

Now & Next

Infrastructure Alert

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USDOT provides clarifications on DBE program overhaul

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The FAQs explain recertification, contract impacts, and next steps for contractors, certifiers, and state DOTs.



What's the impact?

- DBEs keep their status until reevaluated, and UCPs can't decertify *en masse* or set hard deadlines.
- The IFR suspends DBE goal setting; contracts advertised or let must remove goals until recertification wraps up.
- Prompt pay and termination protections remain in place, even during the re-evaluation pause.

On October 24, 2025, the US Department of Transportation (USDOT) issued a set of [Frequently Asked Questions](#) (FAQs) on its Interim Final Rule (IFR) for the Disadvantaged Business Enterprise (DBE) and Airport Concession DBE (ACDBE) programs. The FAQs aim to clarify key implementation steps under the IFR.

The IFR (which took effect on October 3, 2025) [overhauled the federal DBE program](#) by eliminating the long-standing presumption of social and economic disadvantage based on race

or sex. The FAQs outline practical next steps for recipients of federal funding (including state departments of transportation), DBE firms, and Unified Certification Programs (UCPs) navigating this major transition.

Reevaluation of existing DBEs: No deadlines, no blanket decertifications

UCPs may **not** impose hard deadlines on currently certified DBEs to submit new recertification documentation. Nor may they decertify firms en masse without individualized reevaluation. Each UCP is responsible for reevaluating only the firms it originally certified (its “jurisdiction of original certification”). Once recertified, firms must reapply for interstate certification in any other jurisdictions in which it operates.

While no fixed timeline is mandated, UCPs are instructed to complete reevaluations “as quickly as practicable.” Until that recertification process concludes, work by DBEs cannot be counted toward contract goals.

Impacts on contracting: Goal suspension and credit restrictions

The IFR suspends DBE goal setting and participation counting until reevaluation is complete. The RFQ provides guidance on what USDOT fund recipients (including state DOTs) must do based on contract timing:

- / **Advertised but not let (i.e., bids not yet opened) contracts:** Amend advertisements/procurements to remove DBE goals
- / **Let (i.e., bids opened) but not awarded contracts:** Zero out DBE goals. The FAQs note that re-advertising/re-procurement is not required as a federal matter, but may be required under state law.
- / **Executed pre-IFR contracts:** May proceed without amendment, but DBE credit is frozen pending recertification. If, after the re-evaluation process, the DBEs performing work under such contract are not recertified, the recipient must take “appropriate action” to discontinue the effect of the certification, and, if it fails to do so, USDOT “will not make any payments with respect to that contract.”

Termination, prompt payment, and CUF rules stay in effect

Despite the temporary hold on DBE credit, termination and payment rules remain unchanged:

- / **Termination protections:** Prime contractors may not terminate or reduce a DBE’s work without written consent and “good cause.” Loss of certification after re-evaluation qualifies,

as “good cause.” Uncertainty during the re-evaluation process does not. However, state law may prohibit a termination even after loss of certification.

- / **Prompt payment:** No change in prompt payment requirements: prime contractors must continue to pay DBE subs within 30 days of satisfactory performance or retainage release.
- / **CUF reviews:** Before the IFR, recipients (including state DOTs) were required to perform reviews to determine whether a DBE was performing a “commercially useful function,” meaning the DBE was performing the work itself (with its own personnel) and was not subcontracting out all or most of the work to non-DBEs. Such review is suspended during IFR mandated re-evaluation, as no DBE participation is counted/credited during such period.

Goal setting, reporting, and TVM guidance

Recipients (including state DOTs) cannot set new contract goals or update annual DBE goals until the IFR mandated reevaluation concludes. Uniform Reports are similarly paused. For Transit Vehicle Manufacturers (TVMs), the same analysis applies: they are not required to update goals or submit reports during the reevaluation period.

Open questions and the path ahead

State agencies (including state DOTs) have taken steps to implement the IFR’s requirements, with some, including the Illinois Department of Transportation, holding workshops for impacted DBE firms. The USDOT’s FAQs offer helpful operational guidance that helps states, certifiers, and DBE firms in navigating the complex transition triggered by the IFR. However, significant questions remain, notably regarding how UCPs should interpret DBE “economic disadvantage” in personal narratives. As of now, UCPs must determine eligibility without detailed federal benchmarks, risking different approaches across jurisdictions.

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