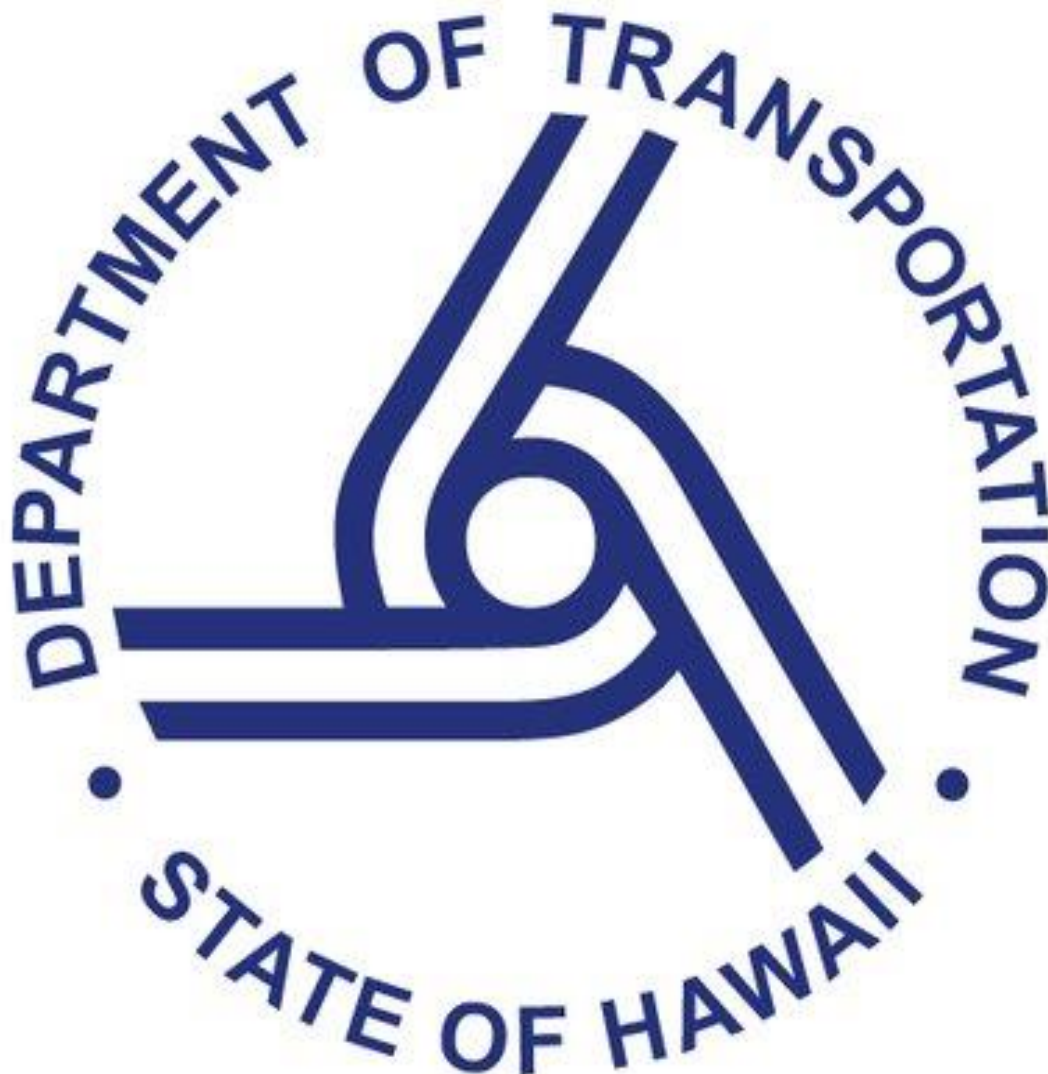


**Hawaii Department of Transportation
Federal Aviation Administration
Airport Concession
Disadvantaged Business Enterprise
Program Plan**



December 2024

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POLICY STATEMENT

Section 23.1, 23.23 - Objectives/Policy Statement

The Hawaii Department of Transportation (HDOT) has established an Airport Concession Disadvantaged Business Enterprise (ACDBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 Code of Federal Regulations (CFR) Part 23.

The following ACDBE program plan covers the following HDOT Airports:

- Daniel K. Inouye International Airport (HNL) – Large Hub Primary Airport
- Kahului Airport (OGG) – Medium Hub Primary Airport
- Ellison Onizuka Kona International Airport at Keahole (KOA) – Small Hub Primary Airport
- Hilo International Airport (ITO) – Small Hub Primary Airport
- Lihue Airport (LIH) – Non-hub Primary Airport
- Molokai Airport (MKK) – Non-hub Primary Airport

HDOT has received federal funds authorized for airport development after January 1988 (authorized under Title 49 of the United States Code (U.S.C.)). HDOT has signed airport grant assurances that it will comply with 49 CFR Part 23.

It is the policy of HDOT to ensure that ACDBEs as defined in Part 23 have an equal opportunity to receive and participate in concession opportunities. It is also HDOT's policy:

1. To ensure nondiscrimination in the award and administration of opportunities for concessions by airports receiving USDOT financial assistance;
2. To create a level playing field on which ACDBEs can compete fairly for opportunities for concessions;
3. To ensure that our ACDBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as ACDBEs;
5. To help remove barriers to the participation of ACDBEs in opportunities for concessions our airport(s);
6. To promote the use of ACDBEs in all types of concessions activities at our airport(s);
7. To assist the development of firms that can compete successfully in the marketplace outside the ACDBE program; and
8. To provide appropriate flexibility to airports receiving USDOT financial assistance in establishing and providing opportunities for ACDBEs.

Daniel Williams, DBE Program Supervisor has been delegated as the ACDBE Liaison Officer. In that capacity, Daniel Williams, DBE Program Supervisor is responsible for implementing all aspects of the ACDBE program. Implementation of the ACDBE program is accorded the same priority as compliance with all other legal obligations incurred by HDOT in its financial assistance agreements with the USDOT.

HDOT has disseminated this policy statement to its political subdivisions and all the components of our organization. HDOT will distribute this statement to ACDBE and non-ACDBE concessionaire communities in our area. The distribution will be accomplished by including it in all contract provisions for federal aid projects, and projects and disseminated throughout HDOT and to DBE and non-DBE business communities that perform work on USDOT-assisted contracts.



EDWIN H. SNIFFEN
Director of Transportation

Nov 20, 2024

Date

GENERAL REQUIREMENTS

Section 23.1 - Objectives

The objectives are found in the policy statement on the first page of this program.

Section 23.3 - Definitions

HDOT will use terms in this program that have the meaning defined in 49 CFR Part 23 § 23.3 and Part 26 § 26.5 where applicable.

Section 23.5 - Applicability

HDOT is a sponsor of federal airport funds authorized for airport development after January 1988 that was authorized under Title 49 of the U.S.C.

Section 23.9 - Non-discrimination Requirements

HDOT 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 concession agreement, management contract or subcontract, purchase or lease agreement or other agreement covered by 49 CFR Part 23 based on race, color, sex, or national origin.

In administering its ACDBE program, HDOT 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 ACDBE program with respect to individuals of a particular race, color, sex, or national origin.

HDOT will include the following assurances in all concession agreements and management contracts it executes with any firm:

“This agreement is subject to the requirements of the U.S. Department of Transportation's regulations, 49 CFR Part 23. The concessionaire or contractor agrees that it will not discriminate against any business owner because of the owner's race, color, national origin, or sex in connection with the award or performance of any concession agreement, management contract, or subcontract, purchase or lease agreement, or other agreement covered by 49 CFR Part 23.

The concessionaire or contractor agrees to include the above statements in any subsequent concession agreement or contract covered by 49 CFR Part 23, that it enters and cause those businesses to similarly include the statements in further agreements.”

Section 23.11 - Compliance and Enforcement

HDOT acknowledges that the compliance and enforcement provisions of 49 CFR Part 26 (§ 26.101 and § 26.105 through § 26.109) apply to the concessions program under Part 23 in the same way that they apply to Federal Aviation Administration (FAA) recipients and programs under Part 26.

ACDBE PROGRAM

Section 23.21 - ACDBE Program Updates

HDOT is the operator of at least one primary airport and is required to have an ACDBE program. This ACDBE program is applicable to the following airport(s):

- HNL – Large Hub Primary Airport
- OGG – Medium Hub Primary Airport
- KOA – Small Hub Primary Airport
- ITO – Small Hub Primary Airport
- LIH – Non-hub Primary Airport
- MKK – Non-hub Primary Airport

Although the program applies to all of the above airports, HDOT will submit a separate goal methodology for each primary airport.

Prior to implementing significant changes to this ACDBE program, HDOT will provide the amended program to FAA for review and approval.

Section 23.23 - Administrative Provisions

Policy Statement: HDOT is committed to operating its ACDBE program in a nondiscriminatory manner. The policy statement is elaborated on the first page of this program.

HDOT will thoroughly investigate, on an annual basis, the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community and make reasonable efforts to use these institutions. HDOT will also encourage prime concessionaires to use such institutions.

ACDBE Liaison Officer (ACDBELO): HDOT has designated the following individual as our ACDBELO:

Daniel Williams
DBE Program Supervisor
Hawaii Department of Transportation, Office of Civil Rights
200 Rodgers Boulevard
Honolulu, Hawaii 96819
Phone: 808-831-7914/Fax: 808- 831-7944
TTY: 808- 808-831-7931
Email: HDOT-DBE@hawaii.gov

In that capacity, the ACDBELO is responsible for implementing all aspects of the ACDBE program and ensuring that HDOT complies with all provision of 49 CFR Part 23. The ACDBELO has direct, independent access to the HDOT Director of Transportation concerning ACDBE program matters. An organizational chart displaying the ACDBELO's position in the organization is found in Attachment A to this program.

The ACDBELO is responsible for developing, implementing, and monitoring the ACDBE program, in coordination with other appropriate officials. The ACDBELO will have a staff of one to assist in the administration of the program. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by FAA or USDOT.
2. Works with all departments to set overall annual goals.
3. Ensures that bid notices and requests for proposals are available to ACDBEs in a timely manner.
4. Identifies contracts and procurements so that ACDBE goals are included in solicitations (both race-neutral methods and contract specific goals)
5. Analyzes HDOT's progress toward attainment and identifies ways to improve progress.
6. Participates in pre-bid meetings.
7. Advises the governing body on ACDBE matters and achievement.
8. Chairs the ACDBE Advisory Committee.
9. Provides ACDBEs with information and assistance in preparing bids, obtaining bonding, financing, and insurance; acts as a liaison to the Office of Small and Disadvantage Business Utilization-Minority Resource Center.
10. Plans and participates in ACDBE training seminars.
11. Acts as liaison to the Unified Certification Program (UCP) in Hawaii.
12. Provides outreach to ACDBEs and community organizations to advise them of opportunities.
13. Maintains HDOT's updated directory on certified ACDBEs and distinguishes them from DBEs.

Directory: Hawaii UCP maintains a directory identifying all firms eligible to participate as DBEs and ACDBEs. The directory lists the firm's name, address, phone number, date of the most recent certification, and the type of work the firm has been certified to perform as an ACDBE. The directory clearly specifies whether a firm is certified as a DBE for purposes of Part 26, an ACDBE for purposes of Part 23, or both.

Section 23.25 - Ensuring Nondiscriminatory Participation of ACDBEs

HDOT will not use set-asides or quotas as a means of obtaining ACDBE participation.

HDOT will seek ACDBE participation in all types of concession activities.

