

List of Subjects in 48 CFR Parts 532 and 552

Government procurement.

Jeffrey A. Koses,

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Therefore, GSA amends 48 CFR parts 532 and 552 as set forth below:

■ 1. The authority citation for 48 CFR parts 532 and 552 continues to read as follows:

Authority: 40 U.S.C. 121(c).

PART 532—CONTRACT FINANCING

■ 2. Revise section 532.111 to read as follows:

532.111 Contract Clauses for non-commercial purchases.

Construction contracts. Insert the clause at 552.232–5, Payments under Fixed-Price Construction Contracts, in solicitations and contracts when a fixed-price construction contract is contemplated.

PART 552—SOLICITATION PROVISIONS AND CONTRACT CLAUSES

552.232–1 [Removed and Reserved]

■ 3. Remove and reserve section 552.232–1.

552.232–5 [Amended]

■ 4. Amend section 552.232–5 by removing from the introductory text “552.111(b)” and adding “532.111” in its place.

[FR Doc. 2024–14352 Filed 7–2–24; 8:45 am]

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DEPARTMENT OF TRANSPORTATION

Office of the Secretary

49 CFR Parts 23 and 26

[Docket No. DOT–OST–2022–0051]

RIN 2105–AE98

Disadvantaged Business Enterprise and Airport Concession Disadvantaged Business Enterprise Program Implementation Modifications; Corrections

AGENCY: Office of the Secretary (OST), U.S. Department of Transportation (DOT or the Department).

ACTION: Correcting amendments.

SUMMARY: The U.S. Department of Transportation (DOT or Department) is correcting a final rule that appeared in

the **Federal Register** on April 9, 2024, concerning the Disadvantaged Business Enterprise (DBE) and Airport Concession Disadvantaged Business Enterprise (ACDBE) program regulations.

DATES: Effective on July 3, 2024.

FOR FURTHER INFORMATION CONTACT: For questions related to the final rule or general information about the DBE and ACDBE Program regulations, please contact Marc D. Pentino, Associate Director, Disadvantaged Business Enterprise Programs Division, Departmental Office of Civil Rights, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W78–302, Washington, DC 20590 at 202–366–6968/marc.pentino@dot.gov or Lakwame Anyane-Yebova, ACDBE and DBE Compliance Lead, Disadvantaged Business Enterprise Programs Division, Departmental Office of Civil Rights, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue SE, Room W78–103, Washington, DC 20590, at 202–366–9361/Lakwame.Anyane-Yebova@dot.gov. Questions concerning part 23 amendments should be directed to Marcus England, Office of Civil Rights, National Airport Civil Rights Policy and Compliance (ACR–4C), Federal Aviation Administration, 600 Independence Ave. SW, Washington, DC 20591 at 202–267–0487/marcus.england@faa.gov or Nicholas Giles, Office of Civil Rights, National Airport Civil Rights Policy and Compliance (ACR–4C), Federal Aviation Administration, 600 Independence Ave. SW, Washington, DC 20591, at 202–267–0201/nicholas.giles@faa.gov. Office hours are from 8 a.m. to 4:30 p.m., E.T., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Background

The Department identified technical errors in the **Federal Register** Document 2024–05583 published in the **Federal Register** on April 9, 2024 (89 FR 24898); “Disadvantaged Business Enterprise and Airport Concession Disadvantaged Business Enterprise Program Implementation Modifications”. This document corrects technical/typographical errors. It also clarifies that the current personal net worth (PNW) limit as of May 9, 2024 is \$2.047 million, as detailed in sections §§ 23.35(a) and 26.68(a) and as indicated in the preamble to the final rule. Adjustments to this limit will start on May 9, 2027, based on the formula in sections §§ 23.35(b), (c) and 26.68(d). For FTA-assisted programs, FTA Tier II

recipients do not need to set goals if they operate a race-neutral DBE program. Additionally, this document clarifies that Good Faith Efforts are required in certain situations described in 26.53(g).

List of Subjects in 49 CFR Part 23 and 26

Administrative practice and procedure, Airports, Civil Rights, Government contracts, Grant programs—transportation; Mass transportation, Minority Businesses, Reporting and recordkeeping requirements.

Accordingly, 49 CFR parts 23 and 26 are corrected by making the following correcting amendments.

