

FTA

F E D E R A L T R A N S I T A D M I N I S T R A T I O N

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

Final Report
May 2019



U.S. Department of Transportation
Federal Transit Administration

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Executive Summary

This report details the findings from the Compliance Review of the Florida Unified Certification Program's (FL UCP) Disadvantaged Business Enterprise (DBE) certification practices and procedures. The Compliance Review examined the Unified Certification Program's (UCP) DBE certification procedures, management structures, actions, and documentation. Documents and information were collected from the Federal Transit Administration (FTA) and the following Florida UCP certifying agencies – the Florida Department of Transportation (FDOT), Greater Orlando Aviation Authority (GOAA), Jacksonville Transportation Authority (JTA), Miami-Dade County (Miami-Dade), Broward County, City of Tallahassee, Hillsborough County Aviation Authority, Lee County Port Authority, and Volusia County. In addition, the review team interviewed the following entities as part of this review: FL UCP officials, FL UCP certifying and non-certifying members, DBE certified firms, non-DBE firms, and other stakeholders. The on-site review included interviews, assessments of data collection systems, and review of program and relevant documents.

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

Positive Program Elements

- The UCP certifying members establish Procedure Memoranda to update the original 2004 Florida Unified Certification Program Agreement.
- FDOT conducts quarterly and annual UCP meetings with the certifying and non-certifying members to review and address programmatic issues and provide training to members, as required.
- The FL UCP conducts peer reviews of the certifying members to ensure regulatory compliance and accountability.
- FDOT implemented a new Equal Opportunity Gateway (EOG) System in 2017 and is currently using the system to transition the receipt and processing of DBE certification applications electronically.
- Three certifying agencies (Jacksonville, Greater Orlando, and Miami-Dade) have transitioned to the B2GNow DBE compliance program for the receipt and processing of certification applications.
- The FL UCP implemented a DBE Supportive Services Program to assist applicants in completing the certification application.

Florida UCP's Certification Program includes the following administrative deficiencies –

Administrative Deficiencies

- The FL UCP has not thoroughly analyzed PNW statements for errors and omissions.
- The FL UCP does not include a procedure for completing Mandatory Summary Suspensions.
- The FL UCP does not include a procedure for completing Optional Summary Suspensions.
- The FL UCP Procedures do not include a provision regarding Cooperation requirements in accordance with §26.109(c).

- The FL UCP certification files do not include sufficient documentation to substantiate ownership requirements.
- The FL UCP 30-day notification and 90-day processing requirements have not been met.
- The FL UCP Appeals Procedures does not specify the 20-day response requirement to the USDOT requesting administrative records.
- The FL UCP certification files do not contain all required information.

According to FDOT, the UCP has certified 1,122 DBE firms over the past three fiscal years: 397 in FY 2016, 379 in FY 2017, and 346 in FY 2018.

The UCP has an internal process to complete the review of all applications and render a certification determination within 60 – 90 days of receipt of all required documentation. To accomplish this, the UCP has implemented a DBE Supportive Services Program to assist applicants in completing the certification application process. A DBE supportive services representative performs an initial review of the application and supporting documents to ensure the package is complete prior to submitting it to the certifying agency.

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

I. General Information

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

Hosting Grant Recipient:	Florida Department of Transportation
City/State:	Tallahassee, FL
Recipient Number:	5454
Executive Official:	Kevin J. Thibault, Secretary of Transportation
On-site Liaison:	Victoria Smith, Manager, Equal Opportunity Office
Report Prepared By:	Milligan and Company, LLC 105 N. 22nd Street, 2nd Floor Philadelphia, PA 19103 (215) 496-9100
Dates of On-site Visit:	February 12 – 14, 2019
Compliance Review Team Members:	Lillie Claitt, Lead Reviewer Habibatu Atta, Reviewer Kristin Tighe, Reviewer

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2. Jurisdiction and Authorities

The Federal Transit Administration (FTA) Office of Civil Rights is authorized by the Secretary of U.S. Department of Transportation (USDOT) to conduct Civil Rights Compliance Reviews. The reviews are undertaken to ensure compliance of applicants, recipients, and sub-recipients with Section 12 of the Master Agreement, Federal Transit Administration M.A. (25), October 1, 2018, and 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs."

As direct or indirect recipients of FTA funding assistance, the UCP and its members (i.e., DOT recipients within the state) must comply with the DBE regulations at 49 CFR Part 26 as a condition associated with the use of these funds. The DBE regulations define the components that must be addressed and incorporated in Florida's UCP agreement, and were the basis for this Compliance Review.

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3. Purpose and Objectives

3.1 Purpose

The FTA Office of Civil Rights periodically conducts discretionary reviews of recipients and sub-recipients to determine whether they are honoring their commitment, as represented by certification to FTA, to comply with 49 CFR Part 26. FTA has determined that a Compliance Review of the FL UCP is necessary.

The DBE regulations require USDOT recipients to participate in a Unified Certification Program—as evidenced by a signed UCP agreement. The UCP provides “one-stop shopping” to applicants for DBE certification. An applicant is required to apply once for DBE certification, which will be honored by all recipients in the state.

The primary purpose of the Compliance Review is to determine the extent to which Florida’s UCP has met its goal and objectives as represented to DOT in its UCP agreement. This Compliance Review is intended to be a fact-finding process to (1) examine Florida’s UCP and its certification practices and procedures, (2) make recommendations regarding corrective actions deemed necessary and appropriate, and (3) provide technical assistance.

This Compliance Review is not to directly investigate whether there has been discrimination against disadvantaged businesses by the grant recipient or its sub-recipients, nor to adjudicate these issues on behalf of any party.

3.2 Objectives

Recipients in each state must sign an agreement establishing a Unified Certification Program for that state. As specified in 49 CFR Part 26, the agreement must provide for the establishment of a UCP meeting all the requirements of the Regulation. Each UCP agreement must provide that its members will:

- Follow all certification procedures and standards of 49 CFR Parts 26
- Cooperate fully with all oversight, review, and monitoring activities of USDOT and its operating administrations.
- Implement USDOT directives and guidance on DBE certification matters.
- Commit to ensuring that that the UCP has sufficient resources and expertise to carry out the requirements of 49 CFR Parts 26 and 23.

Certification decisions by the UCP shall be binding on all DOT recipients within the State. The UCP will:

- Provide a single DBE certification, such that applicants are required to apply only once for DBE certification that will be honored by all UCP members.
- Maintain a unified DBE directory (for all firms certified by the UCP including those from other states) containing at least the following information for each firm listed: address, phone number, and the types of work the firm has been certified to perform.

The Unified DBE directory must list each type of work for which a firm is eligible to be certified by using the most specific NAICS code available to describe each type of work.

The objectives of this Compliance Review are to:

- Determine whether the FL UCP is honoring the UCP agreement submitted to the Secretary of Transportation.
- Examine the required certification procedures and standards of USDOT against the Disadvantaged Business Enterprise program compliance standards set forth in the regulations; and official DOT guidance, and to document the compliance status of each component.
- Gather information and data regarding the operation of the FL UCP from certifying members through interviews and certification file review.

4. Background Information

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

4.1 Introduction to Florida Unified Certification Program and Organizational Structure

Prior to the 1999 DBE Final Rule 49 CFR Part 26, applicants seeking participation on DOT assisted projects as a Disadvantaged Business Enterprise (DBE) could be required to be certified by multiple DOT recipients in a state. Subpart E, of 49 CFR Part 26.81 requires DOT recipients to participate in a Unified Certification Program (UCP) that shall provide one-stop shopping to applicants for DBE certification. An applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state.

An agreement establishing the UCP for the state was to be submitted to the Secretary of Transportation within three years of March 4, 1999. The agreement was to provide for the establishment of a UCP meeting all the requirements of this section. The agreement must specify that the UCP will follow all certification procedures and standards of Part 26. The UCP is also required to cooperate fully with oversight, review, and monitoring activities of DOT and its operating administration.

Establishment of the Florida Unified Certification (FL UCP) Program

The U.S. Department of Transportation approved Florida's Unified Certification Program (UCP) on March 25, 2004. The vision for the Florida UCP is to create a level playing field on which DBE firms can compete fairly for USDOT-assisted contract awards. With the establishment of "one-stop-shopping" for DBE certification, DBE firms from different areas within the state can become certified through the UCP program and participate as a DBE throughout the state, as well as other such programs around the country. The program also allows the UCP members to exchange information and coordinate efforts while reviewing firms during the certification process and throughout their involvement and participation in projects.

There are currently 49 USDOT recipients participating in the Florida UCP. Nine members participate as Responsible Certifying Members (RCM): Broward County, City of Tallahassee, Florida Department of Transportation, Greater Orlando Aviation Authority, Hillsborough County Aviation Authority, Jacksonville Transportation Authority, Lee County Port Authority, Miami-Dade County, and Volusia County. Each RCM is responsible for certifying DBEs who perform work in their respective fields of operation (FHWA - highway and bridge, FAA - aviation, and FTA - transit).

As the lead agency for the UCP, FDOT manages, updates, and maintains the DBE Directory. It is also FDOT's responsibility to provide DBE certification training to other UCP members upon their request or direct members to attend such trainings.

According to the Florida UCP Agreement, the UCP has an Executive Committee comprised of the Manager of the Equal Opportunity Office at the Florida Department of Transportation (or his/her designee), a certifying member selected annually by and among the Federal Aviation Administration (FAA) UCP members, and a certifying member selected annually by and among the FTA UCP members. For the past three years, representatives from the

Florida DOT, Jacksonville Transportation Authority and Hillsboro County Aviation Authority have served on the UCP Executive Committee.

The UCP Executive Committee is tasked with providing oversight and guidance, and ensuring that the UCP members are compliant with the provisions established in the UCP Agreement and UCP Procedures Memorandum. Since the establishment of the Florida UCP, the Executive Committee has approved updates to the UCP Procedures Memorandum on various dates in 2006, 2007, 2011, 2013, and 2015. The most recent procedure update was approved on April 16, 2018.