HDOT will maximize the use of race-neutral measures, obtaining as much as possible of the ACDBE participation needed to meet overall goals through such measures. HDOT will take the following measures to ensure nondiscriminatory participation of ACDBEs in concessions, and other covered activities CFR 49 § 23.25(a):

Race-neutral measures may include but are not limited to:

1. Locating and identifying ACDBEs and other small businesses who may be interested in participating as concessionaires under this part;

2. Notifying ACDBEs of concession opportunities and encouraging them to compete, when appropriate;
3. When practical, structuring concession activities to encourage and facilitate the participation of ACDBEs;
4. Providing technical assistance to ACDBEs in overcoming limitations, such as inability to obtain bonding or financing;
5. Ensuring that competitors for concession opportunities are informed during pre-solicitation meetings about how the recipient's ACDBE program will affect the procurement process;
6. Providing information concerning the availability of ACDBE firms to competitors to assist them in obtaining ACDBE participation; and
7. Establishing a business development program (see 49 CFR Part 26 § 26.35); technical assistance programs; or taking other steps to foster ACDBE participation in concessions.

HDOT will also provide for the use of race-conscious measures when race-neutral measures, standing alone, are not projected to be sufficient to meet an overall goal. The following are examples of race-conscious measures HDOT will implement, as needed:

1. Establishing concession-specific goals for applicable concession opportunities.
 - a. In setting concession-specific goals for concession opportunities other than car rental, HDOT will explore, to the maximum extent practicable, all available options to set goals that concessionaires can meet through direct ownership arrangements. A concession-specific goal for any concession other than car rental may be based on purchases or leases of goods and services only when the analysis of the relative availability of ACDBEs and all relevant evidence reasonably supports that there is *de minimis* availability for direct ownership arrangement participation for that concession opportunity.
 - b. In setting car rental concession-specific goals, HDOT will not require a car rental company to change its corporate structure to provide for participation via direct ownership arrangement. When the overall goal for car rental concessions is based on purchases or leases of goods and services, HDOT is not required to explore options for direct ownership arrangements prior to setting a car rental concession-specific goal based on purchases or leases of goods and services.
 - c. If the objective of the concession-specific goal is to obtain ACDBE participation through a direct ownership arrangement with an ACDBE, HDOT will calculate the goal as a percentage of the total estimated annual gross receipts from the concession.
 - d. If the goal applies to purchases or leases of goods and services from ACDBEs, HDOT will calculate the goal as a percentage of the total estimated dollar value of all purchases to be made by the concessionaire.
 - e. When a concession-specific goal is set, HDOT will require competitors to make good faith efforts to meet this goal. A competitor may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so.
 - f. The administrative procedures applicable to contract goals in CFR 49 § 26.51 through 26.53 apply with respect to concession-specific goals.

- g. In setting car rental concession-specific goals, HDOT will not require a car rental company to change its corporate structure to provide for participation via direct ownership arrangement. When the overall goal for car rental concessions is based on purchases or leases of goods and services, HDOT is not required to explore options for direct ownership arrangements prior to setting a car rental concession-specific goal based on purchases or leases of goods and services.
 - h. If the objective of the concession-specific goal is to obtain ACDBE participation through a direct ownership arrangement with an ACDBE, HDOT will calculate the goal as a percentage of the total estimated annual gross receipts from the concession.
 - i. If the goal applies to purchases or leases of goods and services from ACDBEs, HDOT will calculate the goal as a percentage of the total estimated dollar value of all purchases to be made by the concessionaire.
 - j. When a concession-specific goal is set, HDOT will require competitors to make good faith efforts to meet this goal. A competitor may do so either by obtaining enough ACDBE participation to meet the goal or by documenting that it made sufficient good faith efforts to do so.
 - k. The administrative procedures applicable to contract goals in CFR 49 § 26.51 through § 26.53. apply with respect to concession-specific goals.
2. Negotiate with a potential concessionaire to include ACDBE participation, through direct ownership arrangements or measures, in the operation of the non-car rental concessions.
 3. With the prior approval of FAA, other methods that take a competitor's ability to provide ACDBE participation into account in awarding a concession.

HDOT requires businesses subject to car rental and non-car rental ACDBE goals at the airport to make good faith efforts to meet goals set pursuant to this section.

Section 23.26 - Fostering Small Business Participation

HDOT has created a small business element to provide for the structuring of concession opportunities to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of concession opportunities that may preclude small business participation in solicitations.

The small business element is incorporated as Attachment I to this ACDBE Program. The program elements will be actively implemented to foster small business participation. HDOT acknowledges that active use of the small business element is a requirement of the good faith implementation of this ACDBE program.

HDOT will submit an annual report on small business participation obtained using this small business element.

Section 23.27 - Reporting

HDOT will retain sufficient basic information about our ACDBE program implementation, ACDBE certification and the award and performance of agreements and contracts to enable the FAA to determine our compliance with Part 23. This data will be retained for a minimum of three years following the end of the concession agreement or other covered contract.

HDOT will submit an annual report on ACDBE participation to the FAA by March 1st following the end of each fiscal year. This report will be submitted in the format acceptable to the FAA and contain all of the information described in the Uniform Report of ACDBE Participation.

HDOT will create and maintain active participants list information and enter it into a system designated by the FAA. HDOT will collect the following information about ACDBE and non-ACDBEs who seek to work on each of our concession opportunities.

1. Firm name;
2. Firm address including ZIP code;
3. Firm status as an ACDBE or non-ACDBE;
4. Race and gender information for the firm's majority owner;
5. NAICS code applicable to the concession contract in which the firm is seeking to perform;
6. Age of the firm; and
7. The annual gross receipts of the firm.

HDOT will collect the data from all active participants for concession opportunities by requiring the information to be submitted with their proposals or initial responses to negotiated procurements. HDOT will enter this data in FAA's designated system no later than March 1st following the fiscal year in which the relevant concession opportunity was awarded.

The state department of transportation in each UCP established pursuant to 49 CFR § 26.81 must report certain information from the UCP directory to USDOT's Departmental Office of Civil Rights each year. HDOT, if a certifying member of the state UCP, ensures the collection and reporting of the following information in the UCP directory:

1. The number and percentage of in-state and out-of-state ACDBE certifications for socially and economically disadvantaged by gender and ethnicity (Black American, Asian-Pacific American, Native American, Hispanic American, Subcontinent-Asian Americans, and non-minority);
2. The number of ACDBE certification applications received from in-state and out-of-state firms and the number found eligible and ineligible;
3. The number of decertified firms;
 - a. Total in-state and out-of-state firms decertified;
 - b. Names of in-state and out-of-state firms decertified because SEDO exceeded the personal net worth cap;
 - c. Names of in-state and out-of-state firms decertified for excess gross receipts beyond the relevant size standard.
4. Number of in-state and out-of-state ACDBEs summarily suspended;
5. Number of in-state and out-of-state ACDBE applications received for an individualized determination of social and economic disadvantage status; and
6. Number of in-state and out-of-state ACDBEs whose owner(s) made an individualized showing of social and economic disadvantaged status.

Section 23.29 - Compliance and Enforcement Procedures

HDOT will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 23.

1. HDOT will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the program, so that the USDOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 49 CFR Part 26 § 26.107.
2. HDOT will consider similar action under our own legal authorities, including responsibility determinations in future contracts. HDOT has listed the regulations, provisions, and contract remedies available to us in the events of non-compliance with the ACDBE regulation by a participant in our procurement activities (Refer to Attachment D).

CERTIFICATION AND ELIGIBILITY

Section 23.31 - Certification Standards and Procedures

HDOT is a certifying member of the Hawaii UCP. HDOT will use the certification standards of Subpart C of Part 23 to determine the eligibility of firms to participate as ACDBEs in airport concessions contracts. To be certified as an ACDBE, a firm must meet all certification eligibility standards. HDOT makes all certification decisions based on the facts as a whole. Detailed certification processes are described in the Hawaii UCP agreement. The full UCP agreement is located in Attachment G.

The Hawaii UCP directory of eligible ACDBEs specifies whether a firm is certified as a DBE for purposes of Part 26, an ACDBE for purposes of Part 23, or both.

For information about the certification process or to apply for certification, firms should contact:

Daniel Williams
DBE Program Supervisor
Hawaii Department of Transportation, Office of Civil Rights
200 Rodgers Boulevard
Honolulu, Hawaii 96819
Phone: 808-831-7914/Fax: 808- 831-7944
TTY: 808- 808-831-7931
Email: HDOT-DBE@hawaii.gov
Office of Civil Rights website: <https://hidot.hawaii.gov/administration/oct/>
Application portal: <https://hdot.dbesystem.com/>

The Uniform Certification Application form, Personal Net Worth statement, and documentation requirements can be reviewed at <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/ready-apply> and are located in Attachment F.

Section 23.33 - Business Size Standards

In general, a firm will be considered as a small business eligible to be certified as an ACDBE if its gross receipts, averaged over the firm's previous five fiscal years, do not exceed fifty-six million four hundred thousand twenty dollars (\$56,420,000.00). The following special exceptions apply to the general small business size limit:

1. The limit for passenger car rental companies is seventy-five million two hundred thirty thousand dollars (\$75,230,000.00), averaged over the firm's previous five fiscal years.
2. The size standard for banks and other financial institutions is one billion dollars (\$1,000,000,000.00) in assets.
3. The size standard for pay telephone companies is 1,500 employees.
4. The size standard for new car dealers is 350 employees.

For size purposes, gross receipts (as defined in 13 CFR 121.104(a)) of affiliates are included in a manner consistent with 13 CFR 121.104(d), except in the context of joint ventures. For gross receipts attributable to joint venture partners, a firm must include in its gross receipts its proportionate share of joint venture receipts, unless the proportionate share already is accounted for in receipts reflecting transactions between the firm and its joint ventures (*e.g.*, subcontracts from a joint venture entity to joint venture partners).

Section 23.35 - Personal Net Worth Limits

The personal net worth standard used in determining eligibility for purposes of Part 23 is posted online on the USDOT's Departmental Office of Civil Rights' webpage, available at <https://www.transportation.gov/DBEPNW>. Any individual who has a Personal Net Worth (PNW) exceeding this amount is not a socially and economically disadvantaged individual for purposes of this part, even if the individual is a member of a group otherwise presumed to be disadvantaged.

Section 23.37 - Firms Certified as DBEs

Certifying members of Hawaii UCP will presume that a firm that is certified as a DBE under Part 26 is eligible to participate as an ACDBE. However, before certifying such a firm, certifying Hawaii UCP members will ensure that the disadvantaged owners of a DBE certified under Part 26 are able to control the firm with respect to its activity in the concessions program.

Section 23.39 - Other ACDBE Certification Requirements

The provisions of 49 CFR § 26.83(c)(1) of 49 CFR Part 26 do not apply to ACDBE certifications. Instead, in determining whether a firm is an eligible ACDBE, Certifying Hawaii UCP members will take the following steps:

1. Visit the firm's principal place of business, virtually or in person, and interview the SEDO, officers, and key personnel. Certifying Hawaii UCP members will review those persons' résumés and/or work histories and maintain a complete audio recording of the interviews. Certifiers will also visit one or more active job sites (if there is one). These activities comprise the "on-site review" (OSR), a written report of which the certifying Hawaii UCP member will keep in its files.

2. Analyze documentation related to the legal structure, ownership, and control of the applicant firm. This includes, but is not limited to, articles of incorporation/organization; corporate by-laws or operating agreements; organizational, annual and board/member meeting records; stock ledgers and certificates; and State-issued certificates of good standing;
3. Analyze the bonding and financial capacity of the firm; lease and loan agreements; and bank account signature cards;
4. Determine the work history of the firm, including any concession contracts or other contracts it may have received; and payroll records;
5. Obtain or compile a list of the licenses of the firm and its key personnel to perform the concession contracts or other contracts it wishes to receive;
6. Obtain a statement from the firm of the type(s) of concession(s) it prefers to operate or the type(s) of other contract(s) it prefers to perform;
7. Obtain complete Federal income tax returns (or requests for extensions) filed by the firm, its affiliates, and the socially and economically disadvantaged owners for the last five years. A complete return includes all forms, schedules, and statements filed with the Internal Revenue Service; and
8. Require applicants for ACDBE certification to complete and submit an appropriate application form, except as otherwise provided in § 26.85 of Part 26.

