

**EXHIBIT A**  
**LAUCP CERTIFICATION PLAN AND PROCESS**

**I. OVERVIEW**

In February 1999, the U. S. Department of Transportation (DOT) issued new Disadvantaged Business Enterprise (DBE) regulations, Title 49 of the Code of Federal Regulations, (CFR) Part 26, to provide uniform requirements from the DOT. A major component in the new regulation is for all recipients who receive DOT funding to develop a Unified Certification Program (UCP) for certifying small socially and economically disadvantaged businesses. To the extent an inconsistency may exist between this Plan and Process and 49 CFR 23 and 26, as amended; 49 CFR 23 and 26, as amended, shall control. The process must be defined and submitted to the Secretary of Transportation by March 4, 2002.

**II. RECIPIENTS**

This program affects the Louisiana DOTD and direct FTA and FAA recipients who will award prime contracts exceeding \$250,000 in FTA or FAA funds in a year. The following list of recipients has been identified, contacted and afforded the opportunity to participate in the planning, development and implementation of Louisiana's Unified Certification Program.

City of Abbeville	Port Fourchon
Acadia Airport District #1 (Le Gros)	Town of Franklinton
Acadiana Regional Airport	Harry P. Williams Memorial Airport
Airport Com. Of Airport District	Hammond Northside Regional Airport
Alexandria International Airport	City of Hammond
City of Alexandria	Town of Homer
Allen Parish Police Jury	Houma Terrebonne Airport Comm.
Avoyelles Parish Police Jury	Iberia Parish Government
Assumption Parish Police Jury	IMCAL
Baton Rouge Metro. Airport	Jefferson Davis Parish Police Jury
Beauregard Parish Airport District	Jefferson Parish Transit
Bunkie Municipal Airport	Jonesville Municipal Airport
Caldwell Parish Police Jury	Lafayette Airport Commission
Capital Area Transit System	Lafayette Parish Consolidated Govt.
Capital Region Planning Commission	LaSalle Parish Police Jury
Capital Transportation Corp.	City of Lake Charles
Chennault International Airport	City of Leesville
Claiborne Parish Police Jury	LA DOTD
Concordia Parish Airport	LA Regional Airport
Delhi Municipal Airport	Madison Parish Police Jury
DeSoto Parish Police Jury	Marksville Municipal Airport
City of DeQuincy	Monroe Regional Airport
City of Donaldsonville	New Orleans Aviation Board
City of Eunice	Orleans Levee District
False River Regional Airport	Town of Many

City of Minden  
City of Monroe  
Olla Airport  
Plaquemine Parish Government  
Pointe Coupee Parish Police Jury  
Town of Rayville  
Red River Parish Police Jury  
Regional Transit Authority  
River Parishes Transit Authority  
City of Ruston  
St. Bernard Urban Rapid Transit  
St. James Parish Council  
St. John the Baptist Airport  
St. Martin Parish  
St. Mary Parish Government  
St. Tammany Parish Government  
St. Landry Parish Airport  
Scott Airport

Shreveport Downtown Airport  
Shreveport Regional Airport  
City of Slidell  
South Central Planning & Develop.  
Southland Field  
Springhill Airport  
Tangipahoa Parish Council  
Terrebonne Parish  
Union Parish Police Jury  
Vernon Parish Police Jury  
Town of Vivian  
Webster Parish Police Jury  
West Carroll Parish Airport Authority  
City of West Monroe  
City of Winnfield  
Winnsboro Municipal Airport  
Regional Planning Com. (Orleans)

### **III. IMPACT**

The Federal Regulation, 49 CFR 26 requires the establishment of a single uniform process, or one stop shopping for DBE applications, certifications, and development of a single point DBE directory. The UCP will not establish, recommend, or alter the DBE Plan and Program of any recipient, other than to supplement an approved plan. The development of a DBE goal, administration, monitoring, and reporting remains the sole responsibility of the recipient agency.

### **IV. PURPOSE OF CERTIFICATION**

The purpose of certification is to ensure that only small businesses independently owned and controlled in both substance and form by one or more socially and economically disadvantaged persons participate in the LAUCP DBE Program. These businesses must meet all eligibility standards set forth in 49 CFR 26, subpart D, as amended.

The Certifying Agencies are responsible for determining and certifying the eligibility of all businesses seeking to participate as DBEs on federally assisted transportation related contracts.