UCP meetings are held quarterly and annually, and are open to all UCP members to participate. The meeting agendas include topics such as regulation updates, forms and procedures, directives from the USDOT, and certification issues and concerns. The quarterly meeting is a telephone conference call, hosted by the Florida DOT. All participants are encouraged to bring ideas and input to the telephone discussion. The annual meeting is a three-day face-to-face meeting hosted by one of the certifying members at their location. The annual meeting serves as a DBE certification workshop and forum for training sessions and collaborative discussions.

In addition to Executive Committee oversight, the UCP certifying members developed a multi-year Peer Review schedule to ensure regulatory compliance and accountability throughout the Florida UCP. FDOT is responsible for coordinating the statewide Peer Reviews between the certifying members. Peer Reviews were recently conducted at Hillsborough County Aviation Authority (June 6-8, 2018) and Greater Orlando Aviation Authority (August 6-8, 2018). The reviews consist of determining compliance with 49 CFR Part 26, the Florida UCP Agreement, and the Florida UCP Procedures Memorandum, and include a comprehensive written report citing any deficiencies and corrective actions required.

FDOT has recently transitioned to an automated system for the intake and processing of certification applications, using their in-house Equal Opportunity Gateway (EOG) system. The EOG is also the system used to maintain and manage the UCP DBE Directory. In addition, Jacksonville Transportation Authority, Greater Orlando Aviation Authority, and Miami-Dade County have transitioned to an automated certification intake and processing system; each using B2GNow.

The UCP utilizes the DBE Support Services Program provided by FDOT as a statewide initiative to help DBEs grow. The Construction Estimating Institute (CEI) currently administers the program and provides certification assistance to DBE applicants.

The Certification Unit staffing for Florida DOT and two certifying members included in this compliance review is listed below:

Florida DOT's Certification Unit consists of the following personnel:

- Manager, Equal Opportunity Office
- Administrative Assistant
- DBE & Small Business Development Manager
- Four DBE Certification Consultants
- DBE Program Analyst
- DBE Specialist

Greater Orlando Aviation Authority's (GOAA) Certification Unit consists of the following personnel:

- Certification Administrator
- Two DBE Certification Consultants
- Two Temporary Staff

Jacksonville Transportation Authority's (JTA) Certification Unit consists of the following personnel:

- Certification Director
- Three DBE Certification Specialists

Funding of the Unified Certification Program in Florida

The FL UCP Agreement states that the Executive Committee shall certify the need for a fee assessment to members to operate and maintain the UCP and ensure resources and expertise are sufficient, if required. To date, there has not been a fee assessment to the UCP members. The certifying members are responsible for acquiring funding for their own certification units.

Unified Certification Program Participants

The 49 members currently participating in the FL UCP are listed below.

1. Boca Raton Airport Authority
2. Brevard County Space Coast Area Transit
3. Broward County (Office of Economic and Small Business Development)
4. Broward Metropolitan Planning Organization
5. Charlotte County Transit
6. City of Gainesville Regional Transit System (RTS)
7. City of Key West Transit
8. City of Leesburg
9. City of Miramar
10. City of Naples Airport Authority
11. City of Ocala
12. City of St. Petersburg
13. City of Tallahassee
14. City of Umatilla
15. Collier Area Transit
16. Council on Aging of St. Lucie Inc. / Community Transit
17. Daytona Beach International Airport
18. Escambia County Area Transit
19. Florida Department of Transportation
20. Greater Orlando Aviation Authority
21. Hillsborough County Aviation Authority
22. Hillsborough Transit Authority (HART)
23. Indian River County Council on Aging
24. Jacksonville Aviation Authority
25. Jacksonville Transportation Authority
26. Key West International & Florida Keys Marathon Airports
27. Lake County
28. Lakeland Area Mass Transit District/Citrus Connection
29. Lee County

30. Lee County Port Authority
31. Lee County Transit (LeeTran)
32. LYNX-Central Florida Regional Transportation Authority
33. Manatee County Area Transit
34. Melbourne Airport Authority
35. Miami-Dade County
36. Okaloosa County
37. Palm Beach County Department of Airports (Palm Beach International Airport & Palm Tran)
38. Palm Tran
39. Bay County Transportation Planning Organization
40. Panama City-Bay County Airport & Industrial District
41. Pinellas Suncoast Transit Authority (PSTA)
42. Sarasota County Transportation Authority
43. Sarasota Manatee Airport Authority
44. South Florida Regional Transportation Authority
45. Space Coast Area Transit
46. St. Johns County
47. St. Lucie County
48. St. Petersburg / Clearwater International Airport
49. Volusia Transit Authority

4.2 Budget and FTA-Assisted Projects

The FL UCP does not have a budget. Each certifying member is responsible for acquiring its own certification funding. In the interviews with Jacksonville Transportation Authority and Greater Orlando Aviation Authority, each stated its annual UCP budget is for certification staff only.

The Florida DOT (the Lead Agency) indicated its certification unit expenses (staff salaries and travel expenses) are state funded and estimated at approximately \$539,000 annually.

The FDOT's UCP budget for FY 2018 is as follows:

Funding Source	Funding Amount	
Federal – FTA	Total:	\$0.00
		\$0.00
Federal – FHWA	Total:	\$0.00
		\$0.00
State:		\$539,000.00
Local:		\$0.00
	Total:	\$539,000.00

State

- FDOT's DBE Certification Unit (approx. annual budget) \$489,000
 - FDOT's DBE Certification Unit Travel Expenses (approx. annual budget) \$ 50,000
- Total \$539,000**

5. Scope and Methodology

5.1 Scope

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

1. The rebuttable presumption that members of the designated groups identified in 26.67 are socially and economically disadvantaged [49 CFR 26.61].
2. Collecting additional evidence of group membership when there is a well-founded reason to question the individual's claim of membership in a group [49 CFR 26.63].
3. Applying current Small Business Administration (SBA) business size standards found in 13 CFR Part 121 appropriate to the type(s) of work the firm seeks to perform in DOT-assisted contracts [49 CFR 26.65].
4. Requiring applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged [49 CFR 26.67].
5. Considering all facts in the record, viewed as a whole, when determining whether the socially and economically disadvantaged participants in a firm own the firm [49 CFR 26.69].
6. Considering all facts in the record, viewed as a whole, when determining whether socially and economically disadvantaged owners control a firm [49 CFR 26.71].
7. Excluding commercially useful function issues from certification decisions except in cases where a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program. [49 CFR 26.73]
8. Evaluating the eligibility of a firm on the basis of present circumstances and ensuring only firms organized for profit are considered eligible DBEs [49 CFR 26.73].
9. Participation as a certifying or non-certifying UCP member—as evidence by signing the UCP agreement. [49 CFR 26.81 and 26.31].
10. Ensuring that only firms certified as eligible DBEs under this section participate as DBEs on federally-assisted projects [49 CFR 26.83].
11. Properly applying interstate certification requirements. [49 CFR 26.85].
12. Issuing denial letters that clearly explain the reason why the individual was denied DBE certification [49 CFR 26.86–26.89].
13. If the UCP fails to comply with any requirement of the DBE regulations, it may be subject to formal enforcement action under program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds, or

refusal to approve projects, grants, or contracts until deficiencies are remedied [49 CFR 26.101–26.109].

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

5.2 Methodology

The initial step of this Compliance Review consisted of consultation with the FTA Office of Civil Rights and a review of available information from the UCP websites and other sources. After reviewing this information, potential dates for the site visit were coordinated.

The FTA Office of Civil Rights sent a notification letter (Attachment A) to FDOT that informed the UCP of the upcoming visit, requested necessary review documents, and explained the areas that would be covered during the on-site visit. The letter also informed FDOT of staff and other parties that would potentially be interviewed.

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

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

An opening conference was conducted at the beginning of the Compliance Review with FTA representatives, Florida Department of Transportation staff, and the review team. The following people attended the meeting:

Federal Transit Administration

John Day Program Manager of Policy and Technical Assistance – (by telephone)
 Janelle Hinton Equal Opportunity Specialist – (by telephone)

Florida Department of Transportation (FDOT)

Edward Coven State Transit Manager
 Victoria Smith EEO Manager
 Sammy Febres DBE and Small Business Development Manager
 Stephanie Iliff Director of Administration
 Liz Stutts Transit Grant Programs Administrator
 Charles McCool External Audit Liaison, Office of Inspector General – (by telephone)
 Gerard O'Rourke Freight Logistics and Passenger Operations Administration

Milligan & Company, LLC

Sandra Swiacki Project Director – (by telephone)
 Lillie Claitt Lead Reviewer
 Habibatou Atta Reviewer
 Kristin Tighe Reviewer

Following the opening conference, the review team examined FDOT's certification and other documents submitted by the UCP. The team then conducted interviews with FL UCP members and staff regarding UCP administration, organizational structure, certification procedures, record keeping, monitoring, and enforcement. A sample of DBE applications and certification decisions were selected and reviewed for three Florida UCP certifying members: Florida Department of Transportation (**FDOT**), Jacksonville Transportation Authority (**JTA**) and Greater Orlando Aviation Authority (**GOAA**). See table below.

