

SUBPART F - COMPLIANCE AND ENFORCEMENT

SECTION 1

COMPLIANCE

The following enforcement actions apply to firms participating in the DBE Program:

1. If you are a firm that does not meet the eligibility criteria of Subpart D of this Plan and that attempts to participate in a DOT-assisted program as a DBE on the basis of false, fraudulent, or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, WYDOT may initiate suspension or debarment proceedings against you under 49 CFR part 29.
2. If you are a firm that, in order to meet DBE contract goals or other DBE program requirements, uses or attempts to use, on the basis of false, fraudulent or deceitful statements or representations or under circumstances indicating a serious lack of business integrity or honesty, another firm that does not meet the eligibility criteria of Subpart D of this Plan, WYDOT may initiate suspension or debarment proceedings against you under 49 CFR part 29.
3. In a suspension or debarment proceeding brought under paragraph 1 or 2 of this section, the concerned OA may consider the fact that a purported DBE has been certified by a recipient. Such certification does not preclude WYDOT from determining that the purported DBE, or another firm that has used or attempted to use it to meet DBE goals, should be suspended or debarred.
4. WYDOT may take enforcement action under 49 CFR Part 31, Program Fraud and Civil Remedies, against any participant in the DBE program whose conduct is subject to such action under 49 CFR part 31.
5. WYDOT and/or The U. S. Department of Transportation may refer to the Department of Justice, for prosecution under 18 U.S.C. 1001 or other applicable provisions of law, any person who makes a false or fraudulent statement in connection with participation of a DBE in any DOT-assisted program or otherwise violates applicable Federal statutes.

Ref.: 49 CFR 26.107

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SUBPART F - COMPLIANCE AND ENFORCEMENT

SECTION 2

ENFORCEMENT

Following are the rules governing information, confidentiality, cooperation, and intimidation or retaliation:

1. Availability of records. In responding to requests for information concerning any aspect of the DBE program, WYDOT complies with provisions of the Federal Freedom of Information (5 U.S.C. 552) and Privacy Acts (5 U.S.C. 552a) and Wyoming Public Records Act (§16-4-201). WYDOT may make available to the public any information concerning the DBE program release of which is not prohibited by these applicable laws. WYDOT will safeguard from disclosure to unauthorized persons information that may reasonably be considered as confidential business information, consistent with Federal, state, and local law.
2. Confidentiality of information on complainants. Notwithstanding the provisions of paragraph 1 of this section, the identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing. FAA follows the procedures of 14 CFR part 16 with respect to confidentiality of information in complaints.
3. Cooperation. All participants in WYDOT's DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with USDOT and WYDOT compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved (e.g., with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment).
4. Intimidation and retaliation. If you are a recipient, contractor, or any other participant in the program, you must not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If you violate this prohibition, you are in noncompliance with this part.

Ref.: 49 CFR 26.109

SUBPART F - COMPLIANCE AND ENFORCEMENT
SECTION 3

NON-COMPLIANCE COMPLAINTS

Any person who believes that WYDOT has failed to comply with its obligations under this part may file a written complaint with the concerned operating administration's Office of Civil Rights.

If you want to file a complaint, you must do so no later than 180 days after the date of the alleged violation or the date on which you learned of a continuing course of conduct in violation of this part. In response to your written request, the Office of Civil Rights may extend the time for filing in the interest of justice, specifying in writing the reason for so doing. The Office of Civil Rights may protect the confidentiality of your identity as provided in §26.109(b). Complaints under this part are limited to allegations of violation of the provisions of this part.

Ref: 49 CFR 26.103

SUBPART F - COMPLIANCE AND ENFORCEMENT SECTION 4

INFORMATION, CONFIDENTIALITY, COOPERATION AND INTIMIDATION OR RETALIATION

Availability of records.

1. In responding to requests for information concerning any aspect of the DBE program, USDOT complies with provisions of the Federal Freedom of Information (5 U.S.C. 552) and Privacy Acts (5 U.S.C. 552a). The USDOT may make available to the public any information concerning the DBE program release of which is not prohibited by Federal law.
2. Notwithstanding any provisions of the Federal Freedom of Information (5 U.S.C. 552) and Privacy Acts (5 U.S.C. 552a), or state law, WYDOT will not release information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting documentation. However, WYDOT must transmit this information to the USDOT in any certification appeal proceeding under 26.89 in which the disadvantaged status of the individual is in question.

Confidentiality of information on complainants.

Notwithstanding the provisions of the forgoing, the identity of complainants shall be kept confidential, at their election. If such confidentiality will hinder the investigation, proceeding or hearing, or result in a denial of appropriate administrative due process to other parties, the complainant must be advised for the purpose of waiving the privilege. Complainants are advised that, in some circumstances, failure to waive the privilege may result in the closure of the investigation or dismissal of the proceeding or hearing. FAA follows the procedures of 14 CFR part 16 with respect to confidentiality of information in complaints.

Cooperation.

All participants in WYDOT's DBE program (including, but not limited to, recipients, DBE firms and applicants for DBE certification, complainants and appellants, and contractors using DBE firms to meet contract goals) are required to cooperate fully and promptly with WYDOT and USDOT compliance reviews, certification reviews, investigations, and other requests for information. Failure to do so shall be a ground for appropriate action against the party involved, e.g., with respect to DBE firms, denial of certification or removal of eligibility and/or suspension and debarment; with respect to a complainant or appellant, dismissal of the complaint or appeal; with respect to a contractor which uses DBE firms to meet goals, findings of non-responsibility for future contracts and/or suspension and debarment.

Intimidation and retaliation.

If you are a recipient, contractor, or any other participant in the WYDOT program, you must not intimidate, threaten, coerce, or discriminate against any individual or firm for the purpose of

interfering with any right or privilege secured by this part or because the individual or firm has made a complaint, testified, assisted, or participated in any manner in an investigation, proceeding, or hearing under this part. If you violate this prohibition, you are in noncompliance with this part.

Ref: 49 CFR 26.109