

# U.S. DOT Final Rule: DBE and ACDBE Program Revisions

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*49 CFR Parts 23 and 26 | Docket No. DOT-OST-2025-0897 | RIN 2105-AF33*

Federal Register publication scheduled for September 25, 2026

## Overview

The U.S. Department of Transportation (DOT) final rule largely finalizes the October 3, 2025 Interim Final Rule (IFR) governing the Disadvantaged Business Enterprise (DBE) and Airport Concession Disadvantaged Business Enterprise (ACDBE) programs. The final rule retains the IFR's basic framework while making several clarifications and establishing specific procedures and deadlines for reevaluating currently certified firms.

The central change is the elimination of race- and sex-based presumptions of social and economic disadvantage. DBE and ACDBE eligibility is instead based on an individualized determination of the qualifying owner's social and economic disadvantage. DOT states that the rule does not end the DBE or ACDBE programs.

## Key Certification Changes

- **Individualized determination.** Applicable owners must affirmatively establish social and economic disadvantage based on their own experiences and circumstances rather than relying on a race- or sex-based presumption.
- **Personal Narrative (PN).** The owner must provide an individualized narrative showing, by a preponderance of the evidence, specific economic hardship, social barriers, or denied opportunities that impeded progress or success in education, employment, or business.
- **Individual experiences involving race or sex may be discussed.** The final rule clarifies that eliminating race- and sex-based presumptions does not prohibit an owner from describing actual discrimination experienced because of race or sex. The determination must be based on the individual's evidence, not group membership alone.
- **Comparison standard revised.** The IFR's reference to 'similarly situated' individuals is replaced with 'non-disadvantaged individuals with comparable qualifications.' DOT explains that the comparison should focus on factors such as credentials, work history, and experience rather than requiring access to competitors' confidential financial information.
- **Economic disadvantage in fact.** The final rule retains economic disadvantage in fact as a separate certification safeguard. A certifier may consider the owner's assets, income, access to credit or capital, investments, valuable property, trusts, and other relevant financial evidence.

## UCP Reevaluation Deadlines and Nonresponsive Firms

- **UCP Deadline:** UCPs must complete reevaluations of currently certified DBE/ACDBE firms **within 90 days after publication of the final rule**. The rule allows DOT to grant a **one-time extension of up to 90 days** for special circumstances/good cause when properly requested.
- **Reporting to DOT:** After completing reevaluations, UCPs must notify DOT and report the number of firms that **retained certification, were disqualified, or were nonresponsive**.
- **Nonresponsive Firms:** A currently certified firm that does not timely submit the required **Personal Narrative and Personal Net Worth information** is subject to the rule's close-out process.
- **Final Deadline:** Nonresponsive firms generally have **180 days after publication of the final rule** to provide the required information. If an extension of the UCP's reevaluation deadline was granted, the applicable deadline is adjusted as provided in the rule.
- **Automatic Disqualification:** A firm that fails to submit the required information by the applicable final deadline is **automatically disqualified from the DBE/ACDBE program** and must receive the required notice.
- **Disqualification vs. Decertification:** The final rule treats this reevaluation process as a **disqualification**, rather than the ordinary §26.87 decertification process, while retaining specified due-process protections.

| Milestone                                      | Date                                                    | Rule citation               |
|------------------------------------------------|---------------------------------------------------------|-----------------------------|
| Publication and effective date                 | September 25, 2026                                      | Publication date            |
| UCP reevaluation deadline (90 days)            | December 24, 2026                                       | §26.111(c), §23.81(c)       |
| UCP email to recipients after notifying OSDBU  | Within 3 business days of the OSDBU email               | §26.111(c)(2), §23.81(c)(2) |
| Nonresponsive firm final deadline (180 days)   | March 24, 2027                                          | §26.111(d), §23.81(d)       |
| Extended UCP deadline, if OSDBU grants one     | As granted                                              | §26.111(c)(1)               |
| Nonresponsive firm deadline under an extension | June 22, 2027 (90 days after the extended UCP deadline) | §26.111(d)                  |
| Interstate reaffirmation window                | 1 year from the firm's JOC reevaluation                 | Preamble, Section 12        |

## Reevaluation of Currently Certified Firms

Unified Certification Programs (UCPs) must reevaluate currently certified firms under the revised individualized standards. DOT emphasizes that this is not a full-scale recertification. For the reevaluation, the key issue is whether the qualifying owner establishes social and economic disadvantage through the Personal Narrative process.

- UCPs must complete reevaluations within 90 days after publication of the final rule.
- DOT may grant a one-time extension of up to three months for special circumstances when requested before the reevaluation deadline.
- After completing reevaluations, each UCP must report to DOT the number of firms that maintained certification, were disqualified for ineligibility, and were not processed because they did not respond.

- The final rule establishes a close-out process for nonresponsive firms. Firms that do not provide the required documentation by the applicable deadline receive a final opportunity to comply before automatic disqualification.
- The final rule includes due-process protections for firms that are disqualified.