Status	Firm Name	Certifying Agency
New Certifications <1 Year		
	Premier Choice Group, LLC	FDOT
	Ray Fulton Construction	FDOT
	Lakshmi Consulting Services	JTA
	Goodman Services	GOAA
Existing Certifications >1 Year		
	Anchor Consulting Engineering & Inspection, Inc.	FDOT
	Cornerstone Barricades, Inc.	FDOT
	Regional Mobility Group, LLC	JTA
	Opmax Support Services, LLC	GOAA
Interstate <1 Year		
	Terrazzo USA and Associates, Inc.	FDOT
	Jeezny Sourcing	JTA
Interstate >1 Year		
	SCG Business Services, LLC	FDOT

	ZVenture Capital Frontiers, Inc.	JTA
	EGM Services, Inc., dba Ebony Glass & Mirror Company	GOAA
Removals		
	Geologistics, Inc.	FDOT
	Fast Way Auto Service, Inc.	GOAA
Denials		
	Sanalil Construction, Inc.	FDOT
	I.T. Consortium, Inc.	GOAA

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

Federal Transit Administration

John Day Program Manager of Policy and Technical Assistance – (by telephone)
 Janelle Hinton Equal Opportunity Specialist – (by telephone)

Florida Department of Transportation (FDOT)

Edward Coven State Transit Manager
 Victoria Smith EEO Manager
 Sammy Febres DBE & Small Business Development Manager
 Stephanie Iliff Director of Administration
 Liz Stutts Transit Grant Programs Administrator
 Charles McCool External Audit Liaison, Office of Inspector General – (by telephone)
 Gerard O'Rourke Freight Logistics and Passenger Operations Administration

Milligan & Company, LLC

Sandra Swiacki Project Director – (by telephone)
 Lillie Claitt Lead Reviewer
 Habibatou Atta Reviewer
 Kristin Tighe Reviewer

FTA provided FDOT with a draft copy of the report for review and response. A factual correction noted by FDOT was incorporated.

5.3 Stakeholder Interviews

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

DBE Firms

Four DBE firms were contacted for an interview to gain insight into how the UCP works with the small minority and women-owned business community and learn about their experiences with the certification process. DBE firms contacted were:

- Upright Electrical Services
- Encobridge, Inc.
- Javivere, LLC
- R-Eco Environment Painting

Three DBEs responded to the interview request.

The interview questions included:

1. *Is your firm currently certified in the State UCP?*
2. *How did you learn about the UCP?*
3. *To which UCP certifying entity was your firm's certification application submitted?*
4. *Did the UCP acknowledge receipt of your application?*
5. *Did the UCP communicate the status of your firm's certification application review?*
6. *Was an on-site visit conducted with your firm?*
7. *Approximately how long did your firm's certification review and approval process take?*
8. *Have you visited the UCP DBE Directory website to verify the accuracy of your firm's profile and the types of work your firm has been certified to perform?*
9. *Are you familiar with the requirements for continued certification eligibility (such as annual updates, notification of change, personal net worth under the current limit, current tax returns, etc.)?*
10. *Do you have any concern(s) about the UCP or the certification process?*

The three DBE firms learned about the UCP program through either the Construction Estimating Institute (CEI), the UCP's DBE Supportive Service provider, the Small Business Administration (SBA), or an FDOT outreach session. FDOT processed all three of the certification applications. During the application process, each firm made use of the services available from CEI for certification assistance to ensure all required documents were included with their applications. The DBE representatives stated that the certification process took less than 60 days to complete. The representatives indicated that FDOT acknowledged receipt of their applications and conducted an on-site visit at their place of business. Two of the firms had visited the UCP DBE directory website to verify the accuracy of their profile and the types of work certified to perform. One firm stated the process was very straightforward and found the technical assistance provided by CEI to get the paper work together was excellent. Another firm stated the person at CEI that assisted in their certification process was very professional and knowledgeable, answering all questions relative to the process. The DBEs indicated that their firms have not received any contracts since their certification.

In addition, the reviewers contacted one DBE applicant firm for an interview – Florida Water and Sewer Services, Inc. The firm began the application process on January 17, 2019 and plans to apply to FDOT for certification. To date, the firm has downloaded the application from FDOT's website and is currently putting together all of the supporting documents with the assistance of the UCP's DBE Supportive Service provider to ensure the certification package is complete. The applicant stated they are very pleased with the assistance provided by the UCP, free of charge.

Non-DBE Firms

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

- OHL Community Asphalt
- EAC Consulting, Inc.
- The de Moya Group, Inc.

Two of the above non-DBE firms responded to the interview request.

The interview questions included:

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

Both representatives stated that their companies are familiar with the FL UCP. One firm graduated from the DBE program. The companies have participated as prime contractors on federally-funded contracts. One representative stated that their company encourages firms they have an interest in working with to apply for certification with the UCP.

The companies regularly participate in outreach activities organized by the UCP. One representative participated as a speaker at several UCP events. FDOT also participated as a UCP presenter at their contractors' quarterly meetings hosted by the Florida Transportation Builders Association. Both companies have utilized the UCP DBE directory to identify firms for participation in their federally and non-federally funded subcontracting opportunities. One representative stated that their company does not rely solely on information provided in the DBE directory; but performs their own process to ensure a firm listed in the directory is able to provide a commercially useful function. Neither company voiced any concerns about the UCP or the certification process.

Stakeholder Groups

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

- Construction Estimating Institute (CEI)
- Florida State Minority Supplier Development Council (The Council)
- National Association of Black Women in Construction (NABWIC) – Tampa Chapter

The three stakeholders contacted responded to the interview request.

The interview questions included:

1. *Is your organization and membership familiar with the state Unified Certification Program (UCP) and the certifying authorities?*
2. *Are any of your members currently certified in the UCP?*
3. *Are any of your members currently applying for DBE or ACDBE certification with the UCP?*
4. *Has your organization ever contacted the state certifying authorities regarding DBE / ACDBE certification requirements?*
5. *Has your organization referred firms interested in DBE certification to the state UCP?*
6. *Does your organization include UCP information in its membership outreach literature?*
7. *Has your organization participated in any outreach activities organized by the state UCP?*
8. *Has the state UCP participated in any outreach activities organized by your organization?*
9. *What is your organization members' view of the state UCP?*
10. *Have members of your organization seen an increase in work as a result of becoming certified?*
11. *What is your agency's view of the effectiveness of the UCP?*
12. *Do you have any concern(s) about the UCP or the certification process?*

Each representative stated that their organization is familiar with the FL UCP and its certifying members. The Construction Estimating Institute (CEI) administers FDOT's DBE Supportive Services Program which is made available to all firms applying for certification in the state of Florida. The CEI representative stated that they are responsible for working with companies that want to become DBE certified. The representative stated CEI assisted more than 400 individuals last year, and in the first quarter, assisted 136 potential DBEs in completing the certification application process.

Two organizations have members that are currently certified in the state UCP. The representatives stated that members who have applied for certification have commented that the process can be lengthy and cumbersome, but the UCP's Supportive Services provider assisted them in getting through the process. The organizations encourage its members to become certified, and firms interested in DBE certification are referred to the UCP. The representatives stated that their organizations participate in outreach events organized by the UCP. One representative stated that the organization sends out an email blast to its membership whenever it receives notice of a UCP event. The representatives stated that the Florida certifying agencies have participated in outreach efforts hosted by their organization. One representative stated that they value what the Hillsborough County Aviation Authority has done to support the organization and its efforts to encourage members to complete the certification process.

Two representatives stated that the Florida UCP is very effective because of the resources and assistance it provides to applicants to complete the certification process, and its commitment to increasing the number of DBEs available to do business with Florida agencies. When asked if there were any suggestions for improving the certification process, one representative stated that the UPC could provide more education to contractors and vendors, and streamline the certification application process.

UCP Participants

Five Florida UCP participant agencies were contacted to gain insight on how the UCP works with Florida USDOT recipients to develop and administer the State's UCP. The agencies contacted were:

- City of Gainesville Regional Transit System
- Daytona Beach International Airport
- LYNX – Central Florida Regional Transportation Authority
- Palm Beach County Department of Airports
- South Florida Regional Transportation Authority

All five of the UCP participating agencies responded to the interview request.

The interview questions included:

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

The agency representatives stated that they are familiar with the federal requirements (49 CFR Part 26.81) for Unified Certification Programs and the certifying agencies that make up the state's UCP. The representatives stated that their agency has a signed copy of the Florida UCP Agreement. The agencies also participate in the UCP's quarterly conference call meetings and annual UCP meetings where they have an opportunity to communicate any issues and concerns to the Executive Committee. One representative stated that their agency has helped to develop discussion ideas and concerns for the UCP meeting agenda. The agencies are aware of changes in the UCP through email updates, UCP meetings, and training sessions organized by the FL UCP.

The agencies stated that they contact the UCP for assistance when needed. One agency stated they have contacted the UCP concerning a DBE firm's certification status for participation on a bid. Another agency stated that they usually contact FDOT or Broward County if there is an issue with the DBE directory or a question regarding the status of a DBE firm when completing the semi-annual report. The agencies stated, overall, the UCP is very effective and is a good resource.

6. Findings and Advisory Comments

This chapter details the findings for each area pertinent to the DBE regulations (49 CFR Part 26) outlined in the Scope and Methodology section above. For each area, an overview of the relevant regulations and a discussion of the regulations as they apply to FL UCP's Program is provided below. Corrective actions and a timetable to correct deficiencies for each of the requirements and sub-requirements are also presented below.

For the purposes of this section, the term "UCP" refers to the certifying members and/or other certification committees/entities associated with the Florida's Unified Certification Program.

Findings are expressed in terms of "deficiency" or "no deficiency." Findings of deficiency denote policies or practices that are contrary to the DBE regulations or matters for which FTA requires additional reporting to determine whether DBE compliance issues exist.

Findings of deficiency always require corrective action and/or additional reporting, and will always be expressed as:

- A statement concerning the policy or practice in question at the time of the review.
- A statement concerning the DBE requirements being violated or potentially being violated.
- A statement concerning the required corrective action to resolve the issue.

Advisory comments are statements detailing recommended changes to existing policies or practices. The recommendations are designed to ensure effective DBE programmatic practices or otherwise assist the entity in achieving or maintaining compliance.

