

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

Version 3: November 24, 2025

Context:

Effective October 3, 2025, 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. The IFR requires existing and new DBE/ACDBE firms to undergo recertification under revised, race- and gender-neutral criteria, and until the reevaluation process is complete their participation cannot be counted toward DBE goals. As a result, RTD cannot currently count DBE participation, report DBE achievements, or set DBE goals on new contracts until further federal guidance and program adjustments are in place.

RTD remains committed to fostering an open, inclusive, and equitable contracting environment. While the DBE goal is currently on pause, RTD continues to operate its race- and gender-neutral Small Business Enterprise (SBE) program to ensure fair access and equitable distribution of work related to locally funded solicitations.

The SBO FAQ is being updated to reflect new USDOT guidance issued on October 24, 2025 (available at: [USDOT DBE IFR FAQs](#)). SBO developed these FAQs to clarify certain aspects of the IFR for contractors, subcontractors, and certified firms. Please note that this document is subject to revision as needed to align with future laws, regulations, or federal directives.

Contractors, subcontractors, and certified firms are encouraged to review the full IFR (available at: [USDOT INTERIM FINAL RULE DBE AND ACDBE REG OCT 2025](#)). For questions or additional information, please contact the RTD Small Business Opportunity Office. We are here to support you.

1: What is the status of my DBE certification?

A: As a result of the IFR, all DBE firms previously certified under the old race- or sex-based presumptions of social and economic disadvantage must be reevaluated under the Unified Certification Program (UCP) to determine eligibility using the new race- and gender-neutral standards. The following items apply until the entire reevaluation process is complete for all existing and new certified firms:

- Your firm's participation in a contract cannot be counted toward a DBE contract goal.
- RTD may not set or apply a DBE participation goal for a contract that depends on your inclusion.

Once the reevaluation is complete and your recertification is confirmed under the new rules, your firm will again be eligible for inclusion in DBE-goals, DBE-participation credit, and any other program features tied to certified DBEs.

2: What do we need to do to be reevaluated?

A: Currently certified firms are required to be reevaluated and must individually demonstrate social and economic disadvantage, without regard to race or sex, through the submission of a written personal narrative (PN) and a current personal net worth (PNW) statement. You will be contacted by your certifying agency — either the **City & County of Denver (CCD)** or the **Colorado Department of Transportation (CDOT)** with more information and instructions on how to submit your reevaluation. Please do not submit new certification applications or change requests on existing certifications until further notice.



3: Is there a timeline for when the reevaluation will be complete?

A: Not at this time. The IFR requires that each Unified Certification Program (UCP) reevaluates each ACDBE/DBE as quickly as practicable; however, the exact timeline will vary by state and certifying agency. Thousands of firms need to be reevaluated, which will take time. 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.

4: Will my other certifications still be valid?

A: RTD SBE certifications are still valid. The recent changes to the ACDBE/DBE program do not impact your City and County of Denver certifications. These are separate programs with different requirements and oversight. Only DBE and ACDBE certifications are impacted.

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

A: For contracts that were awarded before the USDOT's IFR effective date, RTD cannot currently count DBE participation toward contract goals until the CUCP completes the reevaluation process and confirms each firm's eligibility under the new standards.

This does not cancel existing contracts or remove your ability to continue performing work. You should continue meeting all contractual obligations as normal. Once the CUCP completes the reevaluation and your DBE certification is confirmed under the new standards, RTD may again start counting your participation toward DBE goals consistent with updated federal guidance.

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

A: It is currently unclear under the USDOT IFR whether RTD or other recipients can use the original DBE goal set on existing contracts. At this time, RTD will use the same DBE goals, but only firms certified under the new criteria will count. However, further guidance is needed from USDOT on how to best address DBE goals for existing contracts after the reevaluation process.

Once the reevaluation is complete and USDOT provides additional guidance, RTD will proceed with reviewing DBE goals on existing contracts if required. In the meantime, RTD encourages firms to perform on current contracts and to participate in RTD's or CCD's SBE programs.

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

A: Until CUCP completes the reevaluation 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?

A: No. Under the DBE IFR, a prime contractor cannot remove a DBE subcontractor from an existing contract without good cause and prior written approval from the recipient agency/RTD. Termination simply for convenience, such as the desire to self-perform the work or replace the DBE with another firm, is not permitted.

The IFR provides specific protection to ensure that DBE subcontractors on existing contracts cannot be unfairly displaced. Primes must follow these rules and obtain RTD's consent before making any changes to a DBE subcontractor.

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

A: Yes, the DBE prompt payment provision remains in effect under the current DBE IFR 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 (DBE or non-DBE) by the 5th of each month, through RTD's compliance portal, B2Gnow. Subcontractors are also required to confirm receipt of payments using the same portal.

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

A: Although there are provisions that may not be enforceable until CUCP completes the reevaluation 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 reevaluation 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?

A: Yes, these agreements remain valid. However, DBE participation cannot be counted toward DBE goals until the DBE is recertified under the new standards and CUCP completes the reevaluation 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?

A: No. If you are only DBE-certified under the CUCP, your participation will no longer count toward the SBE goal and the SBE-specific provisions will not apply to you. In order to receive SBE participation credit in a contract where an SBE goal has been set or applied, you need to get certified as an SBE in either RTD's SBE Certification Program or as an SBE under City and County of Denver Certification Program.

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

A: 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?

A: All firms should 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.