

## **Alaska Unified Certification Program (AUCP) Agreement**

The United States Department of Transportation (USDOT) mandates, under [49 CFR Part 26.81](#) that all recipients of USDOT funding in a state establish a Unified Certification Program (UCP). The **purpose** of the UCP is **to streamline the certification process for businesses seeking Disadvantaged Business Enterprise (DBE) and Airport Concession Disadvantaged Business Enterprise (ACDBE) certification under USDOT**. The UCP serves as a “one-stop shop” for businesses, meaning they only need to apply for DBE or ACDBE certification once, and it will be recognized by all agencies in the state who receive applicable funding from the USDOT through one of the modal agencies, including the Federal Highway Administration (FHWA), Federal Transit Administration (FTA), and Federal Aviation Administration (FAA).

As recipients of USDOT funds, the undersigned organizations have entered into this agreement to establish the Alaska Unified Certification Program (AUCP), which will be managed by the Alaska Department of Transportation & Public Facilities (Alaska DOT&PF). The AUCP will handle all DBE certification decisions on behalf of all USDOT recipients within Alaska.

All obligations of recipients with respect to certification and non-discrimination will be carried out by the AUCP, and recipients may only use UCPs that comply with the certification and non-discrimination requirements of 49 CFR Part 26.81. The undersigned also agree to the following terms and conditions:

### **1.0 AUCP Certification Location**

The Alaska DOT&PF, Civil Rights Office (CRO) will serve as the centralized certification location for the AUCP.

Alaska DOT&PF, Civil Rights Office  
2200 East 42<sup>nd</sup> Avenue, Anchorage, AK 99508-5202  
or  
P.O Box 196900  
Anchorage, AK 99519-6900

### **1.1 Certification Standards and Procedures**

The AUCP will follow the certification standards of 49 CFR Part 26, and the certification procedures and standards of 49 CFR Part 26 in determining eligibility of firms to participate as a DBE in USDOT-assisted contracts. Firms must meet all certification eligibility standards as indicated in the 49 CFR Part 26. Certification decisions are solely based on the minimum requirements indicated in 49 CFR Part 26. All certifications made by the AUCP are pre-certifications in accordance with 49 CFR 26.81(c).

The AUCP will use the certification standards of 49 CFR Part 23 to determine the eligibility of firms to participate as ACDBEs in airport concessions contracts. To be certified as an ACDBE, a firm must meet all certification eligibility standards.

The AUCP will process all certification applications in accordance with USDOT regulations found at:

1. 49 CFR Part 26 (Subpart D), <https://www.ecfr.gov/current/title-49/subtitle-A/part-26#subpart-D>
2. 49 CFR Part 26 (Subpart E), <https://www.ecfr.gov/current/title-49/subtitle-A/part-26#subpart-E>
3. 49 CFR Part 23 (Subpart C), <https://www.ecfr.gov/current/title-49/subtitle-A/part-23#subpart-C>

## **1.2 Certification Appeals**

Any firm or complainant wishing to appeal the AUCP's administrative, final denial of certification or decertification (under the provisions of 49 CFR 26.85, 26.87, and 26.89) must email the USDOT at [DBEAppeals@dot.gov](mailto:DBEAppeals@dot.gov) within 45 days of the date of this decision, including a narrative that explains fully and specifically why you believe the decision is in error, what outcome-determinative facts the certifier did not consider, and/or what part 26 provisions the certifier misapplied. Include the certifier's name, date of the certifier's decision, and your contact information. If you do not have access to email, you may send a letter to:

U.S. Department of Transportation  
Departmental Office of Civil Rights  
1200 New Jersey Avenue SE  
Washington, DC, 20590

The AUCP will promptly implement any USDOT certification appeal decision affecting the eligibility of a DBE or ACDBE for USDOT-assisted contracting in Alaska.

## **1.3 Annual DBE/ACDBE Affidavits**

The AUCP will require all DBEs and ACDBEs to annually submit a Declaration of Eligibility which will affirm that there have been no changes in the circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or 23, or of any material changes in the information provided with their application for certification as required by 49 CFR 26.83(j).

The AUCP will notify all currently certified DBE firms of these obligations annually by email.

## **1.4 Denial of DBE or ACDBE Certification to New Applicants**

When a firm not previously certified as a DBE or ACDBE is found to be ineligible at the time of the firm's application submission, the firm will be denied certification as a DBE or ACDBE. The firm will be provided a written explanation of the reasons for denial as required by 49 CFR 26.86. Any firm denied certification as a DBE may appeal this decision within 45 days to [DBEAppeals@dot.gov](mailto:DBEAppeals@dot.gov).

When DBE certification is denied, the firm in question is ineligible to participate as a DBE on federally funded USDOT projects or an ACDBE on airport concession projects and may not reapply for certification for one year from the date of the final decision by either the AUCP or USDOT, whichever decision is the latter.