PART 23—PARTICIPATION OF DISADVANTAGED BUSINESS ENTERPRISE IN AIRPORT CONCESSIONS

■ 1. The authority citation for part 23 is revised to read as follows:

Authority: 49 U.S.C. 47107 and 47113; 42 U.S.C. 2000d; 49 U.S.C. 322; E.O. 12138, 44 FR 29637, 3 CFR, 1979 Comp., p. 393.

■ 2. Revise § 23.35 to read as follows:

§ 23.35 What role do business development and mentor-protégé programs have in the DBE program?

(a) An owner whose PNW exceeds \$2,047,000 is not presumed economically disadvantaged.

(b) The Department will adjust the PNW cap by May 9, 2027 by multiplying \$1,600,000 by the growth in total household net worth since 2019 as described by “Financial Accounts of the United States: Balance Sheet of Households (Supplementary Table B.101.h)” produced by the Board of Governors of the Federal Reserve (<https://www.federalreserve.gov/releases/z1/>), and normalized by the total number of households as collected by the Census in “Families and Living Arrangements” (<https://www.census.gov/topics/families/families-and-households.html>) to account for population growth. The Department will adjust the PNW cap every 3 years on the anniversary of the adjustment date described in this section. The Department will post the adjustments on the Departmental Office of Civil Rights’ web page, available at <https://www.Transportation.gov/DBEPNW>. Each such adjustment will become the currently applicable PNW limit for purposes of this regulation.

(c) The Department will use formula 1 to this paragraph (c) to adjust the PNW limit:

Formula 1 to Paragraph (c)

	Q1-Q4 Average Household Net Worth of Future Year / Total Households of Future
Future Year PNW Cap	Year _____
= [\$1,600,000] *	Q1-Q4 Average Household Net worth of 2019 (\$106,722,704 million / Total Households of 2019 (128,579)

PART 26—PARTICIPATION BY DISADVANTAGED BUSINESS ENTERPRISES IN DEPARTMENT OF TRANSPORTATION FINANCIAL ASSISTANCE PROGRAMS

■ 3. The authority citation for part 26 continues to read as follows:

Authority: 23 U.S.C. 304 and 324; 42 U.S.C. 2000d, *et seq.*; 49 U.S.C. 47113, 47123; Sec. 1101(b), Pub. L. 114–94, 129 Stat. 1312, 1324 (23 U.S.C. 101 note); Sec. 150, Pub. L. 115–254, 132 Stat. 3215 (23 U.S.C. 101 note); Pub. L. 117–58, 135 Stat. 429 (23 U.S.C. 101 note).

■ 4. Revise § 26.5 section heading to read as follows:

§ 26.5 Definitions.

* * * * *

§ 26.29 [Amended]

■ 5. In § 26.29 amend paragraph (f) by adding the word “all” before text “lower-tier subcontractors”.

§ 26.31 [Amended]

■ 6. In § 26.31, in the second sentence of paragraph b, removing the citation “§ 26.81(n)(1) and (3)” and adding the citation “§ 26.73(a)” in its place.

■ 7. In § 26.45, revise paragraph (a)(2) to read as follows:

§ 26.45 How do recipients set overall goals?

(a) * * *

(2) If you are an FTA Tier II recipient who intends to operate a race-neutral DBE program, or if you are an FAA recipient who reasonably anticipates awarding \$250,000 or less in FAA prime contract funds in a Federal fiscal year, you are not required to develop overall goals for FTA or FAA, respectively, for that Federal fiscal year.

* * * * *

■ 8. In § 26.53, revise paragraph (g) to read as follows:

§ 26.53 What are the good faith efforts procedures recipients follow in situations where there are contract goals?

* * * * *

(g) When a DBE subcontractor or any portion of its work is terminated by the prime contractor as provided in paragraph (f) of this section, or the firm fails to complete its work on the contract for any reason, including when work committed to a DBE is not countable or reduced due to overestimations made prior to award, the prime contractor must use good faith efforts to include additional DBE participation to the extent needed to meet the contract goal. The good faith efforts shall be documented by the contractor. If the recipient requests documentation under this provision, the contractor shall submit the documentation within 7 days, which may be extended for an additional 7 days, if necessary, at the request of the contractor, and the recipient shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

* * * * *

§ 26.55 [Amended]

■ 9. Amend § 26.55 by:

■ a. In paragraph (e)(2)(ii), by removing the text “and-operates” and adding the text “and operates” in its place: and

■ b. In paragraph (e)(2)(iv)(B), by removing the text “, operating, or maintaining” and adding the text “and operating” in its place.