In reviewing the Declaration of Eligibility (DOE) required by 49 CFR § 26.83(j), certifying Hawaii UCP members will ensure that the ACDBE applicant provides documentation that it meets the applicable size standard in 49 CFR § 23.33.

For purposes of this part, the term *prime contractor* in 49 CFR § 26.87(j) includes a firm holding a contract with an airport concessionaire to provide goods or services to the concessionaire or a firm holding a prime concession agreement with a recipient.

With respect to firms owned by Alaska Native Corporations (ANCs), the provisions of 49 CFR § 26.63(c)(2) do not apply. The eligibility of ANC-owned firms for purposes of this part is governed by 49 CFR § 26.63(c)(1).

Certifying Hawaii UCP members will use the Uniform Certification Application found in Part 26 of this chapter without change. If Hawaii UCP seeks to supplement the form by requesting specified additional information consistent with Part 23 and Part 26, the Hawaii UCP will first seek written approval of the concerned Operating Administration.

Certifying Hawaii UCP members will require every applicant to clearly state that it is applying for certification as an ACDBE and complete all of Section 5.

Car rental companies and private terminal owners or lessees are not authorized to certify firms as ACDBEs.

GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 23.41 - Overall Goals

HDOT will establish two separate overall ACDBE goals: one for car rentals and another for concessions other than car rentals. The overall goals will cover a three-year period and the sponsor will review the goals annually to make sure the goal continues to fit the sponsor's circumstances. HDOT will submit any significant overall goal adjustments to the FAA.

If the average annual concession revenues for car rentals over the preceding three years do not exceed two hundred thousand dollars (\$200,000.00), HDOT is not required to develop and submit an overall goal for car rentals. Likewise, if the average annual concession revenues for concessions other than car rentals over the preceding three years do not exceed two hundred thousand dollars (\$200,000.00), HDOT is not required to develop and submit an overall goal for concessions other than car rentals. HDOT understands that "revenue" means total revenue generated by concessions, not the revenue received by the airport from concessions agreements.

HDOT's overall goals will provide for participation by all certified ACDBEs and will not be subdivided into group-specific goals.

Section 23.43 - Consultation in Goal Setting

HDOT consults with stakeholders before submitting the overall goals to the FAA. Stakeholders will include, but not be limited to, minority and women's business groups, community organizations, trade associations representing concessionaires currently located at the airport, as well as existing concessionaires themselves, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for ACDBEs, and the sponsor's efforts to increase participation of ACDBEs.

When submitting overall goals, HDOT will identify the consulted stakeholders and provide a summary of the information obtained from the stakeholders.

The requirements of this section do not apply if no new concession opportunities will become available during the goal period. However, HDOT will take appropriate outreach steps to encourage available ACDBEs to participate as concessionaires whenever there is a concession opportunity.

Section 23.45 - Overall Goals

Overall goals will be submitted to the FAA for approval. The overall goals meeting the requirements of this subpart are due based on a schedule established by the FAA and posted on the FAA's website.

The goals must be submitted every three years based on the published schedule. If a new concession opportunity arises at a time that falls between the normal submission dates above and the estimated average of annual gross revenues are anticipated to be two hundred thousand dollars (\$200,000.00) or greater, the sponsor will submit an appropriate adjustment to our overall

goal to FAA for approval no later than 90 days before issuing the solicitation for the new concession opportunity.

HDOT will establish overall goals in accordance with the 2-Step process as specified in 49 CFR § 23.51. After determining the total gross receipts for the concession activity, the first step is to determine the relative availability of ACDBEs in the market area, “base figure”. The second step is to examine all relevant evidence reasonably available in the sponsor’s jurisdiction to determine if an adjustment to the Step 1 “base figure” is necessary so that the goal reflects as accurately as possible the ACDBE participation the sponsor would expect in the absence of discrimination. Evidence may include, but is not limited to past participation by ACDBEs, a disparity study, evidence from related fields that affect ACDBE opportunities to form, grow, and compete (such as statistical disparities in ability to get required financing, bonding, insurance; or data on employment, self-employment, education, training, and union apprenticeship).

HDOT will also include a projection of the portions of the overall goal expected to be met through race-neutral and race-conscious measures, respectively.

If the FAA determines that HDOT’s goals have not been correctly calculated or the justification is inadequate, the FAA may, after consulting with us, adjust the overall goal or race-conscious/race-neutral “split.” In such a case, the adjusted goal is binding on HDOT.

Section 23.53 - Counting ACDBE Participation for Car Rental Goals

HDOT will count ACDBE participation toward overall goals other than car rental as provided in 49 CFR § 23.53.

When an ACDBE is decertified because one or more of its disadvantaged owners exceed the PNW cap or the firm exceeds the business size standards of Part 23 during the performance of a contract or other agreement, the firm's participation may continue to be counted toward ACDBE goals for the remainder of the term of the contract or other agreement. However, HDOT will verify that the firm in all other respects remains an eligible ACDBE. To accomplish this verification, HDOT will require the firm to provide, annually on December 1st, a DOE, affirming that there have been no changes in the firm's circumstances affecting its ability to meet ownership or control requirements of Subpart C of Part 23 or any other material changes, other than changes regarding the firm's business size or the owner's personal net worth. HDOT will not count the concessionaire's participation toward ACDBE goals beyond the termination date for the concession agreement in effect at the time of the decertification (*e.g.*, in a case where the agreement is renewed or extended, or an option for continued participation beyond the current term of the agreement is exercised).

Firms are required to inform HDOT in writing of any change in circumstances affecting their ability to meet ownership or control requirements of Subpart C of this part or any material change. Reporting must be made as provided in 49 CFR § 26.83(i) of this chapter.

Section 23.55 - Counting ACDBE Participation for Concessions Other than Car Rentals

HDOT will count ACDBE participation toward overall goals other than car rental as provided in 49 CFR § 23.55.

When an ACDBE is decertified because one or more of its disadvantaged owners exceed the PNW cap or the firm exceeds the business size standards of Part 23 during the performance of a contract or other agreement, the firm's participation may continue to be counted toward ACDBE goals for the remainder of the term of the contract or other agreement. However, HDOT will verify that the firm in all other respects remains an eligible ACDBE. To accomplish this verification, HDOT will require the firm to provide, annually on December 1st, a DOE, affirming that there have been no changes in the firm's circumstances affecting its ability to meet ownership or control requirements of Subpart C of Part 23 or any other material changes, other than changes regarding the firm's business size or the owner's personal net worth. HDOT will not count the former ACDBE's participation toward ACDBE goals beyond the termination date for the agreement in effect at the time of the decertification (*e.g.*, in a case where the agreement is renewed or extended, or an option for continued participation beyond the current term of the agreement is exercised).

Firms are required to inform HDOT in writing of any change in circumstances affecting their ability to meet ownership or control requirements of Subpart C of this part or any material change. Reporting must be made as provided in 49 CFR § 26.83(i) of this chapter.

Section 23.57 - Goal Shortfall Accountability

If the awards and commitments on the Uniform Report of ACDBE participation at the end of any fiscal year are less than the overall goal applicable to that fiscal year, HDOT will:

- Analyze in detail the reasons for the difference between the overall goal and our awards and commitments in that fiscal year;
- Establish specific steps and milestones to correct the problems HDOT has identified in our analysis to enable us to fully meet our goal for the new fiscal year;

For HNL only:

- HDOT will submit the analysis and corrective actions developed under paragraphs (b)(1) and (2) of this section to the FAA for approval by April 1st following the report submittal.

For OGG, KOA, ITO, LIH, MKK only:

- As an airport not meeting the criteria of paragraph (b)(3)(i) of this section, HDOT will retain analysis and corrective actions in our records for three years and make it available to the FAA, on request, for their review.

FAA may impose conditions as part of its approval of HDOT's analysis and corrective actions including, but not limited to, modifications to our overall goal methodology, changes in our race-conscious/race-neutral split, or the introduction of additional race-neutral or race-conscious measures.

HDOT may be regarded as being in noncompliance with this part, and therefore subject to the remedies in 49 CFR § 23.11 of this part and other applicable regulations, for failing to implement our ACDBE program in good faith if any of the following things occur:

- HDOT does not submit the analysis and corrective actions to FAA in a timely manner as required under paragraph (b)(3) of CFR 49 § 23.57;
- FAA disapproves the analysis or corrective actions; or
- HDOT does not fully implement:
 - a. The corrective actions to which HDOT has committed, or
 - b. Conditions that FAA has imposed following review of our analysis and corrective actions.
 - c. If information coming to the attention of FAA demonstrates that current trends make it unlikely that HDOT, as an airport, will achieve ACDBE awards and commitments that would be necessary to allow us to meet our overall goal at the end of the fiscal year, FAA may require us to make further good faith efforts, such as modifying our race-conscious/race-neutral split or introducing additional race-neutral or race-conscious measures for the remainder of the fiscal year.

Section 23.61 - Quotas or Set-asides

HDOT will not use quotas or set-asides as a means of obtaining ACDBE participation.

OTHER PROVISIONS

Section 23.71 - Existing Agreements

If permitted by the existing agreement, HDOT will use any means authorized by Part 23 to obtain a modified amount of ACDBE participation in the renewed or amended agreement.

Section 23.73 - Privately-Owned or Leased Terminal Buildings

HDOT will pass through applicable provisions of Part 23 to any private terminal owner or lessee via our agreement with the owner or lessee. HDOT will ensure that the owner or lessee complies with Part 23. HDOT will obtain from the owner or lessee the goals and other elements of the ACDBE program required under Part 23.

Section 23.75 - Long-Term Exclusive Agreements

HDOT will not enter into a long-term and exclusive agreements for concessions without prior approval of the FAA Regional Civil Rights Office. HDOT understands that a “long-term” agreement is one having a term of more than 10 years, including any combination of base term and options or holdovers to extend the term of the agreement if the effect is a term of more than 10 years. HDOT understands that an exclusive agreement is one having a type of business activity that is conducted solely by a single business entity on the entire airport, irrespective of ACDBE participation.

HDOT may enter into a long-term, exclusive concession agreement only under the following conditions:

1. Special local circumstances exist that make it important to enter such agreement; and
2. FAA approves HDOT’s plan for meeting the standards of paragraph (c) of 49 CFR § 23.75.

To obtain FAA approval of a long-term exclusive concession agreement, HDOT will submit the following information to the FAA. The items in paragraphs (1) through (3) below will be submitted at least 60 days before the solicitation is released and items in paragraphs (4) through (7) will be submitted at least 45 days before contract award:

1. A description of the special local circumstances that warrant a long-term, exclusive agreement;
2. A copy of the solicitation;
3. ACDBE contract goal analysis developed in accordance with this part;
4. Documentation that ACDBE participants are certified in the appropriate NAICS code in order for the participation to count towards ACDBE goals;
5. A general description of the type of business or businesses to be operated by the ACDBE, including location and concept of the ACDBE operation;
6. Information on the investment required on the part of the ACDBE and any unusual management or financial arrangements between the prime concessionaire and ACDBE, if applicable;
7. Final long-term exclusive concession agreement, subleasing or other agreements;
 - a. In order to obtain FAA approval of a long-term exclusive concession agreement that has been awarded through direct negotiations, HDOT will submit the items in paragraphs (1) and (3) through (7) of this section at least 45 days before contract award;
 - b. In order to obtain FAA approval of an exclusive concession agreement that becomes long-term as a result of a holdover tenancy, HDOT will submit to the responsible FAA regional office a holdover plan for FAA approval at least 60 days prior to the expiration of the current lease term. The holdover plan shall include the following information:
 - i. A description of the special local circumstances that warrant the holdover;
 - ii. Anticipated date for renewal or re-bidding of the agreement;
 - iii. The method to be applied for renewal or re-bidding of the agreement;
 - iv. Submission of all items required under (3), (4), (6), and (7) of this section for the agreement in holdover status or an explanation as to why the item is not available or cannot be submitted.