6.1 Group Membership

A) Burden of Proof

Basic Requirement (49 CFR Part 26.61)

There is a rebuttable presumption that members of the designated groups identified in §§26.5 and 26.67(a) are socially and economically disadvantaged. Individuals must submit a signed, notarized statement that they are a member of one of the groups in 26.67. Individuals who are not presumed to be member of these groups and individuals for which the presumption has been rebutted, have the burden of proving by a preponderance of the evidence that they are socially and economically disadvantaged. The UCP must ensure that its review process comports with this standard.

Discussion

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

The Florida Unified Certification Program (FL UCP) Plan, approved by the U. S. Department of Transportation on March 25, 2004, indicates the UCP and its members will follow all certification procedures and standards of 49 CFR Part 26, Subparts D and E, to determine the eligibility of firms to participate as DBEs in DOT-assisted contracts. The files reviewed

during the compliance review confirmed that the FL UCP follows 49 CFR Part 26.61 burden of proof standards. The DBE Certification Application contains a signed, notarized statement from individuals presumed to be socially and economically disadvantaged.

B) Additional Evidence of Group Membership

Basic Requirement (49 CFR Part 26.63)

If a UCP has a well-founded reason to question the individual's claim of membership in that group, it must require the individual to present additional evidence that he or she is a member of the group. The UCP must provide the individual with a written explanation of its reasons for questioning his or her group membership. The UCP must take special care to ensure that it does not impose a disproportionate burden on members of any particular designated group.

Discussion

During this compliance review, no deficiencies were found with the requirement for Additional Evidence of Group Membership.

The FL UCP Procedures Memorandum #2011-002 "Establishing Group Membership / Citizenship Status" states, *"Notwithstanding 26.61(c), a Certifying Member, having well founded reason to question an individual's membership in that group, must require the individual to present additional evidence that he or she is a member of that group [26.63(a)(1)]."*

In the review of FDOT's certification files, a firm was denied DBE certification based upon the applicant's failure to prove, by a preponderance of the evidence, that it met the requirements of 26.63 concerning group membership, or social and economic disadvantage status as described under 49 CFR Part 26, Appendix E. Under Section 3 of the certification application, the 100% owner identified its ethnic group membership as "Other-Iranian". The signed and notarized Affidavit of Certification provided with the application also identified the business owner as "Other-Iranian". FDOT determined that the documentation narrative provided by the applicant did not support the applicant's position as a socially and economically disadvantaged individual. The applicant's denial letter provided an explanation for the denial and included appeal rights to the US DOT. The file contained a copy of the applicant's appeal letter to the US DOT, as well as the US DOT's letter upholding FDOT's decision for the denial.

6.2 Business Size

Basic Requirement (49 CFR Part 26.65)

A UCP must apply current Small Business Administration (SBA) business size standard(s) found in 13 CFR Part 121 appropriate to the type(s) of work the firm seeks to perform in DOT-assisted contracts. In addition, a firm is not an eligible DBE in any Federal fiscal year if the firm (including its affiliates) has had average annual gross receipts over the firm's previous three fiscal years, in excess of \$23.98 million.

Discussion

During this compliance review, no deficiencies were found with the requirement for Business Size.

The FL UCP Plan indicates the certifying members utilize the North American Industry Classification System (NAICS) codes to determine if an applicant firm meets the Small Business Administration (SBA) business size standards in 13 CFR Part 121 for the appropriate type(s) of work the firm seeks to perform in DOT-assisted contracts. The FL UCP certifying members interviewed were aware of the current DOT DBE business size cap of \$23.98 million.

The certification files examined by the review team contained the required business tax returns for the determination of the firm's small business size eligibility and all were found in compliance with the size requirements.

6.3 Social and Economic Disadvantage

A) Presumption of Disadvantage

Basic Requirement (49 CFR Part 26.67 (a)(1))

There is a rebuttable presumption that citizens of the United States (or lawfully admitted permanent residents) who are women, Black Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, Subcontinent Asian Americans, or other minorities found to be disadvantaged by the SBA, are socially and economically disadvantaged individuals. The UCP must require applicants to submit a signed, notarized certification that each presumptively disadvantaged owner is, in fact, socially and economically disadvantaged.

Discussion

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

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

B) Personal Net Worth

Basic Requirement (49 CFR Part 26.67 (a)(2))

A UCP must require each individual owner of a firm applying to participate as a DBE whose ownership and control are relied upon for DBE certification to certify that he or she has a personal net worth that does not exceed \$1.32 million. All applicants must use the USDOT PNW form in Appendix G without change or revision. Moreover, the UCP must assess the PNW in the manner prescribed by 26.67.

Discussion

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

The FL UCP Procedures state an applicant's *"Personal Net Worth (PNW) must be less than \$1.32M (excluding ownership interest in the applicant firm's and the individual's equity in his or her primary residence). Each applicant must submit a signed and notarized statement of personal net worth along with a personal net worth worksheet"*.

The certifying members are using the Personal Net Worth (PNW) Form provided in Appendix G of the regulations without change or revision. A link to the form was verified on the FDOT website. In the review of the Jacksonville Transportation Authority and the Greater Orlando Aviation Authority websites, the reviewers verified the USDOT's PNW form was available electronically through the certifiers' Business Diversity Management System (B2GNow).

Four certification files did not contain sufficient documentation to substantiate the applicant's claims on the PNW statement.

Florida DOT

Anchor Consulting Engineering and Inspection, Inc. - The applicant's PNW statement contained math errors resulting in the personal net worth understated at \$996,381. Total assets were stated as \$1,207,457 and total liabilities were stated as \$211,076. The valuation of the business owner's one-quarter interest in an investment property valued at \$290,000 was stated as \$112,922, instead of \$75,500. In the liability column, the entire mortgage balance of \$76,076 on the investment property was included, instead of the one-quarter liability of \$19,019.

Based on the corrections, the applicant's total assets were reduced to \$1,167,035 and total liabilities were reduced to \$154,019, resulting in a personal net worth of \$1,013,016. No documentation was present in the file indicating FDOT's actions to investigate or verify the stated net worth.

Ray Fulton Construction – The applicant's PNW statement was incomplete. Under the assets section, the applicant stated a single cash asset of \$350.00; all other areas were stated as "n/a". The applicant's only liability was listed as \$5,300, representing a Net Worth of negative \$4,950. In Section 6, page 3 – Other Personal Property and Assets, the applicant identified a Ford F250 work truck's present value of \$5,300, and the work truck's liability balance as \$5,300. In addition, Household Goods / Jewelry assets were stated as "n/a". No documentation was present in the file indicating FDOT's actions to investigate or verify the information provided in the PNW form.

Premier Choice Group, LLC. – The reviewers found that an investment property, assessed at \$255,000, was listed in the owner's 2016 personal tax returns, but was not disclosed on the PNW statement. There was no evidence in the file that indicated a follow up investigation was conducted regarding the property, or a revised PNW statement was submitted that applied the value of the property to the PNW calculation.

Greater Orlando Aviation Authority

Goodman Services, LLC – The reviewers found that the value of an affiliate company, listed on the owner's 2013, 2014, and 2015 personal tax returns, was not disclosed on the PNW statement. There was no evidence in the file that indicated a follow up investigation was conducted regarding the affiliated company to ensure that all pertinent information was included. It was also noted, the business owner did not use the USDOT's Personal Net Worth Statement form.

Corrective Actions and Schedule

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

- ensure that PNW forms are thoroughly analyzed for errors and omissions;
- ensure that additional investigation is conducted into pertinent PNW errors and omissions for revisions;
- ensure that all applicants submit the required USDOT Personal Net Worth Form; and
- ensure that all certification participants are adhering to the PNW review standards.

C) Rebutting the Presumption of Disadvantage**Basic Requirement (49 CFR Part 26.67(b))**

An individual's presumption of economic disadvantage may be rebutted in two ways.

(i) If the statement of personal net worth and supporting documentation that an individual submits under paragraph (a)(2) of this section shows that the individual's personal net worth exceeds \$1.32 million, the individual's presumption of economic disadvantage is rebutted. You are not required to have a proceeding under paragraph (b)(2) of this section in order to rebut the presumption of economic disadvantage in this case.

(ii)(A) If the statement of personal net worth and supporting documentation that an individual submits under paragraph (a)(2) of this section demonstrates that the individual is able to accumulate substantial wealth, the individual's presumption of economic disadvantage is rebutted. You must have a proceeding under 26.67(b)(2) in order to rebut the presumption of economic disadvantage in this case.

Discussion

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

Notwithstanding the discussion in the Personal Net Worth section above, there was no evidence that any of the applicants' personal net worth was above \$1.32 million.

D) Individual Determinations of Social and Economic Disadvantage

Basic Requirement (49 CFR Part 26.67 (d))

Firms owned and controlled by individuals who are not presumed to be socially and economically disadvantaged may apply for DBE certification. UCPs must make a case-by-case determination of whether each individual whose ownership and control are relied upon for DBE certification is socially and economically disadvantaged.

Discussion

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

The FL UCP certifying members interviewed understood the requirements of Appendix E in the DBE regulations. One applicant reviewed by FDOT was required to provide supporting documentation pertinent to their social and economic disadvantaged status. All other files examined by the review team contained sufficient information to document that individuals whose ownership and control relied upon for DBE certification were socially and economically disadvantaged.

6.4 Ownership

Basic Requirement (49 CFR Part 26.69)

In determining whether the socially and economically disadvantaged participants in a firm own the firm, UCPs must consider all the facts in the record, viewed as a whole. To be an eligible DBE, a firm must be at least 51 percent owned by socially and economically disadvantaged individuals.

Discussion

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

The FL UCP Procedures state, *“The ownership of 51% must be representative of the presumptive groups; Women, Black Americans, Hispanic Americans, Native Americans, Asian Pacific Americans, Subcontinent Asian Americans. (Those outside of the presumptive group must prove by providing documentary evidence that they are socially and economically disadvantaged and will be considered on a case-by-case basis)”*.