### **1.5.1 Removal of DBE Certification**

When a DBE firm fails to continue to meet the standards for DBE certification, a Notice of Intent (NOI), will be emailed by AUCP to remove their DBE certification. When the owner(s) of a DBE firm believes the AUCP has made an error in its preliminary determination to remove its DBE certification, they may request an informal hearing of this determination, in accordance with subsection 1.5.3, Informal Hearing Process.

If a DBE or ACDBE firm chooses not to request an informal hearing, the determination shall be made final, and the DBE or ACDBE certification will be removed. The DBE/ACDBE firm in question is not eligible to participate as a DBE on federally funded USDOT projects or the ACDBE firm is not eligible to participate as an ACDBE in airport concession projects and may not reapply for DBE certification for at least one year from the date of the final decision by either AUCP or USDOT, whichever decision is the latter.

DBE firms may be subject to removal of DBE certification for various reasons including, but not limited to the following:

- a. The DBE firm no longer meets the eligibility requirements of 49 CFR Part 26.
- b. The ACDBE firm no longer meets the eligibility requirements of 49 CFR Part 23.
- c. The DBE or ACDBE firm fails to provide current annual Declaration of Eligibility (DOE), supporting documents, and/or changes that would affect the eligibility of the firm as DBE under 49 CFR Part 26.
- d. The DBE or ACDBE firm at any time refuses to cooperate with requests by the AUCP for information and/or documentation required by 49 CFR Part 26.
- e. The DBE or ACDBE firm is debarred or suspended by the Alaska DOT&PF or USDOT.
- f. The DBE fails to cooperate with the AUCP in accordance with 49 CFR Part 26.109(c).

### **1.5.2 Due Process**

The AUCP will follow the decertification procedures in 49 CFR Part 26.87. An AUCP certifier may determine on its own that it has reasonable cause to decertify a DBE or ACDBE. If the USDOT determines that there is reasonable cause to believe that a DBE or ACDBE does not meet the eligibility criteria of this part, the USDOT may direct the certifier to initiate a proceeding to remove the DBE's or ACDBE's certification. Any person may file a complaint explaining, with specificity, why the certifier should decertify a DBE. The certifier will not act on a general allegation or an anonymous complaint.

The assigned CRO Certification Analyst will evaluate the information that has been provided and identify those issues, which, if true, could impact the DBE firm's continued eligibility. The AUCP will issue a NOI, which must clearly and succinctly state each reason for the proposed action, and specifically identify the supporting evidence for each reason; notify the DBE of its right to respond in writing, at an informal hearing, or both; inform the DBE of the hearing scheduled on a date no fewer than 30 days and no more than 45 days from the date of the NOI. If the ground for decertification is that the DBE has been suspended or debarred for conduct related to the DBE program, the certifier issues a Notice of Decertification decertifying the DBE. In this case, there is no NOI or opportunity for a hearing or written response.

### **1.5.3 Informal Hearing Process**

If the DBE wants a hearing, it must email the certifier saying so within 10 days of the NOI. If the DBE does not do so, it loses its opportunity for a hearing. A DBE firm that is issued a NOI is entitled to an informal hearing in accordance with 49 CFR 26.87. The hearing is an informal proceeding with rules set by the hearing officer. The DBE's attorney, a non-DBE, or other individuals involved with the DBE may attend the hearing and answer questions related to their own experience or more generally about the DBE's ownership, structure and operations. The AUCP will maintain a complete record of the hearing, either in writing, video, or audio. To ensure separation of functions in an informal hearing, we have determined that a member of the Western Association of Highway and State Transportation Officials (WASHTO) will serve as the knowledgeable decision-maker. By utilizing the resources of WASHTO, the AUCP has established an administrative firewall to ensure that the knowledgeable decision-maker will not have participated in any way in the preliminary determination to remove the certification of the DBE firm.

The certifier must send the firm a Notice of Decision (NOD) no later than 30 days of the informal hearing and/or receiving written arguments/evidence from the firm in response to the NOI. While an informal hearing decision is pending, the DBE in question is eligible to participate in as a DBE on USDOT federally funded projects. Once the NOD is issued and the preliminary decision of AUCP is made final, the firm may not reapply for DBE certification for six months from the date of the decision by the member of the WASHTO. A firm may appeal the informal hearing decision within 45 to [DBEAppeals@dot.gov](mailto:DBEAppeals@dot.gov) from the date of final decision by the member of WASHTO.

## **2.0 DBE Directory**

The AUCP will maintain a directory identifying all firms certified as a DBE and ACDBE in accordance with 49 CFR 26.31. The directory will include firm's name, address, phone number, website, NAICS Code, and type of work the firm has been certified to perform, and whether the firm is an ACDBE. The AUCP DBE Directory is an online system that permits the public to search or filter for DBEs by physical location; NAICS code(s); and work descriptions. The directory includes a prominently displayed disclaimer: *Inclusion in this directory does not constitute an endorsement nor guarantee of the capability, dependability, availability or bonding limit of any firm listed by the Alaska DOT&PF.* The AUCP DBE Directory is available here: <https://dot.alaska.gov/cvlrts/index.shtml> The AUCP online DBE Directory is updated in real time and includes only those firms that are currently DBE/ACDBE certified by the AUCP.

