

SECTION 6 – ISSUES AND RECOMMENDATIONS

DBE Policy Statement

Basic Requirement: (49 CFR Part 26.23) Recipients must formulate and distribute a signed and dated DBE policy, stating objectives and commitment to the DBE program. This policy must be circulated throughout the recipients' organization and to the DBE and non-DBE business communities.

Discussion: During this review, deficiencies were found with requirements for a policy statement. UDOT has a policy statement outlining the DBE program and responsibilities of the Civil Rights Manager and Resident Engineer. The policy statement is posted on UDOT's website on the Civil Rights page in Portable Document Format. Neither the policy statement in the DBE program plan nor on the website includes a signature from the Executive Director. The UDOT DBE Program Plan effective October 1, 2004 was submitted for the review. The policy statement in the DBE program contained the date October 1, 2004 in the heading and March 17, 2005 above the Executive Director's name. The policy statement on the website was not dated.

The DBE program plan indicated that the policy statement is a part of the DBE Special Provisions and is distributed to every potential contractor, subcontractor, supplier, or service provider that examines the specifications and bidding documents on DOT-assisted projects.

Corrective Action and Schedule: Within 60 days, UDOT must submit to Region VIII Civil Rights Officer evidence that UDOTs has a signed and dated policy statement.

Recipient Response: UDOT will update the DBE Policy Statement and submit a signed copy to the Region VIII Civil Rights Officer. Response projected completion date 7/31/09.

DOT Response: DOT partially concurs with recipient response. The Region VIII Civil Rights Officer has not received information. For finding to be closed, submit signed and dated DBE Policy Statement to Region VIII Civil Rights Officer by November 1, 2010.

DBE Liaison Officer

Basic Requirement: (49 CFR Part 26.25) Recipients must have a designated DBE liaison officer who has direct and independent access to the CEO. This liaison officer is responsible for implementing all aspects of the DBE program and must have adequate staff to properly administer the program.

Discussion: During this DBE Compliance Review, deficiencies were found with the requirement for the DBE Liaison Officer. The DBE Program Plan states the DBE Liaison Officer is the Civil Rights Manager, who has direct, independent access to the Executive Director concerning DBE program matters. Denice Graham is identified as the DBE Liaison Officer for UDOT. An organizational chart was provided to the review

team to identify reporting relationships in the organization. Denice Graham reports directly to Kris Peterson, Director for Construction & Materials. Kris Peterson reports directly to Jim McMinimee, Director of Project Development. Jim McMinimee reports directly to the Deputy Director, Carlos Braceras who reports directly to John Njord, Executive Director of UDOT. The organizational chart did not include a dotted line reporting access to the Executive Director concerning DBE matters. The Civil Rights Manager, Denice Graham, indicated that she did not have direct independent access to the Executive Director regarding DBE matters.

Her responsibilities include implementing all aspects of UDOT's DBE program and ensuring that UDOT complies with all provisions of 49 CFR Part 26. The program plan states that UDOT will have adequate staff to administer the program in compliance with this part. The Civil Rights Manager has a staff of two (2) professional employees assigned to the DBE program on a full-time basis. There is at least one Contract Specialist in the four regions of UDOT who devote a portion of their time monitoring the DBE Program. The Resident Engineer or the Consulting Engineer is responsible to enforce the specifications of the project.

Corrective Action and Schedule: Within 60 days, UDOT must submit to Region VIII Civil Rights Officer evidence that the DBE Liaison Officer has direct and independent access to the Executive Director in form and substance.

Recipient Response: UDOT will provide a letter from the Executive Director, John Njord as evidence of his open door policy at any time for independent access for the DBE Liaison Officer/Civil Rights Manager, Denice Graham to the Executive Director. In addition, UDOT will submit confirmation that a meeting concerning DBE issues was accomplished.

DOT Response: DOT partially concurs with recipient response. The Region VIII Civil Rights Officer has not received noted information. For this finding to be closed, submit information evidencing Executive Director's open door policy for DBE Liaison Officer concerning DBE matters to Region VIII Civil Rights Officer by November 1, 2010.

Financial Institutions

Basic Requirement: (49 CFR Part 26.27) Recipients must investigate the existence of DBE financial institutions and make efforts to utilize them. Recipients must encourage prime contractors to use these DBE financial institutions.

Discussion: During this DBE Compliance Review, an advisory comment was made with the requirements for financial institutions. The UDOT DBE Program Plan states they will investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in its community and make reasonable efforts to use these institutions. It also states that UDOT will encourage prime contractors to use such institutions. The plan stated that UDOT contacted the Division of Financial Institutions to determine the firms that may be owned and controlled by minorities and women. Only State chartered financial institutions were