

USDOT's DBE Regulation: Understanding the New Final Rule

Linda C. Ford

Acting Director

Federal Transit Administration

Office of Civil Rights

Washington, D.C.



2011 Bus & Paratransit Conference

U.S. Department of Transportation DBE Rulemaking: Jan. 28, 2011

Purpose

- Improve accountability and oversight
- Update rule to accommodate changing circumstances
- Respond to programmatic issues/weaknesses



Overview of Changes Made

- Termination of DBE Firms
- Personal Net Worth
- Interstate Certification



Overview of Changes Made

- Accountability and Goal Submissions
- Program Oversight
- Small Business Provisions



Termination of DBE Firms

New Rule

Prime contractors may not terminate DBE subcontractors from projects without “good cause” and approval from the project sponsor/recipient



Termination of DBE Firms

Impact

- No arbitrary, unfair removal of DBEs from project
- Helps prevent fraud



Personal Net Worth (PNW)

New Rule

Personal Net Worth for DBE applicants increased from \$750,000 to \$1.32 million



Personal Net Worth (PNW)

Impact

- Indexed to inflation so current PNW amount is equivalent to amount in original rule
- More individuals/firms eligible for DBE status



Interstate Certification

New Rule

- Provides mechanism for DBEs certified in one state to get certified in others
- Applicant firm must provide new state its certification notice
- New state must certify within 60 days unless identified “good cause” to deny



Interstate Certification

Impact

- Makes it easier for DBEs certified in their home state to get certified as a DBE in other states
- More work opportunities for DBEs!



Accountability and DBE Goal Submissions

New Rule

If a recipient fails to meet its overall DBE goal, it must analyze the shortfall, develop corrective actions and submit the plan to the relevant operating administration (FTA, FHWA, or FAA) for approval



Accountability and DBE Goal Submissions

Impact

- Ensure DOT recipients are living up to both the letter and the spirit of the DBE rule
- Increased accountability for recipients
- Provides DOT modes another means of performing routine oversight



Program Oversight

New Rule

Recipients must monitor and provide written certification for every contract/project on which DBEs are participating, ensuring the DBE(s) are in fact performing the work



Program Oversight

Impact

- Root out fraud—no DBE “fronts”!
- Ensure DBEs are getting the opportunity to perform work committed to them



Small Business Provisions

New Rule

- Recipients must add an element to their DBE programs which fosters small business participation
- Must submit plan to relevant operating administration by February 12, 2012



Small Business Provisions

Impact

- Increase race-neutral DBE participation on DOT-assisted contracts
- Increase competition
- Reduce reliance on race-conscious contract goals



DBE Project Goals

New Rule

In appropriate cases, the Administrator of the relevant operating administration may require a recipient to submit a project-specific DBE goal



DBE Project Goals

Impact

Increased transparency,
accountability and oversight
for DOT-funded “mega”
infrastructure projects



Summary

- Improve transparency, oversight and accountability of DOT's DBE program
- Update rule to meet current conditions
- Fraud prevention



Questions?

Contact:

Federal Transit Administration
Office of Civil Rights
1200 New Jersey Ave. SE
East Building, 5th Floor
Washington, D.C. 20590
Office: (202) 366-4018



2011 Bus & Paratransit Conference