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

Florida DOT

Premier Choice Group, LLC – The certification file included a letter stating the business owner invested \$1,000 cash from a personal bank account. The file did not contain documented proof of the stated capital contribution.

Ray Fulton Construction – The *“Initial Investment to acquire ownership interest in firm”* section of the certification application was left blank. The supporting document included in

the file to substantiate how the owner acquired the business consisted of the owner's signed and notarized statement, on the company's letterhead. The document stated the owner, Ray Fulton, used income received from previously completed jobs to establish and operate Ray Fulton Construction. There was no further documentation evidencing the amount of cash earned from a previous job or jobs used for the initial ownership investment in the firm.

SCG Business Services, LLC – This is an interstate firm. The home state application indicated the firm is 100% owned by two socially and economically disadvantaged individuals, representing an ownership interest of 65% and 35%, black female. The *“Initial Investment to acquire ownership interest in firm”* section of the application was left blank. According to Exhibit 3 of the Limited Liability Company Operating Agreement, found in the file, the member's initial investment in the company is \$250,000, and listed as follows:

Cash Contributions	\$100,000
Contributions of Tangible Personal Property	\$ 50,000
Contributions of In-Kind Services	\$ 75,000

The document did not indicate how the capital contributions were apportioned to represent the 65% and 35% ownership interests. Furthermore, there was no evidence to substantiate the origin of the cash contributions or to describe the contributions involving tangible personal property and in-kind services.

Greater Orlando Aviation Authority

Fastway Auto Services, Inc. – Under the *“Initial Investment to acquire ownership interest in firm”* section of the application, the owner indicated the contribution of capital was \$4,000 cash and \$8,000 in equipment. There was no documented proof of the capitalization found in the file.

Goodman Services – The certification file included a signed exhibit indicating the business owner invested \$2,000 cash into the business. The file did not contain documented proof of the stated capital contribution.

Opmax Support Services, LLC – Under the *“Initial Investment to acquire ownership interest in firm”* section of the certification application, the owner indicated zero dollars were invested in the business. The Site Visit Report, dated August 31, 2017, indicated the business owner obtained a loan for \$200,000 from a named individual to start the business. A signed loan agreement or proof that the loan had been repaid was not found in the file.

Corrective Actions and Schedule

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

6.5 Control

Basic Requirement (49 CFR Part 26.71)

In determining whether socially and economically disadvantaged owners control a firm, UCPs must consider all the facts in the record, viewed as a whole. Only an independent

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

Discussion

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

In the files reviewed of certified firms, evidence indicated that all firms were independently owned and the disadvantaged owners possessed the power to make decisions and manage the business. The disadvantaged owners also held the highest positions in the company.

6.6 Other Rules Affecting Certification

Basic Requirement (49 CFR Part 26.73)

UCPs must not consider commercially-useful function issues in any way in making decisions about whether to certify a firm as a DBE. The UCP may consider whether a firm has exhibited a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program. DBE firms and firms seeking DBE certification shall cooperate fully with UCP requests for information relevant to the certification process.

Discussion

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

In the files reviewed, there was no documentation relating to commercially useful function issues, or a firm exhibiting a pattern of conduct indicating its involvement in attempts to evade or subvert the intent or requirements of the DBE program. In addition, it was found that the DBE applicants cooperated fully with the FL UCP's request for additional information relevant to the certification process.

6.7 UCP Requirements

A) UCP Agreement

Basic Requirement (49 CFR Part 26.81)

All DOT recipients in a state must participate in a UCP. Recipients must sign an agreement establishing the UCP for the state and submit the agreement to the Secretary for approval.

Discussion

During this compliance review, no deficiencies were found with the requirement for UCP Agreement.

The U.S. Department of Transportation approved Florida's UCP plan on March 25, 2004. FDOT provided documentation of the UCP member signatures to the agreement. During

UCP meetings, the certification members vote on amendments to the program plan, drafted by the Executive Committee. The review team examined the FL UCP's Procedure Memoranda approved by the certification members in 2005, 2006, 2007, 2009, 2011, 2013, 2015 and 2018.

B) UCP Directory

Basic Requirement (49 CFR Part 23.31, 26.31, and 26.81(g))

UCPs must maintain a unified DBE directory containing, for all firms certified by the UCP, the information required by 26.31. The directory must include if the firm is an ACDBE, a DBE, or both. The listing shall include for each firm its address, phone number, and types of work the firm has been certified to perform as a DBE. The UCP shall update the electronic version of the directory by including additions, deletions, and other changes as soon as they are made.

Discussion

During this compliance review, no deficiencies were found with the requirement for UCP Directory.

The FL UCP agreement states that FDOT is responsible for maintaining the UCP DBE directory. As the DBE Directory Manager, FDOT is responsible for ensuring the directory is available electronically and in printed form.

The DBE directory contains live data maintained through FDOT's Equal Opportunity Gateway (EOG) system. Each certifier has immediate access to the EOG system and is responsible for the input of new certification applications, certification approvals, deletions and other changes, as soon as they occur. FDOT monitors the certifying members' adherence to the DBE directory update requirements.

The directory identifies all firms eligible to participate as DBEs. The directory lists the firm's name, contact person, address, phone number, fax number, email, certification type (DBE/ACDBE), NAICS code, and description of work the firm is certified to perform. The directory is available electronically to the public, and searchable in HTML, PDF, and Excel report formats at: <https://fdotxwp02.dot.state.fl.us/EqualOpportunityOfficeBusinessDirectory>.

The FL UCP DBE directory contains approximately 3,755 DBE/ACDBE certified firms.

6.8 UCP Procedures

A) Uniform Application

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

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

Discussion

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

The FL UCP is using the DBE/ACDBE Uniform Certification Application Form provided in Appendix F of the regulations without change or revision. A link to the application and instructions was verified on the FDOT website. In the review of the Jacksonville Transportation Authority and the Greater Orlando Aviation Authority certification files, the review team verified the application was available on their respective websites. The current application is available electronically through the certifiers' Business Diversity Management System (B2GNow).

B) On-Site Visits

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

UCPs must perform an on-site visit to the offices of the firm. The UCP must interview the principal officers of the firm and review their resumes and/or work histories. The UCP must also perform an on-site visit to job sites if there are such sites on which the firm is working at the time of the eligibility investigation in the UCP's jurisdiction or local area.

Discussion

During this compliance review, no deficiencies were found with the requirement for On-Site Visits.

The FL UCP Certification Procedures state, "*Certifying Members shall conduct a site visit to the principal place of business of an applicant firm*". If convenient, the procedure states a job-site visit is conducted. According to the certifying members interviewed, the job site includes any sites on which the firm is working at the time of the eligibility investigation in the UCP's jurisdiction. The FL UCP has a standardized On-Site Review Report and Checklist (OSR-10/27/16) used by certifying members. Interviews are conducted with the owner(s) of the firm, and responses to questions are documented in the On-Site Review Report.

All of the certification files reviewed contained evidence of the required on-site visits including documentation of the On-Site Review Reports.

C) 30-Day Notification

Basic Requirement (49CFR Part 26.83(I))

The UCP must advise each applicant within 30 days from receipt of the application whether the application is complete and suitable for evaluation and, if not, what additional information or action is required.

Discussion

During this compliance review, deficiencies were found with the requirement for 30-Day Notification.

The FL UCP Certification Procedures state that an applicant firm is sent an email within 30 days of receipt, acknowledging receipt of the application and notifying the firm if additional information is required.

In the review of JTA's certification files, the reviewers found a copy of the notification email documenting the 30-day notification requirement was met.

However, in the review of paper documents for two GOAA's certification files, the 30-day notification requirement was not met.

Goodman Services, LLC. – The DBE application was dated March 23, 2018. The firm's application was acknowledged and additional information was requested on June 20, 2018, 89 days after receipt of the firm's application.

I.T. Consortium, Inc. – The DBE application was dated August 3, 2015. The firm's application was acknowledged on September 28, 2015, 56 days after receipt of the firm's application. No additional information was requested.

Corrective Actions and Schedule

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

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

D) 90-Day Determinations

Basic Requirement (49 CFR 26.83 (k))

The UCP must make decisions on applications for certification within 90 days of receiving from the applicant firm all information required under the DBE regulations. The UCP may extend this time period once, for no more than an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension.

Discussion

During this compliance review, deficiencies were found with the requirement for 90-day Determinations.

The FL UCP Certification Procedures state, "*A certification determination must be made within 90 days of receiving a complete application*".

In the review of FDOT and JTA certification files, the certification determinations were made within the 90-day requirement.

However, in the review of GOAA certification files, the following firm's certification determination exceeded the 90-day requirement.

I.T. Consortium, Inc. – The firm's application was dated August 3, 2015. GOAA acknowledged receipt of the application on September 28, 2015. The final determination

letter is dated August 8, 2016, approximately ten months after receipt of the firm's completed application.

Corrective Actions and Schedule

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

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

E) Annual Updates

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

Once the UCP has certified a DBE, it shall remain certified until and unless the UCP removes its certification. The UCP may not require DBEs to reapply for certification or undergo a recertification process. The certified DBE must provide to the UCP, every year on the anniversary of the date of its certification, an affidavit sworn to by the firm's owners before a person who is authorized by state law to administer oaths.

Discussion

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

The FL UCP Procedures require certifying members to provide notice to all certified DBE firms regarding the required submission of a No Change Declaration not less than 90-days in advance of the Anniversary Date. The FL UCP Procedure Memorandum #2006-006.1 - No Change Declaration – Support Document Requirements, dated March 31, 2015, states:

“Responsible Certifying Members (RCMs) will require that all DBE firms, in order to continue DBE eligibility, submit a No Change Declaration annually on or before the Anniversary Date.