## **3.0 Cooperation, Oversight, Review and Monitoring Activities**

The AUCP will fully cooperate with the oversight, review and monitoring activities of USDOT and its operating administrations (FHWA, FAA and FTA).

## **4.0 USDOT Directives and Guidance**

The AUCP shall implement all required USDOT directives and guidance relative to DBE certification matters.

## **5.0 Resources and Expertise of the AUCP**

All Alaska USDOT recipients are committed to ensuring there are adequate resources to carry out the functions of the AUCP. The Alaska DOT&PF has assured all USDOT recipients that

currently it has received the necessary resources within its own operating budget and has the adequate staff to administer the AUCP.

All Alaska USDOT recipients that are signatories to the AUCP Agreement affirm and concur that Alaska DOT&PF has provided assurance that they have sufficient resources and expertise to carry out the certification requirements of 49 CFR Part 26 and Part 23.

## **6.0 Annual Meeting**

Alaska DOT&PF will host an annual virtual meeting for all Alaska USDOT recipients. The purpose of this meeting is to discuss the functionality and improvement of the AUCP and to address any necessary changes or amendments. For those unable to attend, a recording of the meeting will be made available on the AUCP website:

<https://dot.alaska.gov/cvlrts/aucpmemb.shtml>

## **7.0 Disputes with Administration of the AUCP**

Any Alaska USDOT recipient may dispute the administration of the AUCP. Such a dispute shall be stated in writing, specifying the alleged administrative error(s) committed by the AUCP and supported by evidence based on 49 CFR Part 26 or Part 23. The dispute shall be submitted to the Alaska DOT&PF Civil Rights Program Manager for final resolution within 60 calendar days from the date of receipt of the dispute. The Civil Rights Program Manager will: 1. Acknowledge receipt and distribute immediately to all AUCP participants and 2. solicit and accept input from AUCP participants in addressing the concern(s). Once the fact gathering and input has concluded, the final outcome will be provided to all AUCP participants in writing.

## **8.0 Recipients – Direct and Indirect**

Each Alaska USDOT direct recipient that is a signatory to the AUCP Agreement will ensure that all of its subrecipients are bound by the terms and conditions of the ACUP. This will be done through a formal Transfer of Responsibility Agreement or similar agreement. Any failure to do so will be subject to review by the USDOT.

## **9.0 Participation in Regional UCPS**

The AUCP will not participate in a regional UCP with another state unless Agreement to do so is reviewed and approved by all Alaska USDOT recipients.

## **10.0 Amendment of the AUCP Agreement**

This Agreement will not be amended unless agreed to by all signatories to the Agreement or if ordered to do so by USDOT. Any significant change, which affect or alters the intent of the Agreement, is subject to review by the AUCP membership and approval by USDOT.

## **11.0 Implementation Schedule**

Upon approval of this Agreement by the U.S. Secretary of Transportation, this Agreement will be implemented. The AUCP Agreement will be posted on the AUCP website at:

<https://dot.alaska.gov/cvlrts/aucpmemb.shtml>

## **12.0 Entire Agreement**

This Agreement represents the entire Agreement between the parties. Any previous statements, whether oral or written, are merged into this Agreement. The undersigned Alaska USDOT recipients agree to and accept the terms and conditions of the AUCP.

### **13.0 Agreement Interpretation**

The language of this Agreement is to be constructed according to its fair meaning and is not to be constructed with a bias in favor of or against the AUCP or the other signers of the Agreement.

### **14.0 Renewal of Agreement**

This Agreement shall be renewed if major amendments are introduced and adopted by AUCP members. Members must sign the Agreement and submit to Alaska DOT&PF.

### **15.0 Contact Information**

The recipient agrees to provide current contact information for the USDOT Recipient Liaison Officer to the Alaska DOT&PF.

### **16.0 Term of This Agreement**

This Agreement shall be valid as long as an AUCP is required by USDOT of its recipients for highway, airport and mass transit funding assistance.

### **17.0 Discrimination Complaint Information**

The Alaska DOT&PF operates Federal Programs without regard to race, color, national origin, sex, age, or disability. Full Title VI Nondiscrimination Policy:

[https://dot.alaska.gov/tvi\\_statement.shtml](https://dot.alaska.gov/tvi_statement.shtml). To file a complaint, go to:

<https://dot.alaska.gov/cvlrts/complaint.shtml>

The undersigned is authorized to execute the Alaska Unified Certification Program (AUCP) Agreement, conditionally approved by USDOT on May 8, 2003, and to bind the name recipient to the terms and conditions set forth in this agreement.

\_\_\_\_\_  
Name of Recipient/Agency

\_\_\_\_\_  
Date

\_\_\_\_\_  
DBE Liaison Officer/Authorized Representative  
(Print Name)

\_\_\_\_\_  
Signature