

RTD SBO – Frequently Asked Questions (FAQs) Regarding USDOT DBE Interim Final Rule (IFR) – Effective October 3, 2025

Context:

In response to recent court rulings and executive orders, the U.S. Department of Transportation (USDOT) issued an Interim Final Rule (IFR) eliminating race- and sex-based presumptions in the Disadvantaged Business Enterprise (DBE) and Airport Concessions Disadvantaged Business Enterprise (ACDBE) programs. As a result, DBEs must now be recertified under revised standards before their participation can count toward DBE goals. This FAQs is intended to clarify certain aspects of the IFR for contractors, subcontractors, and certified firms. We encourage you to familiarize yourself with the IFR (available at: [USDOT INTERIM FINAL RULE DBE AND ACDBE REG OCT 2025](#)) and the most recent guidance issued by USDOT on October 24, 2025 (available at: [USDOT DBE IFR FAQs](#)). Information in these FAQs is subject to change as a result of future changes to applicable laws, regulations, or federal guidance.

1: What is the status of my DBE certification status?

Under the IFR, all DBE firms previously certified using race- or sex-based presumptions of social and economic disadvantage must be reevaluated under the Unified Certification Program (UCP) to determine eligibility under the new standards established in the IFR. Until that recertification process is complete, RTD may not count your participation toward DBE goals and you will not receive benefits or protections unique to DBEs.

2: What do we need to do right now to be recertified?

A: The IFR provides that in order to be recertified, previously certified DBEs must submit, among other things, a personal narrative explaining their social and economic disadvantage, without regard to race or gender, and an updated personal net worth statement. For more detailed instructions regarding recertification, please contact your certifying agency under the Colorado Unified Certification Program (CUCP) — either the **City & County of Denver (CCD)** or the **Colorado Department of Transportation (CDOT)**. They will guide you through the process once the recertification portal is open.

3: Is there a timeline for when DBE firms will be recertified?

No official timeline has been issued yet. However, each UCP is required to complete the reevaluation “as quickly as practicable.” The IFR indicates that USDOT will work with each UCP to minimize the practical impact of the rule change during the pendency of the reevaluation process. Please contact CCD or CDOT for further clarification related to the reevaluation process.

4: Will my other certifications still be valid?

RTD SBE Certifications are still valid. Only DBE and ACDBE certifications are impacted. RTD SBO encourages you to contact other certifications agencies for further guidance and specific instructions.

5: What happens to my current contract that had a DBE goal?

RTD may not count your participation toward DBE goals until the CUCP completes the reevaluation process. Until such time, RTD will not credit any DBE participation in existing contracts.

6: When the CUCP recertification process is complete, will the same DBE goals be used?

The same goals may be used, but only firms certified under the new criteria will count toward those goals.

7: Will goals be set on upcoming federally funded contracts?

Until CUCP completes the recertification process, no DBE goals will be set on upcoming federally funded contracts.

8: Can Prime Contractors remove a DBE subcontractor from a current contract without good cause?

No. The requirement that there must be good cause to remove/terminate/substitute/replace a DBE subcontractor is still in place, as the termination provisions at 49 CFR § 26.53(f) continue to apply to existing contracts. A prime contractor cannot terminate a DBE or any portion of the DBE's work listed in response to the good faith efforts bidding requirements of 49 CFR § 26.53(b) without RTD's prior written consent upon a showing of good cause, unless RTD causes the termination or reduction. (49 CFR § 26.53(f)).

9: Is the DBE Prompt Payment Provision still in effect?

Yes. RTD is required to implement and document compliance with the Prompt Payment provisions as included in the DBE Contract Requirements Part B Section 5 – Prompt Payment of DBE Subcontractors. Prime contractors shall continue to pay DBE subcontractor(s) any undisputed amounts for the satisfactory performance of the subcontractor's work within 30 days of the prime contractor's receipt of the subcontractor's invoice, regardless of whether RTD has paid the prime contractor for such invoice. Primes need to report payments to all firms by the 5th of each month, through RTD's Compliance Portal, B2Gnow. Also, subcontractors need to confirm payments through the same compliance portal (B2Gnow).

10: Will primes still need to comply with DBE flow-down provisions to any tier subcontractor?

Although there are provisions that may not be enforceable until CUCP completes the recertification process, (e.g. updated DBE Enclosures for new DBE subcontractors) other provisions related to termination, substitution, replacement or reduction of contracts, and prompt payment provisions, will still be enforceable. On new subcontract agreements effective after October 3, 2025, and while CUCP concludes the recertification process, DBE flow-down provisions are not required to be included, regardless of the tier.

11: Are joint ventures and mentor-protégé agreements still valid?

Yes. These agreements remain valid, but DBE participation cannot be counted toward DBE goals unless the DBE is recertified under the new standards and until CUCP completes the recertification process.

12: I was certified as a DBE by a CUCP and working as a prime or subcontractor in a locally funded RTD contract with an SBE goal. Will my participation still count towards the SBE goal and will I continue to receive SBE benefits or protections?

No. If you are only DBE-certified under the CUCP, your participation will no longer count toward the SBE goal and the SBE-specific requirements of a contract will not be enforced unless you are recertified as a DBE under the new standards and until CUCP completes the recertification process (or you are certified as a SBE).

13: Will RTD continue to set SBE goals on locally funded contracts?

Yes. RTD will continue to set SBE goals on locally funded contracts. However, only RTD SBE and CCD's SBE-certifications will be eligible to count toward those goals.

14: How can we stay competitive during this transition?

Focus on these areas:

1. Continue looking for contracting opportunities in RTD's procurement portal, OpenGov, or partnering with potential proposers and bidders as subcontractors. Visit RTD's OpenGov portal to make sure you are registered as vendors: <https://www.rtd-denver.com/doing-business-with-rtd/dbesbe/register-as-a-vendor>



2. Follow CUCP instructions to complete the DBE recertification process.
3. Pursue RTD's SBE Certification, so you can also compete as a certified firm on locally funded solicitations. Apply for SBE Certification at: <https://rtd-denver.gob2g.com/>
4. Continue demonstrating strong performance on existing contracts.

Contact Information

For additional clarification, please contact RTD's Small Business Opportunity Office (SBO) at SBO@RTD-Denver.com or your assigned contract representative.