



U.S. Department of
Transportation

Office of the Secretary
of Transportation

400 Seventh St., S.W.
Washington, D.C. 20590

General Counsel

JAN 17 2003

Vicky A. Koch, Chief
Civil Rights Bureau
Montana Department of Transportation
2701 Prospect Avenue
PO Box 201001
Helena, MT 59620-1001

Dear Ms. Koch:

The Department of Transportation (DOT) has reviewed the Unified Certification Program (UCP) you submitted to us on behalf of the Montana Department of Transportation and other recipients of DOT financial assistance in Montana. The certification component of your DBE program, which is made part of the UCP, successfully accommodated the comments that DOT staff had provided to you.

Consequently, I am pleased to approve the Montana UCP as provided by the Department's disadvantaged business enterprise regulations (49 CFR §26.81(a)(4)). Please remember that any inconsistency or ambiguity in the UCP agreement shall be resolved by giving precedence to the following in this order: 49 CFR 23 and 26, USDOT Directives, DBE Program as approved by DOT and applicable Montana regulations.

We look forward to working with you as you implement the UCP, which should significantly reduce burdens on small businesses seeking to participate in the DBE program in Montana.

Sincerely yours,

Kirk K. Van Tine
General Counsel

February 12, 2002

Office of the Secretary
U.S. Dept of Transportation
400 Seventh St., S.W.
Washington, D.C. 20590

Subject: Montana Unified Certification Program (UCP)

Sir, in accordance with the U. S. Department of Transportation regulations (49 CFR Part 26), the Montana Department of Transportation (MDT) is submitting the following UCP for the jurisdiction of the State of Montana. This submission includes the following:

- Copy of the MDT UCP as excerpted from the MDT DBE Program;
- Copy of the MDT UCP Acceptance and Agreement form;
- Copy of the DBE Program Letter of Implementation as signed by the MDT Transportation Commission Chairman;
- Copy of the initial letters of approval for the MDT DBE Program;
- A list of all U.S. DOT recipients in the State of Montana subject to the DBE Program;
- Two copies of each agreement signed by recipients in the State of Montana; and
- One electronic version of each signed document (.pdf format) and electronic versions of unsigned documents.

The Montana UCP covers all U.S. DOT recipients in the jurisdiction of the State of Montana. As the lead agency, MDT maintains a staff of 2 persons to manage the administration of the DBE Program in addition to a third person to manage the DBE Supportive Services Program. All personnel have the support of the agency and its resources.

If you need any other information, please let me know.

Vicky A. Koch, Chief
Civil Rights Bureau

copies: Janice Brown, Administrator, FHWA – Montana Division
Russell McDonald, Administrator, MDT Human Resources

UNIFIED CERTIFICATION PROGRAM (UCP)

In accordance with 49 CFR §26.81(b), the Montana Department of Transportation will assume the responsibilities as the Unified Certification Program (UCP) Lead Agency. As the UCP Lead Agency, MDT will make all certification decisions on behalf of all DOT recipients (FHWA, FTA, and FAA) in the state of Montana with respect to participation in the USDOT DBE Program.

MDT will ensure that:

- As the UCP Lead Agency, MDT will follow all certification procedures outlined in 49 CFR §26, subparts D and E;
- As the UCP Lead Agency, MDT will cooperate fully with oversight, review, and monitoring activities of USDOT and its operating administrations; and
- As the UCP Lead Agency, MDT will implement DOT directives and guidance concerning certification matters.

Certification decisions by MDT will be binding on all DOT recipients in the state and shall provide “one-stop shopping” to applicants for certification, such that an applicant is required to apply only once for a DBE certification that will be honored by all recipients in the state.

MDT will carry out all obligations with respect to certification and nondiscrimination and ensure that recipients that are party to the UCP establish the same nondiscrimination obligations in their respective DBE Programs.

All certifications by MDT shall be pre-certifications; i.e., certifications that have been made final before the due date for bids or offers on a contract on which a firm seeks to participate as a DBE.

As the UCP Lead Agency, MDT is not required to process an application for certification from a firm having its principal place of business outside the state if a firm is not certified by the UCP in the state in which it maintains its principal place of business.

As the UCP Lead Agency, MDT will maintain a unified DBE directory containing, for all firms certified by MDT, the information required by 49 CFR §26.31. The DBE directory is available at the following website: www.mdt.state.mt.us/civilrights.

In order to be a party to the UCP, each recipient must complete, sign and forward the agreement in Attachment H to the following address:

Montana Department of Transportation
DBE Program UCP
PO Box 201001
Helena, MT 59620-1001

The undersigned, a duly appointed representative of the following agency:

(agency name)

agrees to and accepts the Unified Certification Program (UCP), as outlined in the Montana Department of Transportation DBE Program, and required by 49 CFR §26.81. By this agreement and acceptance, the above-named agency will ensure that:

- This agency will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR §26 on the basis of race, color, sex or national origin;
- This agency will not directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, sex, or national origin;
- Each financial assistance agreement this agency sign with a DOT operating administration (or a primary recipient) will include the following assurance:

“The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contracts or in the administration of its DBE program or the requirements of 49 CFR part 26. The recipient will take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT-assisted contracts. The recipient’s DBE Program, as required by 49 CFR §26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation, and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as approved for under part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 *et seq.*)”

- Each contract this agency signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) will include the following assurance:

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

- And this agency will accept all DBEs certified by MDT as certified for participation in this agency’s DBE Program.

(Signed)

(Dated)