■ 10. In § 26.65, revise paragraph (b) to read as follows:

§ 26.65 Business Size Determinations.

* * * * *

(b) *Statutory Cap.* Even if a firm is a small business under paragraph (a) of this section, it is ineligible to perform DBE work on FHWA or FTA assisted contracts if its affiliated annual gross receipts, as defined in 13 CFR 121.104, averaged over the firm’s previous three fiscal years exceed \$30.72 million (as of March 1, 2024). The Department will adjust this amount annually and post the adjusted amount on its website available at [https://](https://www.transportation.gov/DBEsizestandards)

www.transportation.gov/DBEsizestandards.

§ 26.67 [Amended]

■ 11. In § 26.67, in the last sentence of paragraph (a)(3)(iv), remove the text “paragraph (e)” and add the text “paragraph (d)” in its place.

■ 12. In § 26.68, revise paragraphs (a) and (d) to read as follows:

§ 26.68 Personal net worth.

(a) *General.* An owner whose PNW exceeds \$2,047,000 is not presumed economically disadvantaged. The Department will adjust the PNW cap pursuant to paragraph (d) of this section.

* * * * *

(d) *Regulatory adjustments.* (1) The Department will adjust the PNW cap by May 9, 2027 by multiplying \$1,600,000 by the growth in total household net worth since 2019 as described by “Financial Accounts of the United States: Balance Sheet of Households (Supplementary Table B.101.h)” produced by the Board of Governors of the Federal Reserve (<https://www.federalreserve.gov/releases/z1/>), and normalized by the total number of households as collected by the Census in “Families and Living Arrangements” (<https://www.census.gov/topics/families/families-and-households.html>) to account for population growth. The Department will adjust the PNW cap every 3 years on the anniversary of the adjustment date described in this section. The Department will post the adjustments on the Departmental Office of Civil Rights’ web page, available at <https://www.Transportation.gov/DBEPNW>. Each such adjustment will become the currently applicable PNW limit for purposes of this regulation.

(2) The Department will use formula 1 to this paragraph (d)(2) to adjust the PNW limit:

Formula 1 to Paragraph (d)

	Q1-Q4 Average Household Net Worth of Future Year / Total Households of Future
Future Year PNW Cap	Year
= [\$1,600,000] *	
	Q1-Q4 Average Household Net worth of 2019 (\$106,722,704 million / Total
	Households of 2019 (128,579)

* * * * *

- 13. Amend § 26.81 by:
 - a. Revising section heading; and
 - b. In paragraph (d) removing the phrase “home state” and adding in its place the phrase “Jurisdiction of Original Certification”.

The revision reads as follows:

§ 26.81 Unified Certification Programs.

* * * * *

§ 26.83 [Amended]

- 14. Amend § 26.83 by:
 - a. In paragraph (c)(2), removing phrase “provided in Appendix F to this part” and adding phrase “available at <https://transportation.gov/DBEFORMS>” in its place;
 - b. In paragraph (d) removing the word “recipient” wherever it appears and adding the word “certifier” in its place;
 - c. In paragraph (i) removing the word “recipient” and adding the word “certifier” in its place; and
 - d. Removing paragraph (l)(2) and redesignating paragraph (l) introductory text as paragraph (l)(1) and paragraph (l)(1) as paragraph (l)(2).

§ 26.85 [Amended]

- 15. Amend § 26.85 by:
 - a. In paragraph (c)(1), removing the phrase “A cover letter with its application that specifies that the DBE is applying for interstate certification” and adding the phrase “A cover letter that specifies that the DBE is applying for interstate certification” in its place;
 - b. In paragraph (h)(6),
 - i. Removing the phrase “this paragraph (h)(6)” and adding the phrase “paragraph (h)” in its place; and
 - ii. Removing the text “26.87(e)(6) (failure to cooperate)” and adding the text “26.109(c) (failure to cooperate)” in its place.
- 16. Amend § 26.87 by revising paragraphs (h) and (j) to read as follows:

§ 26.87 Decertification.

* * * * *

(h) *Status of firm during proceeding.*
A DBE remains certified until the certifier issues a NOD.

