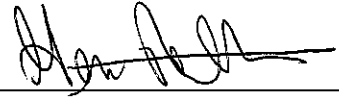
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	State A's electronic directory or obtaining written confirmation from State A. (c) In any situation in which State B chooses not to accept State A's certification of a firm as provided in paragraph (b) of this section, as the applicant firm you must provide the information in paragraphs (c)(1) through (4) of this section to State B.		

Findings: ND = No Deficiency Identified D = Deficient N/A = Not applicable I = Incomplete NR = Not Reviewed .

REPORT PREPARED BY:
Date: June 27, 2014



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