



| DBE Supportive Services

Q2 Task Force Meeting

USDOT DBE/ACDBE Final Rule

Understanding the new DBE/ACDBE Regulations

Table of Contents

Certification

- [Personal and Business Cap Increases](#)
- [Individual Determination](#)
- [Interstate Certification](#)
- [CFR Certification Links](#)

Compliance

- [Bidders List](#)
- [DBE's on Design-Build Contracts](#)
- [DBE Distributor definition added](#)
- [DBE Manufacturer definition clarified](#)
- [Prompt Payment Requirements](#)
- [CUF Requirements](#)
- [DBE Participation AFTER Decertification](#)
- [DBE/ACDBE Goal Setting](#)

[What's Next?](#)

[USDOT Resources](#)

[Contact Information](#)



DBE/ACDBE Certification:

What's New in the New Rule?

- Increases personal net worth (PNW) cap and simplifies the calculation - cap is now **\$2.04M per owner**.
- Business size cap **\$30.4M** 5 year average gross receipts for DBE program (**\$56.42M** ACDBE or DBE - FAA Only).
- Retirement assets must still be reported but are excluded from PNW
- Ownership rules clarified - initial investment includes purchases, gifts and additional investments after initial ownership.
- Control requirements amended - the SEDO (socially and economically disadvantaged owner) must “run the show”, be the ultimate and independent decision maker.



DBE/ACDBE Certification:

What's New in the New Rule?

- **Independence** - firm must be independently viable, a pattern of regular dealings with a small number or a single firm from which it receives or shares essential resources does not necessarily compromise a firm's independence.
- Removes language regarding family businesses, licenses and equipment, outside employment, and SEDO remuneration.
- **Individual determination rules** simplified so certifiers can more easily make determinations and individuals must provide a Personal Narrative (PN) of the Objective Distinguishing Feature (ODF) that has caused the disadvantage they experience.



DBE/ACDBE Certification:

What's New in the New Rule?

- On-site interviews **must be audio recorded**, can be live or virtual.
- Still up to 90 days processing deadline, extension reduced from additional 60 to additional 30 days.
- Interstate certification simplified - **10 day deadline** once application has been accepted. Paperwork reduced.
- Annual updates - **now called Declaration of Eligibility (DOE)** which must be signed but not notarized; and proof of gross receipts - can be complete tax return or audited (signed by a CPA) financial statement or page 1 of business tax return showing gross receipts.



DBE/ACDBE Certification:

What's New in the New Rule?

- Firms “home state” is now called the **Jurisdiction of Original Certification (JOC)**.
- The date your annual DOE is due in **ALL** states will be the date your firm was first certified in your JOC.
- If any state in which you are certified plans to remove your certification, that state must notify the UCP in all states the firm is certified in. Other states do not have to agree, but they can comment or provide additional information.



DBE/ACDBE Certification:

What's New in the New Rule?

- If the decertification moves ahead and the firm's certification is removed, it will be removed in all states **UNLESS** the removal was for failure to cooperate with DOE. Summary suspension can be imposed in that circumstance.
- **B2GNow/DOORS is being updated**, many new forms are already up in the system. All new applications and DOEs will be processed in compliance with the new rule.
- **AZUTRACS** will display websites for DBE certified firms.



CFR Certification:

Parts referenced

- § 26.81 | [What are the requirements for Unified Certification Programs?](#)
- § 26.83 | [What procedures do certifiers follow in making certification decisions?](#)
- § 26.85 | [Interstate certification.](#)
- § 26.86 | [Decision letters.](#)
- § 26.87 | [Decertification.](#)
- § 26.88 | [Summary suspension of certification.](#)
- § 26.89 | [Appeals to the Department.](#)
- § 26.91 | [What actions do certifiers take following DOT certification appeal decisions?](#)



Bidders List

49 CFR 26.11(C)

Reporting updates include, but are not limited to:

- Race/Gender information for majority owners of all firms (DBE and Non-DBE).
- NAICS code applicable to each scope of work for each bidder (DBE and Non-DBE).
- USDOT developing database for Agencies to report the collected data.



DBEs on Design-Build Contracts

49 CFR 26.53(e)

Updates include but are not limited to:

- ADOT must utilize open-ended **DBE Performance Plan** (DPP) when administering a **Design-Build** (DB) method contract.
- **Pre-Award:** DBE Scopes of Work are identified.
- **Post-Award:** DBE Commitments identified monthly throughout the life of the contract.



DBE Distributor

49 CFR 26.55(e)

NEW Supplier Category:

- Allows **40% DBE Credit for the costs of material.**
- Performs a CUF when it demonstrates ownership of the items in question and assumes all risk for loss or damage during transportation.



DBE Manufacturer

49 CFR 26.55(e)

- Minor material modifications is not a manufacturer for goal attainment purposes.
- Count **100%** of the cost of the materials or supplies.

DBE Regular Dealer

- Count **60%** of the cost of the materials or supplies (including transportation costs).



Prompt Payment Requirements

49 CFR 26.29

Updates include but are not limited to:

- Proactive monitoring and oversight of a prime contractor's compliance with subcontractor prompt payment and return of retainage requirements.
- Applies to lower-tier subcontractors.



Commercially Useful Function (CUF)

49 CFR 26.55

Updates include but are not limited to:

- A **CUF review** is necessary for every DBE that performs for credit toward a recipient's overall goal and a contract goal.
- DBEs used race-neutrally must be monitored.
- Recipients must keep an accounting of each contractor's progress in attaining a contract goal through progressive payments to the committed DBEs.



DBE Participation AFTER Decertification

49 CFR 26.87(j)

Updates include but are not limited to:

- Prime Contractor may not extend or add work to a decertified firm without **prior written consent** from ADOT. **NEW**
- DBE credit is **not counted** if a DBE becomes decertified as a result of a purchase by or merger with a non-DBE. **NEW**



DBE/ACDBE Goal Setting

49 CFR 26.55

ADOT and Subrecipient Contracts:

FHWA:

- Race Conscious (RC) Program.
- Contracts assessed for DBE opportunities.

FAA:

- Race Neutral (RN) Program.
- Grand Canyon Airport is the only airport under ADOT jurisdiction.



What's Next?

ADOT's action items in progress:

- Updates to ADOT DBE Program Plan and all EPRISES (DBE Contract Language).
- Updates to current ADOT DBE Forms (Bidders List, TSR).
- USDOT needs to release new Uniform Report.
- USDOT still developing a system for reporting Bidders List data.
- Future Training from ADOT.



ADOT

USDOT Resources

Click and bookmark the below links:

- [Final Rule Overview](#)
- [Final Rule Summary](#)
- [Federal Register Notice](#)
- [List of New Rule Timelines](#)
- [New Personal Net Worth Cap](#)
- [Read PDF of the Final Rule](#)



[View and Register For Training Sessions Here!](#)



ADOT

Questions?



Contract Compliance Email
contractorcompliance@azdot.gov



DBE Certification Email
dbecertification@azdot.gov



USDOT Info Email
docr.info@dot.gov