* * * * *

(j) *Consequences.* Decertification has the following effects on contract and overall goals and DBE participation:

(1) When a prime contractor has made a commitment to use a DBE, but a subcontract has not been executed before the certifier issues the NOD as provided for in paragraph (g) of this section, the committed firm does not count toward the contract goal. The recipient must direct the prime contractor to meet the contract goal with an eligible DBE or demonstrate to the recipient that it has made good faith efforts to do so.

(2) When the recipient has made a commitment to using a DBE prime contractor, but a contract has not been executed before the certifier issues the NOD, the decertified firm does not count toward the recipient’s overall DBE goal.

(3) If a prime contractor has executed a subcontract with a DBE before the certifier issues the NOD, the prime contractor may continue to receive credit toward the contract goal for the firm’s work. In this case, however, the prime contractor may not extend or add work to the contract without prior written consent from the recipient.

(4) If a prime contractor has executed a subcontract with a DBE before the certifier issues the NOD, the prime contractor may continue to receive credit toward the contract goal as set forth in paragraph (j)(3) of this section; however, the portion of the decertified firm’s continued performance of the contract must not count toward the recipient’s overall goal.

(5) If the recipient executed a prime contract with a DBE that was later decertified, the portion of the decertified firm’s performance of the contract remaining after the certifier issued the NOD must not count toward an overall goal, but the DBE’s performance of the contract may continue to count toward satisfying any contract goal.

(6) The following exceptions apply to this paragraph (j):

(i) If a certifier decertifies a firm solely because it exceeds the business size

standard during the performance of the contract, the recipient may continue to count the portion of the decertified firm’s performance of the contract remaining after the certifier issued the NOD toward the recipient’s overall goal as well as toward the contract goal.

(ii) If the certifier decertifies the DBE because it was acquired by or merged with a non-DBE, the recipient may not continue to count the portion of the decertified firm’s performance on the contract remaining, after the certifier issued a NOD, toward either the contract goal or the overall goal, even if a prime contractor has executed a subcontract with the firm or the recipient has executed a prime contract with the DBE that was later decertified. In this case, if eliminating the credit of the decertified firm will affect the prime contractor’s ability to meet the contract goal, the recipient must direct the prime contractor to subcontract to an eligible DBE to the extent needed to meet the contract goal or demonstrate to the recipient that it has made good faith efforts to do so.

§ 26.88 [Amended]

- 15. Amend § 26.88 by:
 - a. In paragraph (d)(1)(iii), removing the phrase “lieu of or in addition to attending the hearing” and adding the phrase “in lieu of or in addition to attending the hearing” in its place;
 - b. Redesignating paragraph (d)(6) as paragraph (d)(5);
 - c. In paragraph (e)(1):
 - i. Removing the phrase “under paragraph (c)(5)(iv)” and adding the phrase “under paragraph (d)(4)(iv) of this section” in its place; and
 - ii. Removing the phrase “unless paragraph (d)(2)” and adding the phrase “unless paragraph (e)(2)” in its place; and
 - d. In paragraph (e)(2)(ii), removing the text “paragraph (c)(6)” and adding the text “paragraph (d)(5)” in its place.

Signed pursuant to authority delegated at 49 CFR 1.27(c) in Washington, DC.

Subash Iyer,

Acting General Counsel.

[FR Doc. 2024-14318 Filed 7-2-24; 8:45 am]

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DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS-R1-ES-2020-0076;
FXES1111090FEDR-245-FF09E21000]

RIN 1018-BE71

Endangered and Threatened Wildlife and Plants; Threatened Species Status for Mount Rainier White-Tailed Ptarmigan With a Section 4(d) Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), determine threatened species status for the Mount Rainier white-tailed ptarmigan (*Lagopus leucura rainierensis*), a bird subspecies in Washington, under the Endangered Species Act of 1973, as amended (Act). This rule adds the subspecies to the List of Endangered and Threatened Wildlife and extends the Act's protections to the subspecies. We also finalize a rule under the authority of section 4(d) of the Act that provides measures that are necessary and advisable to provide for the conservation of the Mount Rainier white-tailed ptarmigan.

DATES: This rule is effective August 2, 2024.

ADDRESSES: This final rule is available on the internet at <https://www.regulations.gov> under Docket No. FWS-R1-ES-2020-0076 and at <https://www.fws.gov/office/washington-fish-and-wildlife>. Comments and materials we received are available for public inspection at <https://www.regulations.gov> under Docket No. FWS-R1-ES-2020-0076. Supporting materials we used in preparing this rule, such as the species status assessment report, are also available at <https://www.regulations.gov> under Docket No. FWS-R1-ES-2020-0076.