Section 23.77 - Preemption of Local Requirements

In the event that a State or local law, regulation, or policy differs from the requirements of this part, HDOT will, as a condition of remaining eligible to receive federal financial assistance from the USDOT, take such steps as may be necessary to comply with the requirements of 49 CFR Part 23. However, nothing in Part 23 preempts any State or local law, regulation, or policy enacted by the governing body of HDOT, or the authority of any State or local government or recipient to adopt or enforce any law, regulation, or policy relating to ACDBEs, as long as the law, regulation, or policy does not conflict with Part 23.

Section 23.79 - Geographic Preferences

HDOT will not use a local geographic preference. For purposes of this section, a local geographic preference is any requirement that gives a concessionaire located in one place (e.g., our local area) an advantage over concessionaires from other places in obtaining business as, or with, a concession at our airport(s).

ATTACHMENTS

Attachment A	Organizational Chart
Attachment B	DBE/ACDBE Directory
Attachment C	Active Participants List Collection Form
Attachment D	Monitoring and Enforcement Mechanisms
Attachment E	Form 1 & 2 for Demonstration of Good Faith Efforts
Attachment F	Certification Application Forms
Attachment G	Hawaii UCP Agreement
Attachment H	Regulations: 49 CFR Part 23
Attachment I	Race-Neutral Small Business Element
Attachment J	Complaint Procedure

ATTACHMENT

A

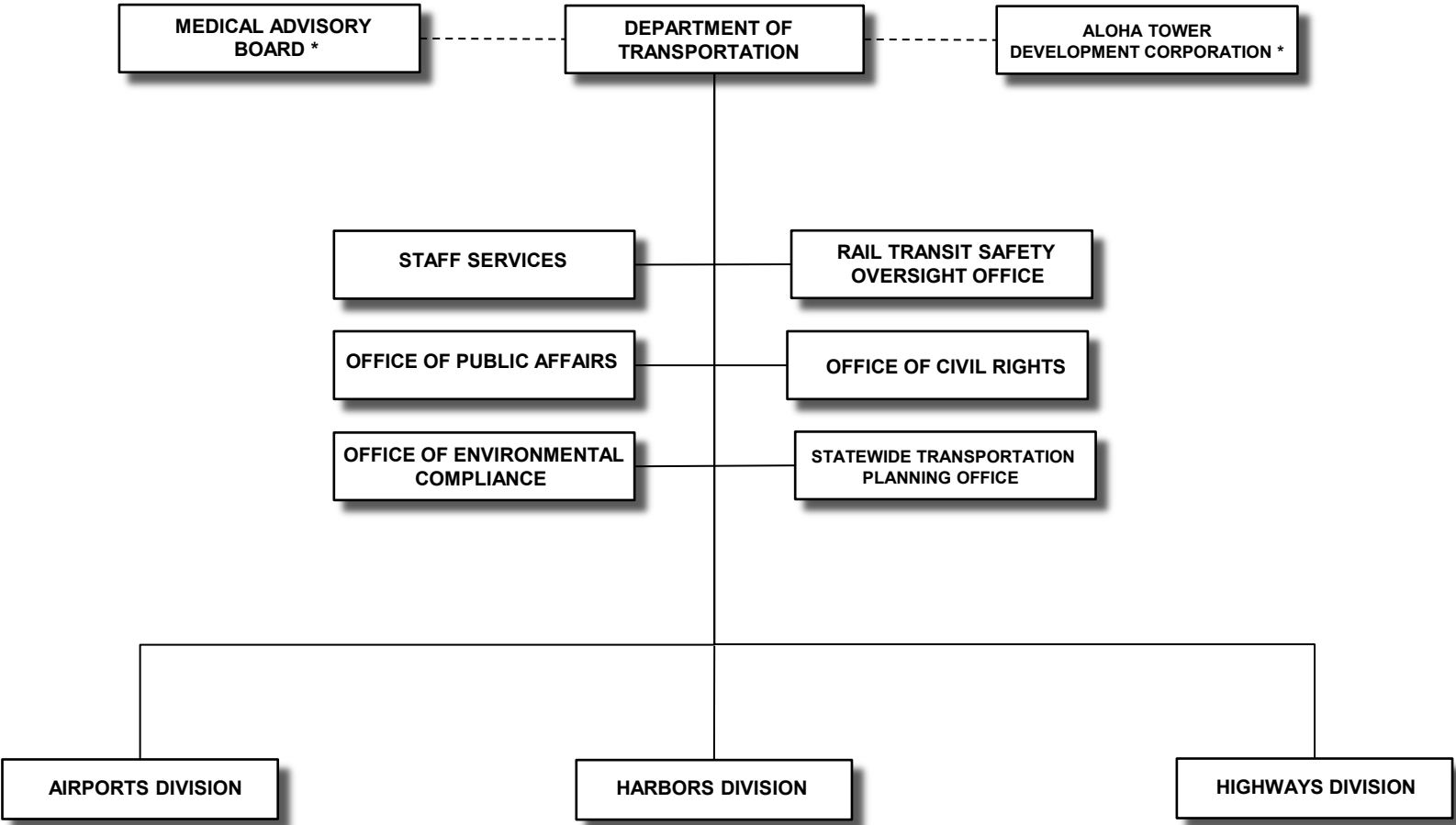
***STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
ADMINISTRATION***

ORGANIZATION CHARTS

JUNE 30, 2024

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION

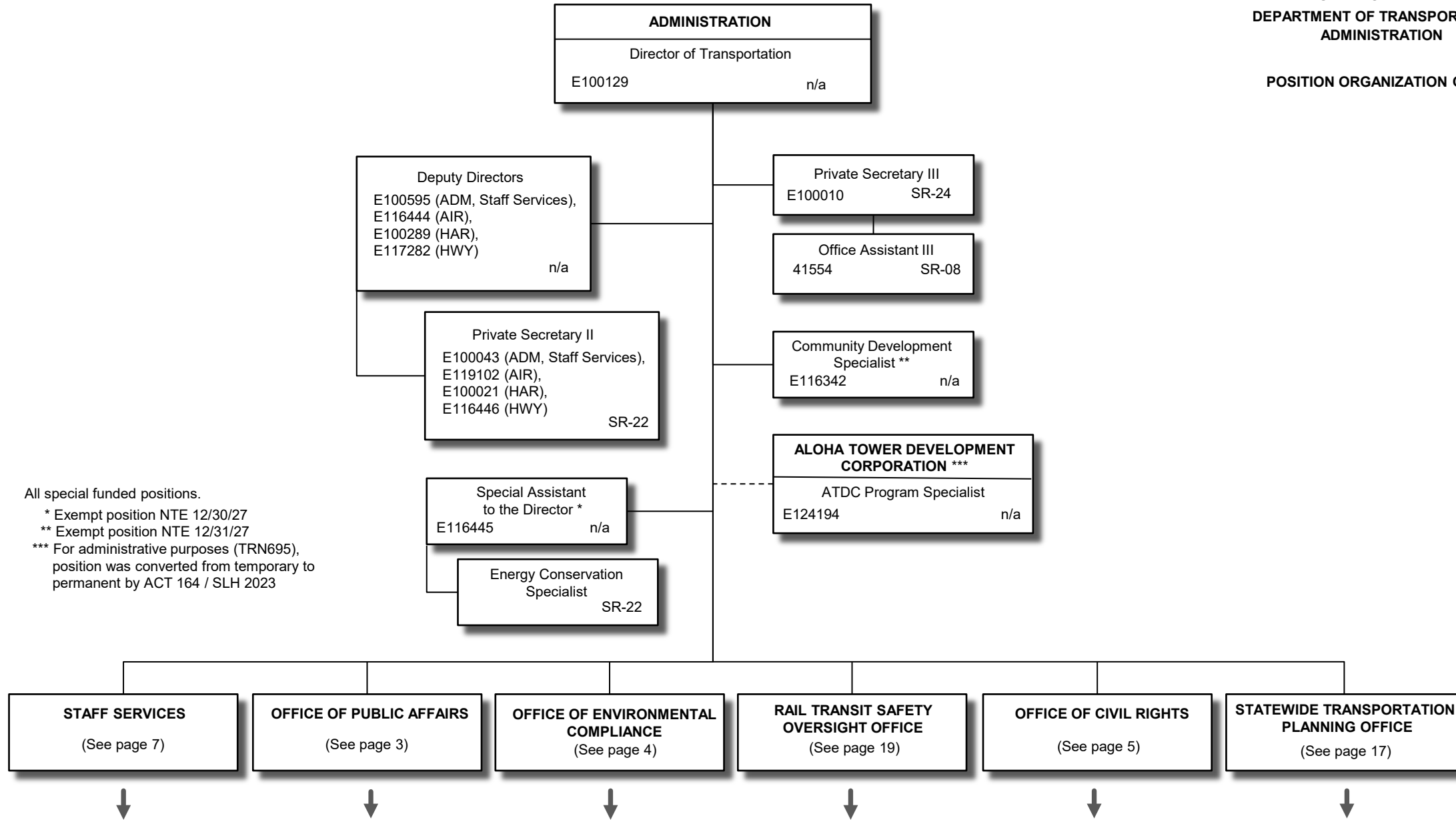
ORGANIZATION CHART



* For administrative purposes

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
ADMINISTRATION

POSITION ORGANIZATION CHART



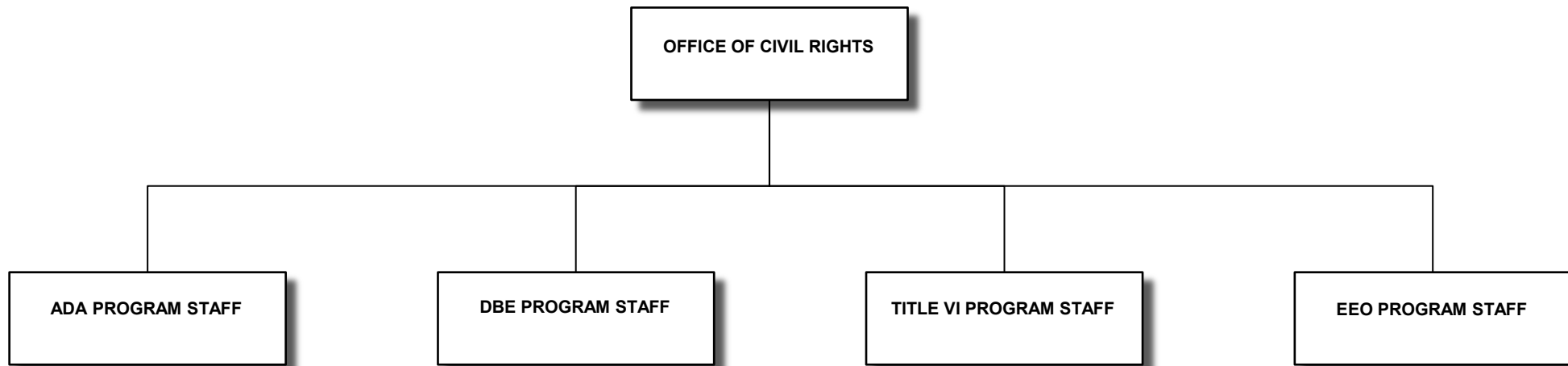
All special funded positions.