The No Change Declaration submission shall include:

- 1. A complete business tax return for the most recent tax year (Forms 1120, 1120S, 1065 Schedule C, etc.)*
- 2. Complete affiliate business tax returns, as above for the most recent tax year.”*

Seven firm certifications older than one year were examined for the Annual Update requirement. Six files contained the required signed and notarized No Change Affidavit indicating the business owner declaring the average gross receipts for the business, over the previous three fiscal years, did not exceed the SBA size standard. The tax return(s) for the business and any affiliate businesses (if applicable) were attached in support of the declaration. However, the certification file for Geologistics, Inc. did not contain the Annual No Change Affidavit or supporting documentation after repeated requests.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, the FL UCP must submit to the FTA Office of Civil Rights a procedure for:

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

6.9 Interstate Certification

Basic Requirement (49 CFR Part 26.85)

This section applies with respect to any firm that is currently certified in its home state. When a firm currently certified in its home State (“State A”) applies to another State (“State B”) for DBE certification, State B may, at its discretion, accept State A’s certification and certify the firm, without further procedures. In any situation in which State B chooses not to accept State A’s certification of a firm, as the applicant firm, you must provide the information in paragraphs (c)(1) through (4) of Part 26.85 to State B.

Discussion

During this compliance review, no deficiencies were found with the requirement for Interstate Certification.

The FL UCP Procedure Memorandum #2011-003 – Interstate Certification and Procedure Memorandum #2015-001 – Interstate Applications – Processing, outlines the details regarding processing of interstate certification requests. A firm currently certified in its home state is not required to submit a new uniform application when seeking certification in the State of Florida. The Florida UCP implements the requirements of 49 CFR 26.85(c)(1) through (4) for accepting requests for Interstate Certification.

The procedures state that before certifying the firm, the FL UCP will confirm that the applicant has a current valid certification from the home state, search the home state’s electronic DBE directory, and within seven days of receipt, request a copy of the home state’s on-site report.

The review team examined a total of five interstate certification files processed by Florida DOT, Jacksonville Transportation Authority, and Greater Orlando Aviation Authority. The certifying members followed the established FL UCP’s Interstate Certification procedures. All of the files contained a copy of the home state application, supporting documentation, the home state on-site report, and documentation of the certifier’s communication with the home state agency.

6.10 Denials of Certification

A) Initial Request Denials

Basic Requirement (49 CFR Part 26.86)

When a UCP denies a request by a firm that is not currently certified with it, to be certified as a DBE, the UCP must provide the firm a written explanation of the reasons for the denial, specifically referencing the evidence in the record that support each reason for the denial. When a firm is denied certification, the UCP must establish a timeframe of no more than 12 months before the firm may reapply for certification.

Discussion

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

The FL UCP Procedures outline the process for the denial of initial requests for certification. The procedures state: *“When denying an applicant, a written explanation of the reasons for the denial specific to applicable Code of Federal Regulations (CFR),”* must be provided. The denial letter *“must include the process for an appeal, and clearly state that the firm must file for the appeal within 90 days of the date of the denial”*. The applicant *“must also be informed that all appeals must be sent directly to the U.S. Department of Transportation”*.

Two files were reviewed for the denial requirements:

- I.T. Consortium, Inc. (GOAA) – was denied DBE certification by letter dated August 8, 2016.
- Sanalil Construction, Inc. (FDOT) – was denied DBE certification by letter dated May 27, 2016.

In both cases, the denial letters explained the reasons for the denial, cited the regulatory provisions for each of the reasons, and advised the business owners of the USDOT appeal rights. The denial letters also informed the business owners that the firm could reapply to the program in twelve months. Sanalil Construction, Inc. appealed their denial to the USDOT, but FDOT’s denial decision was upheld.

B) Removing Existing Certification

Basic Requirement (49 CFR Part 26.87)

If a UCP determines that there is reasonable cause to believe that the firm is ineligible, the UCP must provide written notice to the firm that the UCP proposes to find the firm ineligible, setting forth the reasons for the proposed determination. When the UCP notifies the firm that there is reasonable cause to remove its certification, the UCP must allow the firm an opportunity for an informal hearing. Following the final decision, the UCP must provide written notice of the final decision and a rationale for that decision.

Discussion

During this compliance review, no deficiencies were found with the requirement for Removing Existing Certification.

The FL UCP's Procedures include the process for decertification/removal of DBE eligibility. The procedures state: "*The Responsible Certifying Member must base a decision only on one or more of the following:*

1. *Changes in the firm's circumstances since the certification of the firm;*
2. *Information or evidence not available at the time the firm was certified;*
3. *Information that was concealed or misrepresented by the firm in previous certification actions;*
4. *A documented finding that the determination to certify the firm was faulty or erroneous; and*
5. *Failure to provide the "No Change Declaration" on or before the firm's anniversary date – subjects a firm to decertification proceedings for failure to cooperate (CFR 26.109(c)).*

The Responsible Certifying Member (RCM) will immediately prepare a "Notice of Intent to Remove Certification. The DBE firm will be given 21 days from the date of the notice to either provide documents or contact the RCM. If the DBE fails to provide the supporting documentation or contact the RCM on or before the 21-day deadline, the RCM shall immediately prepare a "Notice of Removal."

Two certification files were reviewed for the removal requirements: Fast Way Auto Service, Inc. - (GOAA) and Geologistics, Inc. - (FDOT).

Fast Way Auto Service, Inc.'s DBE certification status was removed on 11/6/17 for failure to submit Annual No Change Affidavits.

Geologistics, Inc.'s DBE certification was removed on 9/19/16 for failure to submit Annual No Change Affidavits.

Both files contained an Intent to Remove letter stating the reason and an additional request for the Annual No Change Affidavit to be submitted. The Notice of Removal letter was sent 30 days later, following the firms' failure to respond. The removal letters contained the following: the reason for the removal, information for requesting an informal hearing with Florida DOT, instructions on how to appeal directly to USDOT, and information on how to reapply to the DBE program. Both firms were removed from the UCP directory. Neither firm appealed the removal decision to the USDOT.

C) Mandatory Summary Suspension

Basic Requirement (49 CFR 26.88(a))

The UCP must immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) when an individual owner whose ownership and control of the firm are necessary to the firm's certification dies or is incarcerated.

Discussion

During this compliance review, deficiencies were found with the requirement for Mandatory Summary Suspension.

The FL UCP Procedures do not include a process for completing the mandatory summary suspension of a firm's certification.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, FDOT must submit to the FTA Office of Civil Rights a FL UCP procedure outlining a process for completing Mandatory Summary Suspensions.

D) Optional Summary Suspension

Basic Requirement (49 CFR 26.88(b))

The UCP may immediately suspend a DBE's certification without adhering to the requirements in §26.87(d) when there is adequate evidence to believe that there has been a material change in circumstances that may affect the eligibility of the DBE firm to remain certified, or when the DBE fails to notify the recipient or UCP in writing of any material change in circumstances as required by §26.83(i) of this part or fails to timely file an affidavit of no change under §26.83(j).

Discussion

During this compliance review, deficiencies were found with the requirement for Optional Summary Suspension.

The FL UCP Procedures do not include a process for completing an optional summary suspension of a firm's certification.

However, the following statement is included in the FL UCP certification approval letters:

"If there is a material change in the firm, including, but not limited to: ownership, officers, directors, scope of work being performed, daily operations, affiliations with other businesses or individuals, or physical location of the firm, you must promptly notify this office in writing. Notification should include supporting documentation."

In the review of the Florida DOT, Jacksonville Transportation Authority, and Greater Orlando Aviation Authority certification files, no certification was suspended based on evidence of a material change in circumstances that affected a firm's continued eligibility.

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, FDOT must submit to the FTA Office of Civil Rights a FL UCP procedure outlining a process for completing Optional Summary Suspensions.

E) Appeals to USDOT

Basic Requirement (49 CFR Part 26.89)

When the Department receives an appeal and requests a copy of the administrative record, the UCP must provide the administrative record, including a hearing transcript, within 20 days of the Department's request.

Discussion

During this compliance review, deficiencies were found with the requirement for Appeals to USDOT.

The FL UCP Procedures outline the process for appeals to the USDOT and state that a firm denied certification or whose eligibility is removed has 90 days to appeal the decision to the U.S. Department of Transportation, Office of Civil Rights, 1200 New Jersey Avenue, SE, Washington, DC 20590.

When the USDOT requests a copy of the administrative record, the FL UCP Procedures state the certifying member will provide a copy of the application and all documentation (including hearing transcript and interviews) used in making the determination not to certify the appellant. However, the FL UCP Appeals Process does not indicate that the certifying member must respond within 20 days of the USDOT's request.

In the review of the Sanalil Construction, Inc. denial file, FDOT received the USDOT's request on July 6, 2016 and the firm's file documents were prepared and sent to the USDOT the following day, on July 7, 2016.

Corrective Actions and Schedule

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

- an updated Appeals Procedure to include the 20-day response requirement to the USDOT's request for an appellant's administrative record; and
- a process to ensure that all certification participants are adhering to the procedure.

6.11 Compliance and Enforcement

A) DBE Enforcement Actions

Basic Requirement (49 CFR Part 26.107)

If a firm does not meet the eligibility criteria of subpart D and attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, the Department may initiate suspension or debarment proceedings against the firm under 2 CFR parts 180 and 1200.

Discussion

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

The FL UCP utilizes the USDOT Uniform Certification Application, which includes the penalties for fraudulent or false statements. The review team observed the use of the USDOT Uniform Certification Application form while reviewing the paper and electronic certification files.

B) Confidentiality

Basic Requirement (49 CFR Part 26.83(g) and 26.109 (a))

Notwithstanding any provision of Federal or state law, UCPs must not release information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes DBE certification and supporting documentation.