FOR FURTHER INFORMATION CONTACT: Brad Thompson, State Supervisor, U.S. Fish and Wildlife Service, Washington Fish and Wildlife Office, 510 Desmond Drive, Suite 102, Lacey, WA 98503; telephone 360-753-9440. Individuals in the United States who are deaf, deafblind, hard of hearing, or have a

speech disability may dial 711 (TTY, TDD, or TeleBraille) to access telecommunications relay services. Individuals outside the United States should use the relay services offered within their country to make international calls to the point-of-contact in the United States.

SUPPLEMENTARY INFORMATION:

Executive Summary

Why we need to publish a rule. Under the Act, a species warrants listing if it meets the definition of an endangered species (in danger of extinction throughout all or a significant portion of its range) or a threatened species (likely to become an endangered species within the foreseeable future throughout all or a significant portion of its range). If we determine that a species warrants listing, we must list the species promptly and designate the species' critical habitat to the maximum extent prudent and determinable. We have determined that the Mount Rainier white-tailed ptarmigan meets the Act's definition of a threatened species; therefore, we are listing the Mount Rainier white-tailed ptarmigan as a threatened species. Listing a species as an endangered species or threatened species can be completed only by issuing a rule through the Administrative Procedure Act rulemaking process (5 U.S.C. 551 *et seq.*).

What this document does. This rule makes final the listing of the Mount Rainier white-tailed ptarmigan as a threatened species under the Act and adopts a rule under section 4(d) of the Act for the subspecies.

The basis for our action. Under the Act, we may determine that a species is an endangered species or threatened species because of any of five factors: (A) The present or threatened destruction, modification, or curtailment of its habitat or range; (B) overutilization for commercial, recreational, scientific, or educational purposes; (C) disease or predation; (D) the inadequacy of existing regulatory mechanisms; or (E) other natural or manmade factors affecting its continued existence.

We have determined that the Mount Rainier white-tailed ptarmigan meets the definition of a threatened species due to habitat loss and degradation resulting from climate change within the foreseeable future. Rising temperatures associated with climate change are expected to have direct and rapid impacts on individual birds. Changing habitat conditions, such as loss of suitable alpine vegetation and reduced snow quality and quantity, are

expected to cause populations to decline. This threat and responses are reasonably foreseeable because some are already evident in the range of the subspecies, and the best available information indicates that the effects of climate change will continue to alter the subspecies' habitat within the foreseeable future. Furthermore, it is unlikely that the Mount Rainier white-tailed ptarmigan will adapt to the changing climate by moving northward because alpine areas north of the subspecies' current range are expected to undergo similar impacts due to climate change and any potential connectivity to areas north of the current range is expected to decline.

Previous Federal Actions

Please refer to the proposed listing rule (86 FR 31668; June 15, 2021) for a detailed description of previous Federal actions concerning the Mount Rainier white-tailed ptarmigan.

Peer Review

A species status assessment (SSA) team prepared an SSA report for Mount Rainier white-tailed ptarmigan. The SSA report represents a compilation of the best scientific and commercial data available concerning the status of the subspecies, including the impacts of past, present, and future factors (both negative and beneficial) affecting the subspecies. In accordance with our joint policy on peer review published in the **Federal Register** on July 1, 1994 (59 FR 34270), and our August 22, 2016, memorandum updating and clarifying the role of peer review of listing actions under the Act, we solicited independent scientific review of the information contained in the draft SSA report. We sent the draft SSA report to seven independent peer reviewers including scientists with expertise in white-tailed ptarmigan as well as climate science; we received three responses. The peer reviews and the draft SSA report they commented on can be found at <https://www.regulations.gov>. We also sent the draft SSA report to three agency partners for review; we received comments from one agency—the Washington Department of Fish and Wildlife. We incorporated the results of these reviews, as appropriate, into the 2021 SSA report (version 1.0, USFWS 2021, entire), which was the foundation for the proposed rule and this final rule. Additionally, new information provided to us during the public comment period on the proposed rule was incorporated into both the final rule as well as version 2.0 of the SSA report (USFWS 2023, entire). A summary of the peer review comments and our responses can