* Exempt position NTE 12/30/27

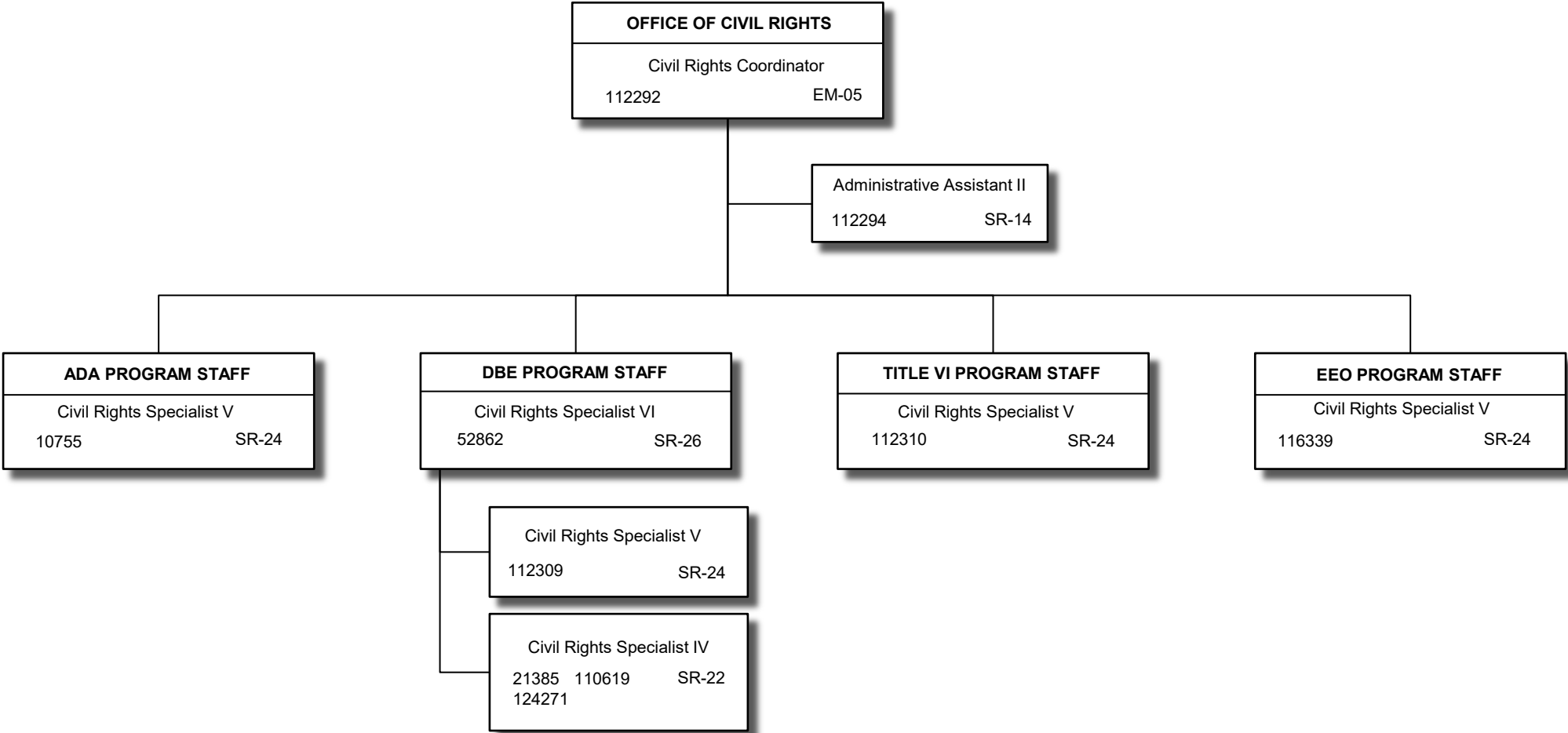
** Exempt position NTE 12/31/27

*** For administrative purposes (TRN695), position was converted from temporary to permanent by ACT 164 / SLH 2023

STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
ADMINISTRATION
OFFICE OF CIVIL RIGHTS
ORGANIZATION CHART



STATE OF HAWAII
DEPARTMENT OF TRANSPORTATION
ADMINISTRATION
OFFICE OF CIVIL RIGHTS
POSITION ORGANIZATION CHART



All special funded positions.

ATTACHMENT

B

HDOT DBE Directory:

<https://hdot.dbesystem.com/>

ATTACHMENT

C

ATTACHMENT

D

Monitoring and Enforcement Mechanisms

1. HDOT will bring to the attention of the USDOT any false, fraudulent, or dishonest conduct in connection with the program so that USDOT can take the steps (e.g., referral to the Department of Justice for a criminal prosecution, referral to the USDOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 49 CFR § 26.109;
2. HDOT will adopt monitoring and enforcement mechanisms to verify that work committed to ACDBEs at contract award is actually performed by ACDBEs. Bidders will sign the bid proposal that includes language stating that bidders shall utilize ACDBEs listed in their bid/proposal;
3. Pre-bid meetings with the prime contractor shall be required to discuss the scope of work and performance expectations on contracts and subcontracts, and to confirm that work committed to ACDBEs shall be subcontracted to such ACDBEs;
4. An on-site review shall be conducted on every ACDBE in establishing the validity of the statements provided on the application and verifying that a firm actually possess the equipment, and expertise to perform the required work.
5. On an annual basis, HDOT shall review the DBE policies and practices of its subrecipients to ensure that they are in compliance with 49 CFR, Part 26; and
6. HDOT DBE program staff shall provide training to its line staff and sub-recipients when significant changes occur to the Program Plan which may affect the monitoring and enforcement mechanisms described in this section and other ACDBE program requirements.
7. In an effort to decrease fraud and abuse in the ACDBE Program, HDOT has implemented a DBE Program Complaint Procedure (Attachment L). All complaints can be anonymous; however, if an individual provides contact information, HDOT can handle the complaint more thoroughly. HDOT will not investigate vague, ambiguous, or elusive complaints. HDOT will not investigate complaints where it is the respondent of the complaint. These complaints will be forwarded to the appropriate USDOT operating administration for investigation.

ATTACHMENT

E

Demonstration of Good Faith Efforts - Forms 1 and 2

FORM 1: AIRPORT CONCESSION DISADVANTAGED BUSINESS ENTERPRISE (ACDBE) UTILIZATION

The undersigned bidder/respondent has satisfied the ACDBE requirements of the concession [*bid/RFP/RLI*] in the following manner:

- Bidder/respondent has met the ACDBE goal
The bidder/offeror is committed to a minimum of ____ % ACDBE participation in this opportunity.

- Bidder/respondent has not met the ACDBE goal
The bidder/respondent is committed to a minimum of ____ % ACDBE participation in this opportunity and has submitted documentation demonstrating good faith efforts.

Legal name of bidder/respondent's firm: _____

Bidder/Respondent Representative:

Name & Title

Signature

Date

FORM 2: LETTER OF INTENT

Note: The authorized representative (AR) named below must be an individual vested with the authority to make contracting decisions on behalf of the firm.

Name of bidder/respondent’s firm: _____

Name & title of firm’s AR: _____

Phone: _____ Email: _____

Name of ACDBE firm: _____

Name & title of ACDBE firm’s AR: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone: _____ Email: _____

Role to be performed by ACDBE firm:

<i>Description of Work</i>	<i>NAICS</i>	<i>Projected Dollar Amount / %</i>	<i>Joint Venture/Subtenant/Supplier*</i>

**For suppliers only, state how the ACDBE will perform (e.g., regular dealer, manufacturer, broker). Count only fees and commissions if the supplier performs as a broker.*

The undersigned bidder/respondent is committed to utilizing the above-named ACDBE firm for the work described above. The total expected dollar value of this work is \$ _____. The bidder/respondent understands that if it is awarded the contract/agreement resulting from this procurement, it must enter into an agreement ACDBE firm identified above that reflects the type and amount of participation listed. Bidder/respondent understands that upon submitting this form, it may not substitute or terminate the ACDBE listed above without following the procedures of 49 CFR Part 26, §26.53.

Signature of Bidder/Respondent’s Authorized Representative Date: _____

The undersigned ACDBE affirms that it is ready, willing, and able to perform the amount and type of work as described above, and is properly certified to be counted for ACDBE participation therefore.

Signature of ACDBE’s Authorized Representative Date: _____

If the bidder/respondent does not receive award of the prime concession opportunity, all representations in this Letter of Intent shall be null and void.

Submit this page for each ACDBE participant.

ATTACHMENT

F

DBE Certification Application Form and Personal Net Worth Statement:

<https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/ready-apply>

ATTACHMENT

G

MEMORANDUM OF UNDERSTANDING

Between

STATE OF HAWAII, DEPARTMENT OF TRANSPORTATION

And

CITY AND COUNTY OF HONOLULU, DEPARTMENT OF TRANSPORTATION SERVICES; CITY AND COUNTY OF HONOLULU, HONOLULU AUTHORITY FOR RAPID TRANSPORTATION; HAWAII COUNTY, DEPARTMENT OF PUBLIC WORKS; MAUI COUNTY, DEPARTMENT OF PUBLIC WORKS; KAUAI COUNTY, DEPARTMENT OF PUBLIC WORKS; AND THE OFFICE OF HAWAIIAN AFFAIRS

I. PURPOSE:

To establish and operate a Unified Certification Program (UCP) for the State of Hawaii whereby the State of Hawaii, Department of Transportation (HDOT) Office of Civil Rights will provide state-wide certification, renewal of certification, and de-certification for the HDOT Disadvantaged Business Enterprise (DBE) Program. The HDOT's Airport, Harbor and Highway Divisions, the Statewide Transportation Planning Office and the Oahu Metropolitan Planning Organization are direct recipients of funds from the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA) and/or the Federal Transit Administration (FTA) and are located within HDOT's organizational structure.

II. CERTIFYING AGENCY:

Hawaii Department of Transportation

III. PARTICIPANTS:

HDOT; City & County of Honolulu, Department of Transportation Services (DTS); City and County of Honolulu, Honolulu Authority for Rapid transportation (HART); Hawaii County, Department of Public Works (DPW-H); Maui County, Department of Public Works (DPW-M); Kauai County, Department of Public Works (DPW-K); and the Office of Hawaiian Affairs ("OHA"). DTS, DPW-H, DPW-M, DPW-K, and OHA are hereinafter collectively referred to as "PARTICIPANTS."

IV. AUTHORITY:

Title 49 Code of Federal Regulations (CFR), Section 26.81, requires that all United States Department of Transportation (USDOT) recipients in Hawaii participate in a UCP. 49 CFR 26.81 further requires that the Unified Certification Program follow all the Certification Standards of 49 CFR, Part 26, Subpart D, and the Certification Procedures in 49 CFR, Part 26, Subpart E.

V. RESPONSIBILITIES

1. HDOT agrees that it has been and will continue to act as the sole certifying agency for the USDOT DBE Program in the State of Hawaii. All applicants that are seeking DBE certification or renewal of certification will be directed to the HDOT which will undertake the responsibility to review, investigate and determine DBE eligibility.
2. The DBE Program Certifier shall be responsible for investigating, reviewing, and making a determination regarding the initial certification application of a firm that is interested in participating in the DBE Program, as well as the determination regarding the renewal or decertification of an existing DBE firm.
3. The Civil Rights Coordinator shall process and hear appeals made by DBE firms that have been de-certified. As stated in the HDOT's DBE Program Plan, the Civil Rights Coordinator shall not be involved in the initial de-certification review and determination. The Civil Rights Coordinator shall also be responsible for providing the USDOT with information requested by the USDOT which pertains to the denial of a firm's initial application for DBE certification.
4. HDOT's DBE Program Plan was approved by the USDOT in February 2005 and adopted by the PARTICIPANTS. It specified the responsibilities of the HDOT DBE Liaison Officer (DBELO) and each HDOT DBELO division, planning office and sub-recipient.
5. HDOT agrees that it will undertake certification and renewal of certification reviews in accordance with the certification standards that are included in 49 CFR, Subpart D, 26.61, 26.63, 26.65, 26.67, 26.69, 26.71 and 26.73, as may be amended, and the certification procedures of 49 CFR, Subpart E, 26.81, 26.83, 26.86, 26.87, 26.89, and 26.91, as may be amended, and any other applicable statute, rule, or regulation that is implemented by HDOT in its DBE Program Plan.
6. HDOT agrees that it will not process an application for certification from a firm having its principal place of business outside the State of Hawaii if the firm is not certified by the UCP in the state in which it maintains its principal place of business. The HDOT will share its information and documents concerning the firm with other UCPs that are considering the firm's application.
7. HDOT agrees that it will cooperate fully with the oversight, review, and monitoring activities of the USDOT, and will implement USDOT's directives and guidance concerning certification matters.