### **V. DEFINITIONS**

The LAUCP shall adhere to the definitions set forth in the Federal Regulation, 49 CFR 26.5.

A. Certifying Agency means a recipient with the authority to perform DBE certification. The Certifying Agencies in the State of Louisiana are the Louisiana Department of Transportation and Development, the Louis

Armstrong New Orleans International Airport, the Orleans Levee District, and the New Orleans Regional Transit Authority. Each agency will certify within the regions identified in the UCP agreement.

- B. Concessionaire means a firm that owns and controls a concession or a portion of a concession, as defined by 49 CFR 23
- C. Grandfathering means that all firms mutually agreed upon by the UCP committee and certified at the time of merger of the individual directories shall remain certified at the time of program implementation or at such date determined by the UCP executive committee. In such instance where a firm has multiple certification anniversary dates the earliest certification date shall be used for purposes of recertification and annual updates.
- D. LA DOTD means the Louisiana Department of Transportation and Development.
- E. Principal Place of Business/Home State means the business location where the individuals who manage the firm's day-to-day operations spend most working hours and where top management's business records are kept. If the offices from which management is directed and where business records are kept are in different locations, the Certifying Agency will determine the principal place of business for DBE program purposes.

## **VI. LAUCP CERTIFICATION PROCESS**

- A. Application - The certification application will be provided upon request by any Certifying Agency to businesses seeking recognition as a DBE. It is the responsibility of the applicant for certification to submit the required information in a notarized statement under penalty of perjury. Information on eligibility and instructions for completing and furnishing information and documentation that establishes whether each applicant meets the DBE eligibility standards (business size, ownership and control) are included in the application designated as Schedule A.

Applications for certification, along with accompanying documentation shall be examined and evaluated by the Certifying Agency. A determination is reached regarding a firm's eligibility based on whether or not the applicant meets the business size, social and economic disadvantage, ownership, and control requirements. The eligibility standards and guidelines used in making the determinations are included in the regulation (49 CFR 26). Decisions on applications for certification will be made within 90 days of receiving a complete application. The Certifying Agency may extend this time period once, for an additional 60 days, upon written notice to the firm, explaining fully and specifically the reasons for the extension.

- B. Desk Audit – At minimum, the following documents will be reviewed prior to a certification decision:

- Personal Net Worth Statement (current within 6 months)
- Statement of Social Disadvantage
- Organizational Documents
- Status of Marital Regime and Division of Property Statement
- Initial Contributions
- Stock Certificates (if applicable)
- Organizational Tax Returns for the past 3 years for the applicant firm and any affiliated and subsidiary firms
- Owner(s) Individual tax returns for the past three years
- Company financial statements
- Resumes for the principal owners and key staff\ members
- Equipment (owned and accessible)
- Work History of the applicant company
- Bonding and financial capability of the firm

C. On-site and project site reviews - The Certifying Agency must perform a site visit to the office of the applicant and to any job site which the firm is working at the time of the eligibility investigation. Principals of the applicant firm must be interviewed. Office and job site visits may be omitted from the investigation in any of the following situations:

1. If a firm has obtained certification by a DOT recipient in its home state prior to applying with a Certifying Agency in Louisiana. On-site reviews may be conducted on firms whose principal place of business is not within Louisiana.
2. If the Certifying Agency, in its discretion, accepts the certification of another DOT recipient, who included site visits conforming to the regulations.
  - a. The Certifying Agency will contact the appropriate UCP personnel in the state of the applicant's principal place of business for the on-site review report and related documents.
  - b. If the home state's on-site review is more than three years old, the Certifying Agency can request the home state to conduct an updated on-site review. If, however, due to budget or time constraints, the home state cannot, the Certifying Agency can require the applicant firm to provide an affidavit stating that all

facts in the last report conducted by the home state remain true and correct.

- D. Verification of Eligibility - It is the Certifying Agency's responsibility to verify that the applicant meets all the eligibility standards of 49 CFR 26. Each file shall be reviewed to determine if the business is approved, denied or deferred.

If certification is approved, the business shall be added to the LAUCP's directory of certified businesses.

If certification is denied, the applicant will be notified of the decision in writing, detailing the specific reasons for denial.

If certification is deferred, additional information will be requested prior to making a determination or, if the applicant has not responded to a request for information, the file will be closed. After six months, a new application will be required.