## Interstate Certification

The final rule addresses firms certified in more than one state. Once the firm's jurisdiction of original certification completes the reevaluation, the rule is intended to streamline recognition of that determination by other jurisdictions rather than requiring duplicative reevaluations.

## Special Ownership Categories

Representatives of Tribally owned concerns and Native Hawaiian Organizations are exempt from the reevaluation and Personal Narrative requirements, although other applicable certification requirements remain in effect. Alaska Native Corporations continue to follow the applicable regulatory certification process. Individually owned Native American, Native Hawaiian, and Alaska Native businesses generally must submit a Personal Narrative and demonstrate social and economic disadvantage.

DOT declined to provide automatic DBE reciprocity for SBA 8(a) participants or presumptive DBE status for service-disabled veterans. Existing SBA documentation may be relevant to a DBE or ACDBE evaluation when it addresses the criteria in 49 CFR 26.67.

## Privacy and Confidentiality

DOT reaffirms that certifiers must protect confidential personal, financial, and business information. Personal Narratives and supporting certification information are not required to be publicly posted, and confidential business information generally may not be released without the submitter's written consent.

## Goal Setting and Counting

- DBE goal setting and counting remain paused during the reevaluation period until the revised eligible DBE pool is established.
- Once counting resumes, recipients are to continue reporting total DBE and ACDBE participation; DOT states that additional reporting instructions will be issued.
- The final rule states that goal setting must follow a race- and sex-neutral approach under the revised framework.
- DOT states that disparity studies may not be used to support race- or sex-based presumptions or generalized assertions of systemic discrimination. Under the final rule, their role is limited to helping account for availability, utilization, and capacity of small disadvantaged businesses relative to other businesses.
- The final rule does not eliminate the underlying overall-goal requirements; recipients should follow the applicable provisions of 49 CFR Parts 23 and 26 and any additional DOT operating-administration guidance.

## Consultation Requirements

The rule removes the specific reference requiring consultation with 'minority and women's contractor groups.' Broad consultation remains required. Recipients must consult organizations and individuals with information concerning the availability of disadvantaged and non-disadvantaged businesses. DOT states that this may

include contractor groups, community organizations, and organizations serving particular constituencies, provided the overall consultation is comprehensive and evidence-focused.

## Bidders' Lists and Reporting

The final rule's information-collection analysis treats maintaining and updating bidders' lists as a recurring responsibility for FAA, FHWA, and FTA funding recipients. DOT estimates 1,639 respondents, a frequency of three times per year, 29,502 annual burden hours, and approximately \$1.62 million in annual cost burden.

## Estimated Administrative Burden

| Requirement                      | Estimated Cost Burden | Timing            |
|----------------------------------|-----------------------|-------------------|
| Certification narratives (firms) | \$31.9 million        | One-time          |
| UCP reevaluations                | \$4.15 million        | One-time          |
| Interstate certification         | \$0.16 million        | One-time          |
| Bidders' list reporting          | \$1.62 million        | Annual            |
| ACDBE annual report              | \$0.70 million        | Annual            |
| MAP-21 data report               | \$0.70 million        | Annual            |
| Setting overall goals            | \$0.60 million        | Every three years |

For certification narratives, DOT estimates 41,000 firms, 820,000 total one-time burden hours, and approximately \$31.9 million in one-time cost burden. For UCP reevaluations, DOT estimates 82,000 one-time burden hours. These figures are regulatory burden estimates and should not be interpreted as prescribed fees or required time for an individual firm or agency.

## Small Business Participation

DOT encourages recipients to continue using race- and sex-neutral strategies, including Small Business Elements under 49 CFR 26.39, to foster small business participation during the transition and after reevaluations are completed.

## Practical Takeaways

- DBE and ACDBE programs continue, but certification now depends on individualized evidence of social and economic disadvantage.
- Currently certified firms are subject to reevaluation under the revised standards unless a specific regulatory exception applies.
- Recipients and certifiers should update forms, procedures, guidance, and training to reflect the new individualized framework.
- Recipients should not rely on the pre-IFR certified-firm universe when goal setting resumes.
- Goal-setting, counting, consultation, bidders-list, and reporting procedures should be reviewed for consistency with the final rule and subsequent DOT guidance.
- Organizations should monitor DOT and the applicable operating administration for additional implementation instructions.

## Source and Use of This Summary

Source: U.S. Department of Transportation, Office of the Secretary, 'Disadvantaged Business Enterprise and Airport Concession Disadvantaged Business Enterprise Program Revisions,' 49 CFR Parts 23 and 26, Docket No. DOT-OST-2025-0897, RIN 2105-AF33, FR Doc. 2026-19688.

**Important:** This document is a summary of the final rule. It is not legal advice and does not replace the regulatory text, DOT guidance, or instructions issued by FAA, FHWA, FTA, or a UCP.