8. HDOT agrees that it will compile, maintain, and make available on its website a DBE Directory consisting of all eligible DBEs. The DBE Directory will include the firm's name, address, type of work that the firm has been certified to perform, and the date of the most recent certification. The DBE Directory shall be updated weekly and posted on HDOT's website.
9. HDOT also agrees that it will accept from the PARTICIPANTS, referrals relating to complaints concerning DBE eligibility, and will review complaints in accordance with the provisions of 49 CFR Subpart D, 26.61, 26.63, 26.65, 26.67, 26.69, 26.71 and 26.73, as may be amended, 49 CFR Subpart E, 26.81, 26.83, 26.85, 26.87, 26.89, and 26.91, as may be amended, and any other applicable statute, rule, or regulation that is implemented by HDOT in its DBE Program Plan.
10. The PARTICIPANTS agree to refer all complaints that may be filed by any individual, firm, or agency regarding the eligibility of a DBE firm to HDOT, and HDOT agrees to investigate and issue a written decision on such complaints.
11. HDOT shall advise all new applicants that have been denied certification of their right to appeal the HDOT's denial of their certification application to the USDOT, provided that the appeal is filed within 90 days from the date of the applicant's receipt of the written notification of denial from HDOT. The appeal must be filed with the USDOT, Office of Civil Rights, 1200 New Jersey Ave., S.E. Washington D.C. , 20590.
12. HDOT shall advise all firms that have been decertified by the HDOT (hereinafter "Decertified Firm") of their right to an administrative hearing before a neutral third party. HDOT agrees to provide a neutral third party to conduct the hearing challenging the HDOT's decision to decertify a firm for failure to meet the DBE eligibility criteria. As provided in the DOT DBE Program Plan, the HDOT Civil Rights Coordinator or a designated representative, who has not participated in the initial fact-finding, review, or decertification decision, shall conduct the hearing (hereinafter "Hearings Officer"). The Hearings Officer shall be knowledgeable in the DBE Program and Plan. If the Decertified Firm is not satisfied with the decision of the Hearings Officer, the Decertified Firm may file an appeal of the decision with the USDOT by mailing a written appeal to the U.S. Department of Transportation, Office of Civil Rights 1200 New Jersey Ave., S.E. Washington, D.C. 20590 within 90 days of the Decertified Firm's receipt of a copy of the decision from the Hearings Officer.
13. The PARTICIPANTS agree to refer all applicants seeking DBE certification to HDOT.
14. The PARTICIPANTS agree to abide by all HDOT and USDOT's DBE certification and decertification findings and determinations.

15. The PARTICIPANTS agree that it shall not count a firm as a DBE unless the firm has been certified as a DBE as follows: 1) prior to the opening of a sealed bid and 2) at contract award for all other methods of procurement.
16. The PARTICIPANTS agree to provide all reasonable assistance to ensure that HDOT has sufficient resources as may be requested by HDOT to facilitate the HDOT review and processing of DBE certification applications.
17. HDOT has been the single certifying agency since the adoption of the DBE Program. Upon approval of the UCP, the HDOT shall continue in this capacity and the PARTICIPANTS agree to fully implement all terms and conditions of the UCP no later than 18 months following the approval of the agreement by the FHWA.

VI. LIMITATIONS:

Nothing in this Memorandum of Understanding between HDOT and the PARTICIPANTS shall be construed as limiting or expanding the statutory or regulatory responsibilities of the HDOT or any PARTICIPANT with regard to the implementation and operation of the DBE Program. Each provision of this Memorandum of Understanding is subject to the laws and regulations of the State of Hawaii and of the United States.

Nothing in this Memorandum of Understanding shall be construed as expanding the liability of any party with regard to the DBE Program. In the event of a lawsuit or claim arising from this Memorandum of Understanding, or the HDOT's DBE certification review or determination, each party shall be responsible for its own defense, and all costs related thereto. No party shall be required to provide indemnification of any other party.

VII. EFFECTIVE DATE:

This Memorandum of Understanding shall become effective immediately upon its execution by all the parties.

VIII. METHOD OF TERMINATION:

This Memorandum of Understanding shall remain in force until the USDOT DBE Program terminates or changes its requirements.

IX. AMENDMENTS:

No amendment of this Memorandum of Understanding shall be effective until it has been approved by the USDOT and the Director of HDOT has approved the amendment in writing, and the PARTICIPANTS and HDOT execute a written amendment of this Memorandum of Understanding.

State of Hawaii, Department of Transportation



GLENN M. OKIMOTO
Director

SEP 10 2013

Date

City and County of Honolulu, Department of Transportation Services

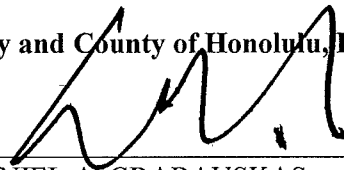


MICHAEL D. FORMBY
Director

9/12/13

Date

City and County of Honolulu, Honolulu Authority for Rapid Transportation

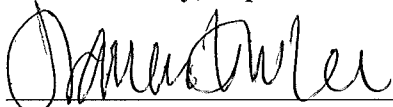


DANIEL A. GRABAUSKAS
Executive Director and CEO

9/17/13

Date

Hawaii County, Department of Public Works

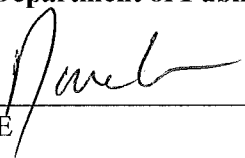


WARREN H.W. LEE
Director

30 SEP 2013

Date

Maui County, Department of Public Works and Environmental Management




DAVID GOODE
Director

10-29-13

Date

Kauai County, Department of Public Works

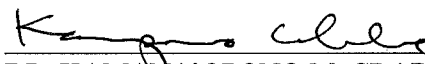


LARRY DIL
County Engineer

11-18-13

Date

Office of Hawaiian Affairs



DR. KAMANANA'OPONO M. CRABBE
Administrator

12/4/13

Date

ATTACHMENT

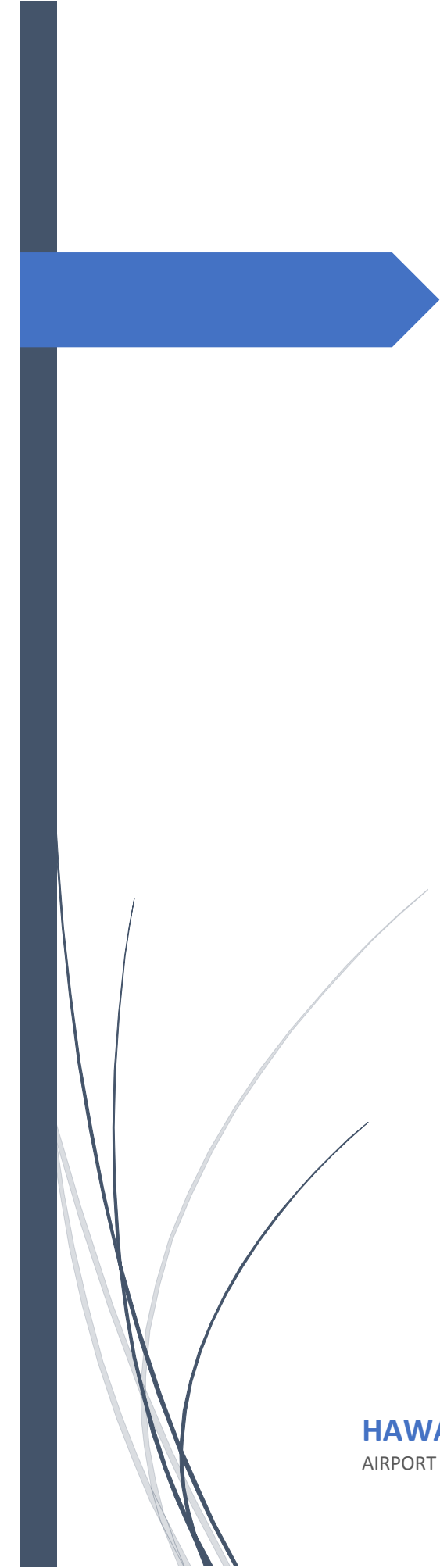
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DBE program regulations are codified in Title 49 of the Code of Federal Regulations, Part 23. They can be retrieved using the following link to the Electronic Code of Federal Regulations:

<https://www.ecfr.gov/current/title-49/subtitle-A/part-23>

ATTACHMENT

I



SMALL BUSINESS UTILIZATION PLAN

December 2024

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Introduction

The Hawaii Department of Transportation (HDOT), Office of Civil Rights (OCR) administers the Disadvantaged Business Enterprise (DBE) Program pursuant to Title 49, Code of Federal Regulations (CFR), Parts 23 and 26. As such, HDOT is committed to non-discrimination based on race, color, national origin, and sex, in its implementation of the Airport Concession Disadvantaged Business Enterprise (ACDBE) Program and the award of its contracts.

In accordance with 49 CFR Part 23 § 23.26 of the ACDBE Regulations, this Small Business Utilization Plan was developed to incorporate a small business element into the DBE Program Plan to facilitate participation by small businesses on federal-aid contracts.

Regulatory Requirements

49 CFR Part 23 § 23.26 of the ACBDE Regulations states:

“(a) Your ACDBE program must include an element to provide for the structuring of concession opportunities to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of concession opportunities that may preclude small business participation in solicitations.

(b) This element must be submitted to the FAA for approval as a part of your ACDBE program no later than October 7, 2024. As part of this program element you may include, but are not limited to including, the following strategies:

(1) Establish a race-neutral small business set-aside for certain concession opportunities. Such a strategy would include the rationale for selecting small business set-aside concession opportunities which may include consideration of size and availability of small businesses to operate the concession.

(2) Consider the concession opportunities available through all concession models.

(3) On concession opportunities that do not include ACDBE contract goals, require all concession models to provide subleasing opportunities of a size that small businesses, including ACDBEs, can reasonably operate.

(4) Identify alternative concession contracting approaches to facilitate the ability of small businesses, including ACDBEs, to compete for and obtain direct leasing opportunities.

(c) This element should include an objective, definition of small business, verification process, monitoring plan, and implementation timeline.

(d) Your element must include the following assurances:

(1) Your element is authorized under State law;

(2) Certified ACDBEs that meet the size criteria established under your element are presumptively eligible to participate in your element;

(3) There are no geographic preferences or limitations imposed on any concession opportunities included in your element;

(4) There are no limits on the number of concession opportunities awarded to firms participating in your element but that every effort will be made to avoid creating barriers to the use of new, emerging, or untried businesses;

(5) You will take aggressive steps to encourage those minority and women owned firms that are eligible for ACDBE certification to become certified; and

(6) Your element is open to small businesses regardless of their location (*i.e.*, that there is no local or other geographic preference).

- (e) A State, local, or other program, in which eligibility requires satisfaction of race/gender or other criteria in addition to business size, may not be used to comply with the requirements of this part.
- (f) This element must not include local geographic preferences per 49 CFR § 23.79.
- (g) You must submit an annual report on small business participation obtained through the use of your small business element. This report must be submitted in a format acceptable to the FAA based on a schedule established and posted to the agency's website, available at https://www.faa.gov/about/office_org/headquarters_offices/acr/bus_ent_program.
- (h) You must actively implement your program elements to foster small business participation. Doing so is a requirement of good faith implementation of your ACDBE program.”

Definition of a Small Business

A small business is defined pursuant to section 3 of the Small Business Act and Small Business Administration (SBA) regulations implementing it (13 CFR Part 121) that also does not exceed the cap on average annual gross receipts specified in 49 CFR Part 26 § 26.65(b). The current cap is thirty million seven hundred twenty thousand dollars (\$30,720,000.00) and is adjusted periodically for inflation.