## **VII. CERTIFICATION STANDARDS**

- A. The major requirements for certification may be found in 49 CFR 26, Subpart D.

## **VIII. DEALERS, MATERIAL SUPPLIERS AND MANUFACTURERS**

- A. Commercially useful function, normally a counting concept will be considered by the certifying agency in administering contracts to evaluate the firm's method of supplying materials. In accordance with the requirements of commercially useful function as defined in 49 CFR 26.55, standard industry practices will be taken into account when considering a firm's method of supplying products. However, when standard industry practices violate DBE program requirements, DBE program requirements will prevail. It is the responsibility of the recipient to determine whether a DBE is performing a commercially useful function.
- B. In order for a firm to qualify as a DBE supplier of metal and/or concrete pipe for highway, street and bridge construction and maintenance, the firm must also manufacture the pipe. Metal and/or concrete pipe is specialty pipe which is project specific, and is inspected during the manufacturing process. This arrangement provides for no warehousing of metal or concrete pipe, and essentially requires the manufacturer to be the supplier. Merely ordering pipe from the fabricator, and in turn selling it to contractors, is not consistent with normal industry practice.

## **IX. TRUCKERS**

To be DBE certified, trucking firms must own at least one fully operational truck. The owner is not required to drive the truck and may hire drivers. The truck must have a current registration and be properly licensed. The owner of the trucking firm must also meet all other eligibility requirements

## **X. CONCESSIONAIRES**

### **A. Process and Net Worth**

The certification process for applicants seeking to be recognized as a concessionaire is the same as the process set forth in Section VII of this Plan. However, concessionaire applicants are not required to submit personal net worth statements, but must submit all other documents required by this plan and 49 CFR Parts 23 and 26, as amended.

### **B. Size Standards**

An eligible DBE concessionaire cannot exceed the size standards outlined in Appendix A to subpart F of 49 CFR 23.

### **C. Franchise and License Agreement**

A business operating under a franchise or license agreement may be certified if it meets the standards outlined in this plan and the franchiser is not an affiliate with the franchisee. In determining whether affiliation exists, the restraints relating to standardized quality advertising, accounting format and other provisions imposed on a franchisee by its franchise agreement generally will not be considered, provided that the franchisee has the right to profit from its efforts and bears the risk of loss commensurate with ownership. Alternatively, even though a franchisee may not be controlled by the franchiser by virtue of such provisions in the franchise agreement. Control, and therefore affiliation, could arise through other means, such as common management and excessive restrictions upon the sale of the franchise interest.

### **D. Ineligible Arrangements**

Arrangements which are ineligible for DBE certification include limited partnerships in which a non-DBE is the general partner, and other arrangements that do not provide for ownership and control by the socially and economically disadvantaged owner(s).

## **XI DISPUTE RESOLUTION OF CERTIFICATION**

- A. The Executive Committee, comprised of a representative of each of the 4 Certifying Agencies and two at large members, shall reconcile disputes among the Certifying Agencies with respect to certification. The resolution of such disputes will be decided by the Executive Committee. The certifying agency that certified a disputed firm shall recuse itself from the process. If a voting certifying agency member cannot attend, it must send a representative with a proxy. In the event of a tie vote, the Chairman of the Committee will make the final decision.

## **XII. DENIALS OF CERTIFICATION**

- A. When a Certifying Agency determines a business to be ineligible for certification, the Certifying Agency will notify the firm, in writing. The letter shall provide an explanation or basis for the denial, specifically referencing the applicable regulations and the evidence in the record that supports each reason for the denial.

All certification denials are administratively final and conclusive at the state level. The applicant firm may appeal the decision, in writing, within 90 days of the date of LAUCP's decision to the U.S. Department of Transportation. The appeals shall be addressed to the U.S. Department of Transportation, Departmental Office of Civil Rights, Certification Appeals Branch, 1200 New Jersey Avenue, SE W-35, Washington, D.C. 20590. The Certifying Agency will promptly implement any DOT certification appeal decisions affecting the eligibility of the applicant, if DOT overturns the certifying agency's decision.

1. **EXCEPTION.** If an out of state firm is denied by a Certifying Agency they must be afforded appeal rights as outlined in Section XIII, D Informal Hearings, pursuant to 49 CFR 26.85.
- B. A firm that is denied certification cannot reapply for certification to any Certifying Agency for a period of twelve months after a final decision has been rendered.