Discussion

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

The Uniform Certification application includes a statement pertaining to the Federal Freedom of Information and Privacy Acts (5 U.S.C., 552 and 552a). In addition, the FL UCP Procedures state,

“FDOT will safeguard from disclosure to third parties information that may reasonable be regarded as confidential business information, consistent with Federal, state and local law. Pursuant to Section 330.0805, Florida Statutes, all information submitted by applicant firms with their applications for certification and affidavits or continued eligibility, including their personal net worth statements, are confidential and exempt from the requirements of Florida’s public record laws. Title 49 CFR Section 26.67(IV) states, ‘Notwithstanding any provision of Federal or state law, you must not release an individual’s personal net worth statement nor any documents pertaining to it to any third party without the written consent of the submitter.’”

C) Cooperation

Basic Requirement (49 CFR Part 26.109 (c))

All participants in the Department’s DBE program are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information (49 CFR Part 26.73 (c)). DBE firms and firms seeking DBE certification shall cooperate fully with the UCP’s requests (and DOT requests) for information relevant to the certification process. Failure or refusal to provide such information is grounds for a denial or removal of certification.

Discussion

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

The FL UCP Procedures does not include a provision specifically detailing the cooperation requirements of 49 CFR Part 26.109(c). The FDOT DBE Certification Policy and Procedures, 5.0 - Decertification Process states, “*Failure to provide the No Change Declaration on or before the firm’s anniversary date subjects a firm to decertification proceedings for failure to cooperate*”, and references 49 CFR 26.109(c). The procedure fails to include all of the provisions of 49 CFR Part 26.109(c), which stipulates:

“All participants in the Department’s DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with DOT and recipient compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to recipients, a finding of noncompliance; with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).”

Corrective Actions and Schedule

Within 60 days of the issuance of the final report, FDOT must submit to the FTA Office of Civil Rights a FL UCP procedure specifying the cooperation requirements of 49 CFR Part 26.109(c).

6.12 Record Keeping

Basic Requirement (49 CFR 26.11(d))

The UCP must maintain records documenting a firm's compliance with the DBE requirements. At a minimum, the UCP must keep a complete application package for each certified firm and all affidavits of no-change, change notices, and on-site reviews. Other certification or compliance related records must be retained for a minimum of three (3) years unless otherwise provided by applicable record retention requirements for the recipient's financial assistance agreement, whichever is longer.

Discussion

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

The FL UCP Procedures provide the process for certification File Maintenance, which state.

“All [paper] DBE files are kept in the locked file room. Records are shelved alphabetically by status. Tax returns are kept for three consecutive current years and old tax returns are handled per records retention requirements. Inactive files are

kept for a minimum of three years and handled by guidance of records retention requirements.”

All electronic certification files (EOG and B2GNow) are maintained in a secure computer environment with user identification and password requirements.

Two certification files examined during the compliance review were missing required documentation. Refer to “Section 6.4 – Ownership”, for further details regarding this deficiency. In addition, one certification file did not contain the required Annual No Change Affidavit as noted under Section 6.8 UCP Procedures (E).

All other files reviewed contained the complete application package for each firm, supporting documentation, business and personal tax returns, the on-site review report, affidavits of no-change, and correspondences including Certification, Denial, Notice of Intent to Remove and Notice of Removal letters.

Corrective Actions and Schedule

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

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

6.13 Submitting Reports to USDOT

Basic Requirement (49 CFR 26.11(e))

Each year, the State department of transportation in each UCP must report to USDOT the number of certified DBEs in its DBE Directory that are controlled by minority female(s), non-minority female(s), and socially and economically disadvantaged males; and location of the firm.

Discussion

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

FDOT has submitted the required annual reports to the USDOT indicating the number of certified DBEs in the FL UCP DBE Directory that are minority-female, non-minority female and male. During the on-site visit, the reviewer examined a copy of the 2017 DBE Report that was due January 1, 2018. The report was submitted on December 11, 2017 in compliance with the USDOT requirements.

According to the December 2017 report, the FL UCP DBE Directory contained 3,330 firms: White Female – 908; Minority Women – 604; and Men – 1,818.

FDOT indicated the 2018 DBE report is pending submission until USDOT’s revamped reporting mechanism is available to recipients.

7. Summary of Files Review and Findings

Florida Department of Transportation

File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Initial Certification <1 year	Premier Choice Group, LLC.	Y	Y	N	N/A	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	N	N/A	N/A	N/A
	Ray Fulton Construction	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
		Y	Y	N	N/A	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	N	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Existing Certification >1 year	Anchor Consulting Engineering and Inspection, Inc.	Y	Y	N	Y	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	N/A	N/A	N/A
	Cornerstone Barricades, Inc.	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
		Y	Y	Y	Y	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	N/A	N/A	N/A
		USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Interstate Certification <1 year	Terrazzo USA and Associates, Inc.	Y	Y	Y	N/A	Y/Y	Y	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	N/A	N/A	N/A

File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Interstate Certification >1 year	SCG Business Services, LLC.	Y	Y	Y	Y	Y/Y	Y	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	N/A	N/A	N/A
File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Removal/Decertification	Geologistics, Inc.	Y	Y	Y	N	Y/N	N/A	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	N	Y	Y
File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Initial Certification Denial	Sanalil Construction, Inc.	Y	Y	Y	N/A	Y	N/A	Y	Y
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	N/A	Y	Y	N/A	N/A	N/A

Jacksonville Transportation Authority

File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Initial Certification <1 year	Lakshmi Consulting Services	Y	Y	Y	N/A	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	N/A	N/A	N/A
File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Existing Certification >1 year	Regional Mobility Group, LLC	Y	Y	Y	Y	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	N/A	N/A	N/A
File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Interstate Certification <1 year	Jeezny Sourcing	Y	Y	Y	N/A	Y/Y	Y	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	N/A	N/A	N/A
File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Interstate Certification >1 year	Z Venture Capital Frontiers, Inc.	Y	Y	Y	Y	Y/Y	Y	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	Y	N/A	N/A	N/A

Greater Orlando Aviation Authority

File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Initial Certification <1 year	Goodman Services, LLC.	Y	Y	N	N/A	N/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		N/Y	Y	Y	Y	N	N/A	N/A	N/A
File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Existing Certification >1 year	Opmax Support Services, LLC.	Y	Y	Y	Y	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y/Y	Y	Y	Y	N	N/A	N/A	N/A
File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Interstate Certification >1 year	EGM Services, Inc. DBA Ebony Glass & Mirror Company	Y	Y	Y	Y	Y/Y	N/A	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	N/A	Y	Y	N/A	N/A	N/A
File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Removal/Decertification	Fast Way Auto Service, Inc.	Y	Y	Y	N	Y/N	N/A	N/A	N/A
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		Y	Y	Y	Y	N	Y	Y	Y
File Type	Firm Name	USDOT Form	Site Visit	PNW	No Change	Per/Bus Tax	Interstate Certification	Denial Letter	Appeal Letter
Initial Certification Denial	I.T. Consortium, Inc.	Y	N/A	Y	N/A	N/A	N/A	Y	Y
		Cert. Decision	SBA Size	NAICS	Control Review	Ownership Review	Removal Process Followed	Notice of Hearing	Notice of Decision
		N/N	N/A	N/A	Y	Y	N/A	N/A	N/A

Requirement of 49 CFR Part 26	Ref.	Site Visit Finding	Deficiencies	Corrective Action(s)	Response Days/Date
1. Group Membership					
A) Burden of Proof	26.61	ND	-	-	-
B) Additional Evidence of Group Membership	26.63	ND	-	-	-
2. Business Size	26.65	ND	-	-	-
3. Social/Economic Disadvantage					
A) Presumption of Disadvantage	26.67	ND	-	-	-
B) Personal Net Worth	26.67	D	PNW statements are incomplete, contain math errors, additional documentation required to substantiate applicant's claim on PNW statement not requested.	Provide procedures to <ul style="list-style-type: none"> ensure that PNW forms are thoroughly analyzed for errors and omissions; ensure that additional investigation is conducted into pertinent errors and omissions for revisions; ensure applicants submit the required USDOT PNW form; and ensure all certification participants are adhering to the PNW review standards. 	Within 60 days of the issuance of the final report
C) Rebutting & Presumption of Disadvantage	26.67	ND	-	-	-

Requirement of 49 CFR Part 26	Ref.	Site Visit Finding	Deficiencies	Corrective Action(s)	Response Days/Date
D) Individual Determination	26.67(d)	ND	-	-	-
4. Ownership	26.69	D	Documentation not provided to substantiate ownership requirements.	Provide procedures for: <ul style="list-style-type: none"> ensuring that all applicants applying for DBE/ACDBE certification submit documented proof of contributions, for each owner claiming disadvantaged, used to acquire ownership interest in the firm. 	Within 60 days of the issuance of the final report
5. Control	26.71	ND	-	-	-
6. Other Certification Rules	26.73	ND	-	-	-
7. UCP Requirements					
A) UCP Agreement	26.81	ND	-	-	-
B) UCP Directory	26.31	ND			
8. UCP Procedures					
A) Uniform Application	26.83	ND	-	-	-
B) On-Site Visits	26.83	ND	-	-	-
C) 30-Day Notification	26.83	D	30-Day notification requirement not followed.	Provide a process for: <ul style="list-style-type: none"> ensuring that firms are notified of the status of their application within 30 days of receipt; and ensure that all certification participants are adhering to the process. 	Within 60 days of the issuance of the final report