A firm participating in HDOT's small business program must provide evidence that it is a small business concern, pursuant to the SBA's business size standards. The following documentation shall be accepted:

1. Federal Tax returns listing the firm's gross revenues
2. Financial Statement
3. Proof of current SBA8(a) or DBE certification

Personal Net Worth

The majority owner(s) (i.e., owns 51 percent or more) of the DBE applicant firm must have a personal net worth that does not exceed two million forty-seven thousand dollars (\$2,047,00.00). HDOT shall require the majority owner to submit a Personal Financial Statement and the United States (U.S.) Individual Tax Return for the majority owner(s) for the three most recent years.

Strategies to Foster Small Business Participation

The HDOT shall implement the Small Business Utilization Plan in two phases. Phase I shall include identifying potential small businesses already contracted by HDOT, and surveying property management and prime concessionaires to determine what types of work may be performed by small businesses. Phase II shall include reviewing procurement methods to facilitate participation by small businesses identified in Phase I. This second phase shall also include outreach activities, networking opportunities, and training workshops to assist small businesses to compete in HDOT and other government contracts. Also in this phase, outreach activities on the neighbor islands shall be conducted to foster small business participation on a statewide basis.

Phase I

HDOT believes that many of its former and existing firms may qualify as a small business. As such, Phase I will include an assessment of prime concessionaires and sub-concessionaires that have performed work on HDOT contracts to determine if any of the firms may be categorized as a small business. HDOT shall request that the firms identify themselves as a small business in writing and submit this information to the HDOT DBE Program Office. If the firm falls under the business size standards for their primary North American Industry Classification System code, HDOT shall request that the majority owner complete the personal financial statement to determine his/her personal net worth.

In addition to identifying concessionaires that may be categorized as a small business, DBE Program Staff shall disseminate surveys to HDOT Property Management to determine what type of work may likely be contracted and subcontracted to small businesses. A sample of this survey is attached as Appendix A. The survey results will assist the DBE Program Office to target outreach efforts to members of small business organizations, trade groups, and professional associations. Such outreach will foster small business participation by providing companies with information on HDOT projects, bid openings, upcoming Request for Proposals, and Request for Qualifications.

The surveys will also serve as a mechanism to identify barriers to small business participation on HDOT's federal and state projects. Once barriers are identified, HDOT shall develop a plan of action to replace these barriers with opportunities through procurement, outreach, and if necessary, policy changes.

Phase II

HDOT DBE Program Office shall conduct extensive outreach to small businesses through networking opportunities, training workshops, and small business fairs. To this end, the DBE Program Office will enter into a co-sponsorship Agreement with the U.S. SBA (Appendix B) to conduct training workshops that help small businesses develop and grow to compete in the open marketplace. Such training workshops include a three-month Business Development Series, in which companies learn about government contracting, marketing, and financing. In addition, the DBE Program Office has scheduled small business fairs and one-on-one match-making seminars to facilitate networking between prime contractors and subcontractors. The outreach and training shall be continuous throughout the year and shall not be limited to this phase of the Small Business Utilization Plan.

We anticipate Phase II to be implemented approximately six to eight months from the date of submittal of this plan.

Appendices

Appendix A – Property Management and Prime Concessionaire Survey

Appendix B – Co-Sponsorship with U.S. SBA

Strategies to Foster Small Business Participation PRIME CONCESSIONAIRES

DECEMBER 2024 to Present

Hawaii Department of Transportation (HDOT) wishes to foster small business participation in its federal-aid contracting by developing a plan to increase the participation of disadvantaged business enterprise (DBE) and non-DBEs. We are conducting a survey to determine ways to foster participation by ALL small businesses.



* Required

1. Are you responsible for bidding on HDOT federal-aid projects/concessions? *

- Yes
- No
- Maybe

2. If you answered "Yes" or "Maybe", have you ever bid on a project with a ACDBE goal? Please provide the name of the name of the project(s)/concession(s). *

3. On federal-aid projects with subcontracting opportunities, what type of work would you estimate to have a shortage of available ACDBEs? *

4. For what types of work would you say there may be an over concentration of ACDBEs? *

5. Can you provide the name(s) of any firm(s) that you already work with that may be interesting in becoming a ACDBE? *

Yes

No

6. If you answered "Yes", please provide the name of the firm and their contact information (contact person, phone number and email address). *

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Strategies to Foster Small Business Participation PROPERTY MANAGEMENT

DECEMBER 2024 2024 to Present

- Identifying potential small businesses already contracted by HDOT
- Surveying project managers and prime contractors
- Determine what types of work may be performed by small businesses



* Required

1. On upcoming concessionaire projects, what types of subcontracting opportunities do you foresee? *

2. On concessionaire projects with subcontracting opportunities, what types of work would you estimate to have a shortage of certified ACDBEs ready, willing and able to subcontract with prime concessionaires? *

3. Do you feel additional ACDBE training is needed? If so, in what areas? Select ALL that apply. *

- Commercially Useful Function Review
- Good Faith Efforts - after contract award
- Good Faith Efforts - prior to contract award
- Other

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COSPONSORSHIP AGREEMENT

between

**U.S. Small Business Administration
Hawaii District Office**

and

**State of Hawaii Department of Transportation, Office of Civil Rights
Disadvantaged Business Enterprise**

Authorization No: 25-2-C

1) Parties

This Cosponsorship Agreement (“Agreement”) is between the U.S. Small Business Administration (“SBA”) and the following Cosponsor(s) (individually a “Cosponsor” or collectively the “Cosponsors” or “Parties”):

- a) State of Hawaii Transportation, Office of Civil Rights Disadvantaged Business Enterprise (DOT) Honolulu, Hawaii 96813
Description of Cosponsor: State of Hawaii Department of Transportation, Office of Civil Rights Disadvantaged Business Enterprise is a State Agency that was established to ensure that firms owned by minorities, women and other socially and economically disadvantaged persons have an equal opportunity to participate in U.S. DOT-assisted projects. The goal of the program is to level the playing field on which DBEs may compete for contracts and subcontracts in the transportation industry.
Disadvantaged Business Enterprise (DBE) is a for-profit small business concern that is at least 51% owned and controlled by one or more U. S. citizens or permanent residents who are both socially and economically disadvantaged

2) Purpose

The purpose of this Agreement is to describe the rights and responsibilities of each Cosponsor regarding the activity described below pursuant to SBA’s Cosponsorship Authority, section 132(a) of Division K in Public Law No. 108-447, as extended by the annual Appropriations Act, and 13 C.F.R. Part 106. The Agreement encompasses this document and all Attachments. The Cosponsor shall comply with all applicable laws and regulations in its performance under this Agreement. Except as properly amended, this Agreement is the final and complete agreement of the Cosponsors. It does not authorize the expenditure of any funds, other than by express terms of this Agreement nor does it create special consideration by SBA regarding any other matter. This Agreement shall not limit any Cosponsor from participating in similar activities or arrangements with other entities.

3) Cosponsored Activity

- a) Name of Activity/Event(s): Contracting, Business Matchmaking, Financing, Lender’s Conference and Small Business Outreach Events
- b) Date(s): January 1, 2025, thru September 30, 2025
- c) Place: Hawaii Statewide Locations TBD
- d) Estimated Number of Attendees: 400
- e) Budgeted Expenses of Cosponsored Activity: 0

- f) Summary of Events/Activity: SBA, and the State of Hawaii Department of Transportation, Office of Civil Rights Disadvantaged Business Enterprise will cosponsor monthly training workshops throughout the year for small businesses seeking information on starting and growing a small business. Each event may include government agencies and non-profit organizations guest speakers. These workshops will include System for Award Management (SAM.gov), Capability Statement, Subcontracting Opportunities, Business Matchmaking and other small business topics

4) Cosponsors' Responsibilities

The Cosponsors agree that each will do the following in support of the Cosponsored Activity:

- a) SBA will:
 - Participate in the overall planning, marketing and execution of the cosponsored event
 - Provide speakers for the workshops
 - Publicize the events through press release, SBA web calendar and email blast
 - Collect the registration and attendee sign-up sheets for all workshops
 - Assist with providing venue
 - Have a final draft approval of all cosponsored materials
- Participate in the overall planning, marketing and execution of the cosponsored event.
- b) DOT will:
 - Participate in the overall planning, marketing and execution of the cosponsored event
 - Assist with planning and marketing of the workshops
 - Assist with cosponsored material by designing flyer (if requested)
 - Collect registration for Matchmaking
 - Assist with providing venue
 - Assist with finding speakers
 - Provide speakers for the workshops

5) Budget

There are no anticipated expenses associated with conducting the Cosponsored Activity. Should unanticipated expenses for the cosponsored activity be incurred, the cosponsors will prepare an itemized budget to reflect such expenses and whether such expenses were met by cash or in-kind contributions.

6) Fiscal Agent and Fees

Section Intentionally Deleted

7) No Profit

Each Cosponsor agrees that it will not make a profit on this event.

8) Appropriate Recognition

Cosponsor will include appropriate recognition for SBA in all materials created for this activity. Each Cosponsor will be given appropriate recognition by SBA for Cosponsorship of the activity outlined in this Agreement, however such recognition does not constitute an express or implied endorsement by SBA of any of the opinions, products or services of any Cosponsor, its subsidiaries or its contractors. As such, all appropriate disclaimers and authorization numbers will be visible on all Cosponsored Materials. SBA has the right to determine what constitutes appropriate recognition, in its reasonable discretion.

9) Cosponsored Material

Cosponsored Material refers to all print and electronic materials used to promote the activity or material used during or as the Activity. This includes, but is not limited to, flyers, brochures, mailers, email promotions, web pages, promotional items, or any other physical, print or electronic item bearing SBA's name or logo. Cosponsors grant SBA a perpetual, irrevocable, non-exclusive, worldwide, royalty-free license to use and to create derivative works of any material developed for the Cosponsorship outlined in this Agreement. Cosponsors agree that SBA will review and have final approval of all Cosponsored Materials to ensure compliance with Federal law, regulations, and SBA policies.

10) Use of SBA Logo

Each Cosponsor agrees to use its name and logo in connection with SBA's name and logo on Cosponsored Materials or in factual publicity only for the Cosponsored Activity as outlined in this Agreement. Factual publicity includes dates, times, locations, purposes, agendas, fees and speakers involved with the activity. Any materials (print or electronic) bearing SBA's logo must include the appropriate disclaimers as outlined in the "Disclaimers" paragraph and be approved in advance by SBA's Responsible Program Official. Cosponsors are not permitted to use SBA's name or logo for commercial purposes, such as advertising a product or service.

11) Licenses

SBA will possess an irrevocable, non-exclusive, worldwide, royalty-free license to use any materials developed for the Cosponsored Activity outlined in this Agreement. DOT will be responsible for obtaining all rights, fees and clearances, if necessary, for the purpose of SBA's license. Should SBA decide to use Cosponsored Material that contains copyrighted material after the term of this Agreement, SBA will remove DOT's logo but retain a copyright notice.

12) Political Speech

It is SBA's policy that public officials or candidates for public office (including their staff), whether a direct Cosponsor or invitee of a Cosponsor, be informed by the SBA that they may not include political comment as part of their participation. Political comment includes speech or remarks designed to facilitate, or be directed toward, the success or failure of a political party, candidate for public office, or political group.

13) Website and Online Registrations

The Cosponsors will create a website and/or online registration located using the SBA Hawaii District Office Eventbrite to assist with registration, participant communication, and feedback. Cosponsors agree there will be no commercial advertisements or commercial promotions of any kind, including its own products or services, displayed on this Cosponsored Site. All online activities will be accessible to persons with disabilities. Online registration will only include the questions necessary to attend the event. Affirmative opt-in is required for future communication to registrants/attendees.