## **XIII. DECERTIFICATION**

- A. Third Party Challenges
  1. Any person may challenge the eligibility of a firm that has been certified. A written complaint which includes information and arguments supporting a complainant's allegations of ineligibility must be accepted by a Certifying Agency. The complainant's identity must be kept confidential in accordance with 49 CFR

26.109 (b).

2. A recipient, a Certifying Agency, or DOT may initiate a challenge in the event information is discovered which suggest that a firm, certified pursuant to this Plan, may not be eligible for certification.
3. Regardless of whether a challenge is initiated by a third party, a recipient, a Certifying Agency, or DOT decertification proceedings must be initiated.

B. Failure to Submit No Change Annual Affidavits

1. If a firm fails to submit a no change annual affidavit prior to the firm's anniversary date, the certifying agency will initiate decertification proceedings. The firm will be notified in writing of their failure to cooperate, and will be allowed 14 days to respond to the intent to decertify.
2. The process followed will be the same as addressed in section D. Informal Hearings, F. Appeal Rights, and G. Re-Application mentioned below.

C. Agency Review

1. The Certifying Agency must review its records, the material provided by a complainant and any other relevant information to determine whether there is reasonable cause to believe that a certified firm is ineligible.
2. After the Certifying Agency completes its review, written notice must be provided to the firm about the proposed action.
3. The written notice must contain the reason for the proposed finding and the notice must make specific reference to the evidence in the record supporting a proposed finding.

D. Informal Hearings

Proceedings to decertify a firm shall be commenced in accordance with 49 CFR 26.87.

1. The DBE firm shall be offered an opportunity to present evidence in support of continued eligibility for DBE certification at an informal hearing.

2. The hearing shall be conducted before the Executive Committee of the LAUCP. Representatives of the Certifying Agency which investigated the challenge and/or made the decision to propose decertification shall not participate in making a decision to remove the firm from eligibility. There shall be an administrative firewall between the proponents of decertification and the decision makers.
3. There must be a written record of the proceedings. A court reporter will provide a transcript with the certifying agency who initiated the decertification being responsible for the cost. The Executive Committee will issue a written decision. The decision will be provided to the firm and the certifying agency.

E. Personal Net Worth

If the reason that a Certifying Agency proposes decertification is that the owner's Personal Net Worth is in excess of the limits set forth in the applicable regulations, the Certifying Agency shall notify the owner in writing of the firm's decertification. No further action shall be taken by the Certifying Agency and/or LAUCP. A firm decertified pursuant to this process shall have the right to appeal to the U.S. Department of Transportation.

F. Appeal Rights

1. Any firm may appeal a decertification decision, in writing, to the U.S. Department of Transportation within 90 days of the date of the LAUCP's decision.

U.S. Department of Transportation  
Departmental Office of Civil Rights  
Certification Appeals Branch  
1200 New Jersey Avenue, SE W-35  
Washington, D.C. 20590

2. A firm that is decertified remains ineligible during its appeal process to U. S. DOT.

The LAUCP shall promptly implement any decisions rendered by U. S. DOT.

G. Re-Application

A firm that is decertified cannot re-apply for certification to any Certifying Agency for a period of twelve (12) months after a final decision has been rendered.

#### **XIV. NO CHANGE AFFIDAVITS (ANNUAL UPDATES)**

- A. Once certified, a DBE must update its submission every year by submitting a notarized affidavit of no change, and supporting documents such as corporate and individual tax returns and an update personal net worth statement, pursuant to 49 CFR 26.83(j) which affirms its continued ability to meet the eligibility requirements of the program. The Certifying Agency that processed the original application for the firm will be responsible for all notices and processing of all annual updates.
- B. Out of state firms must provide a copy of the most recent home states certification approval.
- C. A firm is required to notify the Certifying Agency of all circumstances which affect the firm's ability to meet the size, disadvantaged status, ownership or control within 14 days of the change.
- D. On-site reviews may be conducted on firms every three years from the date of their last on-site visit. Each Certifying Agency reserves the right to conduct on-site reviews at any time they deem necessary.

#### **XV. CONFIDENTIALITY**

The LAUCP will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information consistent with Federal and State laws. Louisiana's Public Records Act, safeguards certain information from release and LAUCP will not release personal financial information submitted in response to the personal net worth as contained in the certification application to a third party, (does not apply to US DOT) without expressed written consent.