
New Disadvantaged Business Enterprise (DBE) Regulations

The following rules are new for the DBE program and have an effective date of February 28, 2011.

The Department of Transportation's new rulemaking will require greater accountability from state and local transportation agencies for including disadvantaged businesses in their spending plans. Those who fail to meet established goals for DBE participation will be required to evaluate why the goals were not met and offer a plan to help meet the goal in the future.

The final rule will adjust the personal net worth limit for DBE owners for inflation from the present \$750,000.00 to \$1.32 million. The current limit as set in 1989 and has not been adjusted since.

The Department of Transportation's rulemaking will also add provisions to ensure that prime contractors fulfill commitments to use DBE subcontractors. State and local agencies will be required to monitor each contract to make sure prime contractors are fulfilling their obligations and do not dismiss DBE subcontractors without good cause. The rule also requires state and local agencies to create a plan for improving the use of small businesses including DBEs.

Another major change under the rulemaking will reduce burdens on small businesses seeking DBE certification in more than one state. As a result of today's rulemaking, all states will be required to accept DBE certification obtained in other states, unless the state finds good cause not to accept it. The rule establishes a process for resolving issues with respect to eligibility raised by states concerning out-of-state firms.

The department anticipates issuing a proposed rulemaking to make changes in its regulation for airport concession DBEs paralleling those in today's final regulation.

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