14) Disclaimers

All Cosponsored Materials, print or electronic, must be approved in advance by SBA's Responsible Program Official listed in this Agreement and contain the following statement(s):

- a) Cosponsorship Authorization #25-2-C. SBA's participation in this Cosponsored Activity is not an endorsement of the views, opinions, products or services of any Cosponsor or other person or entity. All SBA programs and services are extended to the public on a nondiscriminatory basis.
- b) Reasonable arrangements for persons with disabilities will be made if requested at least two weeks in advance. Contact: Joyce Tamayose-Quinn, (808) 460-8969.
- c) This website is provided as a public service under Cosponsorship Authorization #25-2-C. It is not an official U.S. government website and may contain links to non-U.S. government information. Inclusion of such links does not constitute or imply an endorsement by SBA. SBA is not responsible for the content, accuracy, relevance, timeliness or completeness of linked information. Please use caution when considering a product, service or opinion offered by a linked website.

15) Responsible Program Official

The SBA Responsible Program Official for this Cosponsored Activity is Hazel Beck, Deputy District Director.

16) Points of Contact

The respective Points of Contact for this Cosponsorship will be Daniel Williams, daniel.k.williams@hawaii.gov, 808-831-7914 for Hawaii DOT and the Responsible Program Official Mary Dale, Mary.Dale@sba.gov Economic Development Specialist, 808/460-8970 The respective Points of Contact for this Cosponsored Activity will be for SBA. These individuals will facilitate contact between the Cosponsors to plan, organize and execute the Activity contemplated in this Agreement.

17) Additional Cosponsors

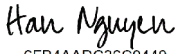
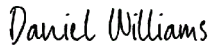
The Cosponsors agree that other entities may join this Agreement as Additional Cosponsors to help plan, market and participate in the Activity. The Cosponsors agree that Additional Cosponsors may join this Agreement upon execution of a Joinder Agreement. The Cosponsors agree that SBA may execute all Joinder Agreements with additional Cosponsors on behalf of all Cosponsors.

18) Term, Amendment and Termination

This Agreement will take effect upon signature of all Cosponsors and will remain in effect through September 30, 2025. This Agreement can only be amended in writing. Any Cosponsor may terminate its participation in the activity upon 30 calendar days advance written notice to the other Cosponsors. Termination by one cosponsor will not affect continued participation by remaining cosponsors. Such termination will not require changes to materials already produced and will not entitle the terminating cosponsor to a return of funds or property contributed.

19) Signature

Each of the persons signing this Agreement represents that he/she has the authority to enter into this Agreement on behalf of the entity involved. This Agreement may be executed in counterparts, each of which shall be deemed to be an original, but all of which, taken together, shall constitute one and the same agreement.

SBA:	DocuSigned by:  6FB4AADC36C0440...	10/29/2024
	Han Nguyen Associate Administrator, Communications and Public Liaison	Date
DOT:	Signed by:  05F0897360D9446...	10/29/2024
	Daniel Williams DBE Program Supervisor	Date

Attachment A – Proposed Workshops and Agenda

Small Business Workshop Topics –

1. Business Matchmaking
2. Access to Capital
3. Lender's Conference
4. Creating a Capability Statement
5. Department of Labor Regulations
6. Bonding
7. How to Do Business with the Government
8. Cyber Security Awareness
9. Small Business Matchmaking
10. Other contracting related activities

Speakers: A representative from DOT and SBA will serve as the primary speakers. Subject matter experts may be invited as guest speakers.

AGENDA OUTLINE

- **Welcome and Introduction**
- **Topic**
- **Learning content and participant activity (if applicable)**
- **Q&A**
- **One on One Counseling**
- **Closing**

ATTACHMENT

J

**HAWAII DEPARTMENT OF TRANSPORTATION (HDOT)
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
COMPLAINT PROCEDURES**

Purpose: The attached form is for use by any affected business or person who believes that a recipient, subrecipient, or business failed to carry out its obligations pursuant to the requirements of 49 Code of Federal Regulations (CFR) Part 23 and/or 49 CFR Part 26 (or other related statutes, contract, or subcontract). The HDOT DBE complaint process provides a means to submit allegations of noncompliance regarding matters believed to be the responsibility of a recipient, subrecipient, or business. Such allegations include, but are not limited to, procedural deficiencies, prompt payment, or other activities believed to be in violation of the DBE requirements.

Filing Instructions: All complaints must be filed no later than 180 days from the date of the alleged violation of 49 CFR Part 23 and/or 49 CFR Part 26 (or other related statute, contract, or subcontract). If you need assistance in completing the complaint form or require it in an accessible format, including any other language, please contact the HDOT Office of Civil Rights (OCR) at (808) 831-7901. Please send the signed complaint form along with the attached “COMPLAINANT CONSENT/RELEASE FORM” (pages 1-3) via email to HDOT-DBE@hawaii.gov, or regular mail to:

Hawaii State Department of Transportation
Office of Civil Rights
Attention: DBE Program Supervisor
200 Rodgers Boulevard
Honolulu, HI 96819

These procedures do not deny or limit the right of a complainant to file a formal complaint with the United States Department of Transportation (USDOT).

Disposition of Complaints: Complaints should contain specific information to support each allegation. Any complaint that, on its face, lacks evidence supporting the allegations may be dismissed or held until additional information is obtained from the Complainant. Upon review of each complaint received by the HDOT OCR, the following actions will be taken, as appropriate:

- Notify Complainant of acceptance, dismissal, or make request for additional information;
- Notify Complainant of lack of jurisdiction and transfer the complaint to another government agency;
- Notify the Complainant of referral to the appropriate operating administration; and
- Where the HDOT OCR has completed an investigation, the Complainant and Respondent will be notified by letter.

Confidentiality: HDOT OCR will protect the identity of Complainants to the maximum extent possible by law. Any individual filing a complaint may request to remain anonymous by indicating so in the attached “COMPLAINANT CONSENT/RELEASE FORM”; however, doing so may impede the completion of an investigation and resolution of any matters in which the Complainant or the Federal Aviation Administration hold interest.

HDOT DBE PROGRAM COMPLAINT FORM

1. Name of recipient, subrecipient, or business:

2. State or Federal Project number and description of project on which alleged violation(s) occurred:

3. **Complaint Description**

Check one or more boxes, indicating the area(s) of concern:

- Good Faith Effort Determinations (pre-award/post-award)
- Goal-setting
- Monitoring and Enforcement of Commercially Useful Function
- Counting/Crediting of DBE Participation
- Termination (including substitution or modification of work under commitment)
- Prompt Payment/Return of Retainage
- Eligibility
- Suspected Fraud or Criminal Activity
- Other (e.g. Discriminatory action based on race, sex, color, or national origin)

Please list below each allegation, including essential elements of information (who, what, where, when). Provide the date of each occurrence and describe how it violates the requirement(s). Attach any evidence or documentation supporting your claim(s). If you need additional space, you may do so on a separate page (attach to this document).

HDOT COMPLAINANT CONSENT/RELEASE FORM

Complainant (Name and Title/Company Name):

Address:

State or Federal Project number and description of project:

Please read the information below, check the appropriate box, and sign this form.

I have read the Notice of Investigatory Uses of Personal Information. As a complainant, I understand that in the course of an investigation it may become necessary for HDOT to reveal my identity to persons at the organization or institution under investigation. I am also aware of the obligations of HDOT to honor requests under the Freedom of Information Act. I understand that it may be necessary for HDOT to disclose information, including personally identifying details, which it has gathered as a part of its investigation of my complaint. In addition, I understand that as a complainant I am protected by USDOT's regulations from intimidation or retaliation for having taken action or participated in action to secure rights protected by nondiscrimination statutes enforced by the USDOT.

CONSENT/RELEASE

- CONSENT - I have read and understand the above information and authorize HDOT to reveal my identity to persons at the organization or institution under investigation. I hereby authorize HDOT to receive material and information about me pertinent to the investigation of my complaint. I understand that the material and information will be used for authorized civil rights compliance and enforcement activities. I further understand that I am not required to authorize this release, and do so voluntarily.

- CONSENT DENIED - I have read and understand the above information and do not want HDOT to reveal my identity to the organization or institution under investigation, or to review, receive copies of, or discuss material and information about me, pertinent to the investigation of my complaint. I understand this is likely to impede the investigation of my complaint and may result in the closure of the investigation.

Signature: _____

Date: _____

NOTICE ABOUT INVESTIGATORY USES OF PERSONAL INFORMATION

NOTICE OF COMPLAINANT/INTERVIEWEE RIGHTS AND PRIVILEGES

Complainants and individuals who cooperate in an investigation, proceeding, or hearing conducted by HDOT are afforded certain rights and protections. This brief description will provide you with an overview of these rights and protections.

- A recipient may not force its employees to be represented by the recipient's counsel nor may it intimidate, threaten, coerce, or discriminate against any employee who refuses to reveal to the recipient the content of an interview. An employee does, however, have the right to representation during an interview. The representative may be the recipient's counsel, the employee's private counsel, or anyone else the interviewee authorizes to be present.
- The laws and regulations provide that no recipient, contractor, or any other participant in the DBE program shall intimidate, threaten, coerce, or discriminate against any individual or firm because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing.
- Information obtained from the complainant or other individual which is maintained in HDOT's investigative files may be exempt from disclosure under the Freedom of Information Act, the Uniform Information Practices Act, or the Hawaii Privacy Law if release of such information would constitute an unwarranted invasion of personal privacy.

There are three laws governing personal information submitted to HDOT: the Freedom of Information Act (5 United States Code § 552), the Uniform Information Practices Act (Hawaii Revised Statutes (HRS) Chapter 92F), and the Hawaii Privacy Law (HRS § 711-1111).

The Freedom of Information Act gives the public access to certain files and records of HDOT. Individuals can obtain items from many categories of records of HDOT -- not just materials that apply to them personally. HDOT must honor requests under the Freedom of Information Act, and also Disclosure of Personal Records under HRS § 92F, with some exceptions. HDOT generally is not required to release documents during an investigation or enforcement proceedings if the release could have an adverse effect on the ability of the agency to do its job. Also, HDOT may refuse a request for records compiled for law enforcement purposes if their release could be an "unwarranted invasion of privacy" of an individual.

Requests for other records, such as personnel and medical files, may be denied where the disclosure would be a "clearly unwarranted invasion of privacy."

The Uniform Information Practices Act is intended to open up governmental processes to public scrutiny and participation by requiring government business to be conducted as transparently as possible, while balancing personal privacy rights guaranteed under the Hawaii State Constitution.

The Hawaii Privacy Law is intended to protect an individual's right to privacy, except in the execution of public duty or as authorized by law.

Persons who submit information to HDOT should know that:

- HDOT is required to investigate complaints of discrimination on the basis of race, color, national origin, sex, disability, age, and, in some instances, religion against recipients, contractors, or any other participants in the DBE program. HDOT also is authorized to conduct reviews of recipients, contractors, or any other participants in the DBE program to assess their compliance with civil rights laws.
- Information that HDOT collects is analyzed by authorized personnel within the agency. This information may include personnel records or other personal information. HDOT staff may need to reveal certain information to persons outside HDOT in the course of verifying facts or gathering new facts to develop a basis for making a civil rights compliance determination. Such details could include the physical condition or age of a complainant. HDOT also may be required to reveal certain information to any individual who requests it under the provisions of the Freedom of Information Act.
- Personal information will be used only for the specific purpose for which it was submitted, that is, for authorized civil rights compliance and enforcement activities. HDOT will not release the information to any other agency or individual unless the person who supplied the information submits a written consent, with some exceptions. One of these exceptions is when release is required under the Freedom of Information Act.
- No law requires a complainant to give personal information to HDOT, and no sanctions will be imposed on complainants or other individuals who deny HDOT's request. However, if HDOT fails to obtain information needed to investigate allegations of discrimination, it may be necessary to close the investigation.
- HDOT does not reveal the names or other identifying information about an individual unless it is necessary for the completion of an investigation or for enforcement activities against a recipient that violates the laws, or unless such information is required to be disclosed under the Freedom of Information Act. HDOT will keep the identity of complainants confidential except to the extent necessary to carry out the purposes of the civil rights laws, or unless disclosure is required under the Freedom of Information Act or otherwise required by law.