

**MEMORANDUM OF UNDERSTANDING BETWEEN
THE DISTRICT DEPARTMENT OF TRANSPORTATION, THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY,
THE MARYLAND DEPARTMENT OF TRANSPORTATION, THE
COMMONWEALTH OF VIRGINIA DEPARTMENT OF MINORITY
BUSINESS ENTERPRISE, AND THE METROPOLITAN
WASHINGTON AIRPORTS AUTHORITY**

This MEMORANDUM OF UNDERSTANDING (“MOU”) is hereby entered into by the District Department of Transportation (“DDOT”), the Washington Metropolitan Area Transit Authority (“WMATA”), the Maryland Department of Transportation (“MDOT”), the Commonwealth of Virginia Department of Minority Business Enterprise (“DMBE”), and the Metropolitan Washington Airports Authority (“MWA”) (collectively the “Parties”, or individually, a “Party”).

RECITALS

WHEREAS, 49 C.F.R. Part 26 requires all recipients of federal transportation assistance within each state to create a Unified Certification Program (“UCP”) to make all Disadvantaged Business Enterprise (“DBE”) certification decisions on behalf of all United States Department of Transportation recipients in the state; and

WHEREAS, each UCP is required to follow the certification standards and procedures under 49 C.F.R. Parts 23 and 26 when determining whether to certify DBE firms or Airport Concession DBE (“ACDBE”) firms; and

WHEREAS, the certification process is administered under separate, albeit similar, UCPs for the District of Columbia, the State of Maryland, and the Commonwealth of Virginia; and

WHEREAS, DDOT and WMATA are the certifying agencies responsible for the certification of DBE/ACDBE firms under the UCP for the District of Columbia; MDOT is the certifying agency responsible for the certification of DBE/ACDBE firms under the UCP for the State of Maryland; and DMBE and MWA are the certifying agencies responsible for the certification of DBE/ACDBE firms under the UCP for the Commonwealth of Virginia; and

WHEREAS, pursuant to 49 C.F.R. § 26.81(e) and (f), UCPs may accept the certification of any other UCP, or enter into written reciprocity agreements with other UCPs, or otherwise grant reciprocity to another jurisdiction's certification decisions; and

WHEREAS, DDOT, WMATA, MDOT, DMBE, and MWAA desire to establish the Modified Certification Reciprocity Program ("MCRP") defined herein, which will lessen the duplicative efforts, facilitate the efficient transfer of information among the Parties, and improve the certification process for applicants seeking DBE or ACDBE Certification in the District of Columbia, Maryland, and Virginia; and

NOW, THEREFORE, DDOT, WMATA, MDOT, DMBE, and MWAA hereby enter into this MOU with the following terms and conditions.

I. DEFINED TERMS

ACDBE means a firm that has been certified as an Airport Concession Disadvantaged Business Enterprise or ACDBE pursuant to 49 C.F.R. Parts 23 and 26.

DBE means a firm that has been certified as a Disadvantaged Business Enterprise or DBE pursuant to 49 C.F.R. Part 26.

DBE/ACDBE Certification means a determination that a firm is a DBE as defined at 49 C.F.R. § 26.5 or an ACDBE as defined at 49 C.F.R. § 23.3.

Home State Certification means DBE/ACDBE Certification by the UCP in the jurisdiction (i.e., Maryland, Virginia or the District of Columbia) in which a firm maintains its principal place of business, as defined at 49 C.F.R. § 26.5.

Modified Certification Reciprocity Program or MCRP means the program set forth herein for DBE/ACDBE firms that have Home State Certification. For purposes of this MOU, the UCP granting Home State Certification must be a Party to this MOU.

Reciprocal Certification Agency means the UCP processing a request for DBE/ACDBE Certification under the MCRP. For purposes of this MOU, the Reciprocal Certification Agency must be a Party to this MOU.

II. SCOPE

This MOU applies to applications for DBE/ACDBE Certification processed by the Parties if the DBE/ACDBE has received Home State Certification from one Party and seeks DBE/ACDBE Certification from another Party.

III. COMPLIANCE WITH APPLICABLE LAW

This MOU is subject to all existing and subsequently enacted laws, regulations and rules governing the Parties or a Party. The Parties agree to comply with the certification requirements and procedures set forth for DBE/ACDBE Certification in 49 C.F.R. Parts 23 and 26, and understand that each Party will also comply with all other applicable federal and local laws, rules, and regulations governing the DBE/ACDBE Programs and UCPs in their respective jurisdictions.

IV. MCRP CERTIFICATION PROCEDURES

A. If a DBE/ACDBE has received Home State Certification and seeks DBE/ACDBE Certification from a Reciprocal Certification Agency, the Parties will adhere to the MCRP Procedures set forth below.

- (1) The Reciprocal Certification Agency will require the DBE/ACDBE to submit all of the following:
 - a. Completed Uniform Certification Application form, including the Affidavit of Certification, as set forth in 49 C.F.R. Part 26, Appendix F;
 - b. Personal Net Worth Statement;
 - c. Individual Federal Tax Return for the latest tax year;
 - d. Firm's Federal Tax Return for the latest tax year; and
 - e. Copy of the latest Letter of Certification received by the DBE/ACDBE from its Home State

- (2) The Reciprocal Certification Agency will request copies of the most recent onsite and/or investigation report from the Party granting Home State Certification to the DBE/ACDBE. The Party granting Home State Certification agrees to respond to all such requests from the Reciprocal Certification Agency, in accordance with 49 C.F.R. § 26.83 (d).

- (3) The Reciprocal Certification Agency will make whatever further inquiries and requests it deems necessary for its decision-making process.

- (4) The Reciprocal Certification Agency will have the discretion to take any of the following actions:
 - a. Certify the DBE/ACDBE in reliance on the certification decision of the Home State;
 - b. Make an independent certification decision based on documentation provided by the Home State, augmented by any additional information it obtains; or
 - c. Proceed with its ordinary DBE/ACDBE application process without regard to the action taken by any other Party. The Reciprocal Certification Agency will notify the Home State in writing within 30 days of taking this action.

- (5) After it makes a certification decision, the Reciprocal Certification Agency will send a letter of certification or a letter of denial to the DBE/ACDBE Firm. The Reciprocal Certification Agency also will send a copy of any letter of denial to the Home State within 30 days of the date of the letter.

B. If a Party removes the certification of a DBE/ACDBE, that Party will send a copy of the removal of certification letter to the other Parties, within 30 days of the date of the letter.

V. DURATION AND MODIFICATION

This MOU will take effect on the date last executed, and, unless otherwise terminated, it will remain in effect for a period of one year thereafter. At that time, this MOU may be renewed by the mutual written agreement of the Parties. This MOU also may be amended in writing, as conditions warrant, by mutual agreement of the Parties.

VI. TERMINATION

Any Party may terminate this MOU by giving 45 days written notice to the other Parties. Any such termination is not effective until after the 45th day from the date of delivery of the written notice. All DBE/ACDBE firms certified pursuant to this MOU will remain certified if DBE/ACDBE Certification was granted prior to the effective date of any termination of this MOU. This MOU does not alter, amend, or otherwise modify the power of any Party to remove the certification of a DBE/ACDBE in accordance with the grounds and procedures set forth in 49 C.F.R. § 26.87.