Requirement of 49 CFR Part 26	Ref.	Site Visit Finding	Deficiencies	Corrective Action(s)	Response Days/Date
D) 90-Day Processing	26.83	D	Certification Determinations exceed the 90-day processing requirement.	Provide a process to: <ul style="list-style-type: none"> ensure that certification decisions are made within 90 days of receipt of all required information; and ensure that all certification participants are adhering to the requirement. 	Within 60 days of the issuance of the final report
E) Annual Updates	26.83	D	Annual updates missing in some files	Provide a procedure for <ul style="list-style-type: none"> tracking and ensuring that annual updates are collected from DBEs and maintained in the certification files; and ensure that all certification participants are adhering to the requirement. 	Within 60 days of the issuance of the final report
9. Interstate Certification	26.85	ND	-	-	-
10. Denials of Certification					
A) Initial Request Denials	26.86	ND	-	-	-
B) Removing Existing Certification	26.87	ND	-	-	-
C) Mandatory Summary Suspension	26.88(a)	D	FL UCP does not have a procedure for completing the mandatory summary suspension of a firm's certification.	Provide a procedure outlining a process for completing Mandatory Summary Suspensions.	Within 60 days of the issuance of the final report

Requirement of 49 CFR Part 26	Ref.	Site Visit Finding	Deficiencies	Corrective Action(s)	Response Days/Date
D) Optional summary Suspension	26.88(b)	D	FL UCP does not have a procedure for completing the optional summary suspension of a firm's certification.	Provide a procedure outlining a process for completing Optional Summary Suspensions.	Within 60 days of the issuance of the final report
E) Appeals to USDOT	26.89	D	FL UCP Appeals Process does not specify the required 20-day response time to the USDOT's request for an appellant's administrative record.	Provide: <ul style="list-style-type: none"> • an updated Appeals Procedure to include the 20-day response requirement to the USDOT's request for an appellant's administrative record; • and a process to ensure that all certification participants are adhering to the procedure. 	Within 60 days of the issuance of the final report
11. Compliance/and Enforcement					
A) DBE Enforcement Actions	26.107	ND	-	-	-
B) Confidentiality	26.109	ND	-	-	-
C) Cooperation	26.109	D	FL UCP Procedures do not include a provision specifying the cooperation requirements of §26.109(c).	Provide a procedure specifying the cooperation requirements of 49 CFR Part 26.109(c).	Within 60 days of the issuance of the final report

12. Record Keeping A) Certification Files	26.11(d)	D	Files do not contain all required information.	Provide a procedure to: <ul style="list-style-type: none"> ensure certification files are maintained and complete with all required documentation for each firm applying for DBE/ACDBE certification; and ensure that all certification participants are adhering to the requirement. 	Within 60 days of the issuance of the final report
B) Submitting Reports to USDOT	26.11(e)	ND	-	-	-

Findings at the time of the site visit: ND = No Deficiencies Found; D = Deficiency; NA = Not Applicable; AC = Advisory Comment

Attachment A: FTA Notification Letter to Florida Department of Transportation (FDOT)



U.S. Department
Of Transportation
Federal Transit
Administration

Headquarters

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

November 1, 2018

Ed Coven
State Transit Manager
Florida Department of Transportation
605 Suwannee Street
Tallahassee, Florida 32399-0450

Dear Mr. Coven:

The Federal Transit Administration (FTA) Office of Civil Rights is responsible for ensuring compliance with 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Programs" by its grant recipients and subrecipients. As part of its ongoing oversight efforts, the FTA Office of Civil Rights conducts a number of on-site DBE compliance reviews of these grant recipients. For this reason, the Florida Department of Transportation (FDOT) has been selected for a review of its Unified Certification Program (UCP) to take place February 12-14, 2019.

The purpose of this review will be to determine whether FDOT is honoring its commitment, as represented by certification to FTA, to comply with all applicable provisions of 49 CFR Part 26.

The review process includes data collection before the on-site visit, an opening conference, an on-site review of DBE certification procedures (including, but not limited to discussions to clarify items previously reviewed), visit to certifying agencies, interviews with UCP certifying agency staff and non-certifying members, DBE applicants, DBE certified firms, firms that were denied DBE certification, and an exit conference. The reviewers will complete the on-site portion of the review within a three-day period. FTA has engaged the services of Milligan and Company, LLC (Milligan) of Philadelphia, PA to conduct this compliance review. Milligan and FTA representatives will participate in the opening and exit conferences, with FTA participating by telephone.

We request your attendance at an opening conference scheduled **Tuesday, February 12, 2019, at 9:00 a.m. EST**, to introduce the Milligan team and FTA representatives to FDOT. Attendees should include you and other key staff. During the opening conference, the review team members will present an overview of the on-site activities.

Because review team members will spend considerable time on site during the week, please provide them with temporary identification and a workspace within or near your offices for the duration of their visit. The review team will need adequate working space and the use of privately controlled offices with internet access to conduct interviews and review documents. Please let us know if you will designate a member of your staff to serve as FDOT's liaison with

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

The Florida Department of Transportation, Broward County Office of Economic and Small Business Development, City of Tallahassee, Greater Orlando Aviation Authority, Hillsborough County Aviation Authority, Jacksonville Transportation Authority, Lee County Port Authority, Miami-Dade County, and Volusia County's Public Transit System serves as the certification agents for the Florida UCP. So that we may properly prepare for the site visit, please have each **certification agent** provide the information described in Enclosure 1, which consists of items that the review team must receive within 21 days of the date of this letter.

Electronic copies of the documents are preferred. Please upload them to Milligan's file transfer protocol (FTP) site. Your reviewer will reach out to you concerning the use of the FTP site. Please be prepared to designate a point of contact for your agency, for which user access should be provided. You also have the option of sending the documents via email to Lillie Claitt at lclaitt@milligancpa.com.

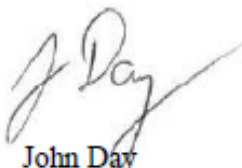
We request the exit conference be scheduled for **Thursday, February 14, 2019 at 2:00 p.m. EST**, to afford an opportunity for the reviewers to discuss their observations with you and your agency. We request that you and other key staff attend the exit conference.

The FTA Office of Civil Rights will make findings and will provide a Draft Report. You will have an opportunity to correct any factual inconsistencies before FTA finalizes the report. The Draft and Final Report, when issued to FDOT, will be considered public documents subject to release under the Freedom of Information Act, upon request.

FDOT representatives are welcome to accompany the review team during the on-site activities, if you so choose. If you have any questions or concerns before the opening conference, please contact me at 202-366-1671, or via e-mail at john.day@dot.gov.

Thank you in advance for your assistance and cooperation as we undertake this process. We look forward to working with your staff.

Sincerely,



John Day
Program Manager for Policy
and Technical Assistance

cc: Yvette G. Taylor, Regional Administrator, FTA Region IV
Dee Foster, Regional Civil Rights Officer, FTA Region IV
Elizabeth Stutts, FDOT, Grant Programs Administrator

Florida Department of Transportation (FDOT)
Unified Certification Program Compliance Review

Enclosure 1

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

1. Current Memorandum of Understanding or similar documents forming the Florida Unified Certification Program (which should be signed by all members of the UCP).
2. The certification criteria/guidelines used in determining DBE eligibility.
3. Standard Operating Procedures or similar documents that explain the DBE certification process, including copies of the application used during certification, annual affidavits/updates, and personal net worth, etc.
4. A list of all firms certified, denied, and decertified or removed by the UCP in FYs 2016-current. The list must include:
 - a) the firm's city and state
 - b) the firm's ethnicity
 - c) the firm's gender
 - d) the date of site visit
 - e) the reasons for denial and/or decertification (e.g., size, PNW, control, etc.)
 - f) whether the denial decision was appealed to the UCP or USDOT
 - g) the result of the appeal
5. Explanation of the UCP appeals process(es). List the individuals involved in the appeals process and how they are selected.
6. Any third party complaints regarding DBE firms certified by the UCP and actions taken to resolve the matter.
7. Any Freedom of Information or similar request for certification information.
8. Any enforcement action against a DBE firm (e.g., suspension, debarment, etc.) regarding certification.
9. Access to FDOT's Electronic Diversity Management System to review their partners' certification information prior to the on-site.
10. Other pertinent information determined by staff to shed light on its UCP operations and procedures.



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

Headquarters

East Building, 5th Floor – TCR
1200 New Jersey Avenue, SE
Washington, DC 20590

May 29, 2019

Elizabeth Stutts
State Transit Manager
Florida Department of Transportation
605 Suwannee Street
Tallahassee, Florida 32399-0450

RE: Unified Certification Program (UCP) Compliance Review Final Report

Dear Ms. Stutts:

This letter concerns the Federal Transit Administration's (FTA) Disadvantaged Business Enterprise (DBE) Review of the Florida Department of Transportation's (FDOT) Unified Certification Program, conducted from February 12-14, 2019. Enclosed is a copy of the Final Report, which will be posted on FTA's website on our DBE page. As of the date of this letter, the Final Report is a public document and is subject to dissemination under the Freedom of Information Act of 1974.

FTA's Office of Civil Rights is responsible for ensuring compliance with 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation (DOT) Programs" by its grant recipients and subrecipients. As part of our ongoing oversight efforts, FTA conducts a number of on-site compliance reviews to ensure compliance with the applicable provisions of 49 CFR Part 26. FTA utilizes the findings from these reviews to provide technical assistance to transit agencies in order to achieve compliance with 49 CFR Part 26.

Unless otherwise noted, all corrective actions identified in the Final Report must be undertaken within 60 days of the date of this letter. Once we have reviewed your submissions, we will request either clarification or additional corrective action, or will close out the finding if your response sufficiently addresses the DBE requirements. Please submit your responses to me at john.day@dot.gov.

We appreciate the cooperation and assistance that you and your staff have provided us during this review, and we are confident FDOT will take steps to correct the deficiencies. If you have any questions about this matter, please contact Ed Birce at 202-366-1943 or via email at guljed.birce@dot.gov.

Sincerely,

John Day
Program Manager for Policy
and Technical Assistance

cc: Yvette Taylor, Regional Administrator, FTA Region 4
Dee Foster, Regional Civil Rights Officer, FTA Region 4