

Interim Final Rule Q&A

USDOT Q&A Sheet

What are the NEW Requirements to Participate as a DBE?

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

The DOT DBE and Airport Concessions DBE (ACDBE) Regulations ([49 CFR Part 23](#) and [49 CFR Part 26](#)) place primary responsibility for the certification process upon State Transportation Agencies, which form a “Unified Certification Program (UCP)” in each state, which provides a one-stop shop for applicant firms seeking certification.

Only small, independent businesses, owned and controlled by socially and economically disadvantaged individuals, may participate as a DBE, and most participate as subcontractors on federally assisted projects. All DBEs must adhere to the requirements of section 3 of the Small Business Act, the Small Business Administration regulations implementing that Act, and IIJA’s [DBE size limit](#). [Size limits for the airport concessions DBE program](#) are higher.

DOT DBE regulations also prescribe ownership structure requirements for partnerships, corporations, and limited liability companies, requiring at least 51% ownership by a DBE for each type of entity. Socially and economically disadvantaged individuals must own at least a 51% interest in the firm and control management and daily business operations.

The DOT DBE program is not limited to those who fall within the categories of persons who are presumed disadvantaged. Rather, firms that are “owned and controlled by individuals who are not presumed to be socially and economically disadvantaged (including individuals whose presumed disadvantage has been rebutted) may apply for DBE certification” by showing that they are, in fact, socially and economically disadvantaged. “Economic Disadvantage” is measured by firm owners’ personal net worth, which cannot exceed \$2.047 million.

Unified Certification Programs may not use race- or sex-based presumptions in determining DBE/ACDBE eligibility. The Interim Final Rule removes race- and sex-based presumptions from the definitions of “socially and economically disadvantaged individual,” and instead provides that the owner of a DBE or ACDBE applicant must demonstrate on a case-by-case basis that the individual meets the criteria described in 49 CFR § 26.67.8.

- **Elimination of Presumptions:**

Race-and-gender based presumptions of social and economic disadvantage are removed. All applicants must now demonstrate social and economic disadvantage through individualized evidence, including a personal narrative and financial documentation.

- **Re-evaluation of All Firms:**

Every currently certified DBE/ACDBE will undergo re-evaluation. Firms meeting the new standards will be recertified; those that do not will be decertified.

What this means:

All DBEs will be required to provide a Personal Narrative detailing specific instances of economic hardship, systemic barriers, and denied opportunities, along with a current Personal Net Worth Statement and relevant financial documentation to demonstrate disadvantage. (Additional guidance and formatting information will be provided once finalized.)

The Interim Final Rule sets out rules governing the transition to the new requirements. The Interim Final Rule provides that until a UCP completes the reevaluation process outlined above, each recipient covered by that UCP may not:

- (1) include DBE contract goals or concession-specific ACDBE goals; or*
- (2) count any participation toward overall DBE or ACDBE goals.*

These requirements ensure that existing DBEs and ACDBEs do not continue to receive benefits as a result of their certification under the old standards. Until a UCP completes reevaluation, no recipient covered by that UCP shall be subject to the compliance provisions of 49 CFR § 23.57 or 49 CFR § 26.47. Recipients will also not be required to update their overall goals during this process.

- **Temporary Suspension of Goals and Counting:**

Until reevaluations are complete, UDOT, FAA, FTA, and all subrecipients must not:

- *Set DBE/ACDBE goals.*
- *Count DBE/ACDBE participation toward overall program goals.*

- **Existing Contracts:**

Contracts already awarded remain valid; however, DBE/ACDBE commitments and participation under those contracts cannot be counted toward goal attainment during the reevaluation period. Primes may self-perform or subcontract work as necessary, without DBE credit, if a DBE is terminated. For DBE subcontractors (not just suppliers), primes must still follow all subcontracting rules (e.g., termination, substitution) even if the DBE subcontractor is no longer certified as a “DBE.”

- **Goal Setting:**

All DBE goal requirements are suspended effective October 3, 2025. Do not set DBE goals on contracts. Contracts currently advertised or pending award with DBE goals must have those goals removed. Statewide DBE goal setting will resume once reevaluations of all DBEs are complete.

- **Reporting Requirements:**

DOT has eliminated the collection of race- and sex-specific ownership data; reporting will instead focus on certification data for future reporting.

What this means:

There will be a zero goal set on all newly advertised projects until all DBE firms have had the opportunity to submit the necessary documentation for reevaluation of eligibility under the IFR.

In the meantime, all projects that currently hold a DBE goal will not be eligible to count work done toward that goal until DBEs have been reevaluated and confirmed eligible. The prime contractor will not be held to the compliance provisions during this reevaluation process and will not be required to change the existing DBE goal. When reporting, contractors should document the reevaluation process as a good-faith effort.

What This Specifically Means for Your Ongoing or Recently Awarded Projects

- ***Continue performing existing contracts*** — all commitments and subcontract agreements remain binding.
- ***Do not remove or modify DBE subcontractors*** unless approved through normal UDOT substitution procedures.
- ***DBE participation will not count toward goal attainment*** during the reevaluation period, but this will ***not result in penalties or noncompliance findings*** for primes.
- ***Continue paying DBE subcontractors*** for work performed and document participation as usual. Prompt payment and Davis Bacon Wage requirements are to be paid as normal.
- ***For new solicitations or change orders advertised after October 3, 2025, do not include DBE goals.***
- ***Reporting should continue*** for informational purposes; provide documentation of your outreach and compliance efforts as good faith actions during this transition.
- Once reevaluations are complete, ***DBE credit will resume*** for firms that successfully recertify under the new IFR standards.
- Once goal setting resumes the DBE program will no longer calculate based on Race-Neutral or Race-cautious instead it will calculate DBE-Neutral and DBE-cautious.

I am in the process of recertification through my home state of Nevada. Should I wait to recertify with Utah until after I get recertified in Nevada? Is there a deadline for recertification for Utah?

Yes, if you are an Interstate DBE doing business in Utah you will have to recertify with your JOC/Home State prior to requesting recertification with the Utah Unified Certification Program (UUCP) which includes: UDOT, SLC Airports and UTA. As of right now we do not have a deadline.

When do you anticipate the new forms will be available?

We are working diligently to provide all DBEs with additional instructions and information regarding the documents needed to fulfill the new requirements. Our B2G systems programmers are in the process of creating necessary steps, documents etc. to be implemented as soon as possible. We will send all UUCP DBEs updates on this implementation as things progress.

Social and Economic Disadvantage

11. SOCIAL AND ECONOMIC DISADVANTAGE (§ 26.67)

The IFR revises § 26.67 to implement the removal of unconstitutional race- and sex-based presumptions. The IFR requires all small business concerns to demonstrate social and economic disadvantage based on their own experiences and circumstances without reliance in whole or in part on race or sex.

What determines Socially Disadvantage?

DBEs will provide a Personal Narrative detailing specific instances of economic hardship, systemic barriers, and denied opportunities will be required along with a current [Personal Net Worth Statement](#) attached and any relevant financial documentation to show social disadvantage. (Additional guidance / formatting information to be provided).

What determines Economic Disadvantage?

Economic Disadvantage will be determined by your [Personal Net Worth Statement](#) ([49 CFR 26.68 PNW](#)). This is one of the requirements needed to be attached to the Personal Narrative (PN) (Information on how to process the PN will be provided as soon as we have additional guidance from FHWA and B2G system programmers).

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