

FAQs - Maryland DBE/ACDBE Certification Reevaluation

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Frequently Asked Questions (FAQs) regarding the U.S. Department of Transportation's Interim Final Rule - *Disadvantaged Business Enterprise Program and Disadvantaged Business Enterprise in Airport Concessions Program Implementation Modifications* (effective October 3, 2025)

BACKGROUND

The Maryland Department of Social and Economic Mobility, established under House Bill 1253 (Chapter 605, Laws of Maryland 2025), is the principal department of State government and the first cabinet-level agency in the United States dedicated to removing structural barriers to social and economic mobility.

Effective October 1, 2025, three existing State offices focused on social equity programming have been consolidated into a single, integrated department. Specifically, the Department of Social and Economic Mobility is now comprised of:

- the Office of Minority Business Enterprise;
- the Office of Small, Minority, and Women Business Affairs; and
- the Office of Social Equity.

This consolidation allows the State to better coordinate equity initiatives, increase operational efficiency, and promote economic opportunity for all Marylanders. In short, the Department of Social and Economic Mobility ensures that small, minority-, and women-owned firms have the opportunity to fully and fairly participate in state and federally funded projects.

The Office of Minority Business Enterprise (OMBE) will continue to serve as Maryland's certification entity for the Minority Business Enterprise (MBE) program, the Disadvantaged Business Enterprise (DBE) program, the Airport Concession Disadvantaged Business Enterprise (ACDBE) program, and the Small Business Enterprise (SBE) program.

On October 3, 2025, the U.S. Secretary of Transportation issued an Interim Final Rule (IFR), entitled "Disadvantaged Business Enterprise Program and Disadvantaged Business Enterprise in Airport Concessions Program Implementation Modifications." The IFR became effective upon publication in the Federal Register, and is available at: www.federalregister.gov/documents/2025/10/03/2025-19460/disadvantaged-business-enterprise-program-and-disadvantaged-business-enterprise-in-airport.

This new rule does not affect a firm's MBE certification, which applies to state-funded contracts. However, the IFR makes significant changes to the DBE and ACDBE programs, including:

- Elimination of Presumptions: Unified Certification Programs (UCP), such as OMBE, are now prohibited from using race- and sex-based presumptions of social and economic disadvantage for purposes of DBE/ACDBE certification. Instead, DBE and ACDBE applicants must demonstrate individualized social and economic disadvantage using specific instances of economic barriers, systemic barriers, and denied opportunities that impeded the owner's progress or success in education, employment, or business.
- Mandatory Reevaluation of Certified DBEs/ACDBEs: All currently certified DBEs and ACDBEs must undergo a mandatory reevaluation under the new standards set forth in the IFR. Firms will need to submit new documentation, including a personal narrative and a current personal net worth statement, to their

original certifying jurisdiction. UCPs must then determine each firm's eligibility, and issue written recertification and decertification decisions.

- **Suspension of DBE Goals:** Until a UCP completes its reevaluation process, recipients of USDOT funding cannot set contracting goals for DBEs or ACDBEs or count any participation toward overall goals.

This document outlines the actions that the Department of Social and Economic Mobility is taking in response to the abrupt changes to the DBE and ACDBE programs.

QUESTIONS & ANSWERS

A. General

1. When did the Interim Final Rule (IFR) go into effect?

The IFR was published by the United States Department of Transportation (USDOT) on October 3, 2025, with an immediate effective date.

2. Do the changes to the Disadvantaged Business Enterprise (DBE) program apply to the Airport Concession Disadvantaged Business Enterprise (ACDBE) program?

Yes, the IFR made changes to the ACDBE regulations in 49 CFR part 23 in a substantially similar manner to those made in 49 CFR part 26. Accordingly, these FAQs apply to both the DBE and ACDBE programs.

3. When will Maryland update its DBE/ACDBE program manual?

OMBE intends to update Maryland's DBE/ACDBE program manual in the 2026 calendar year, after the certification reevaluation process has concluded.

B. Certification Reevaluation

1. Does OMBE have to reevaluate all currently certified DBEs operating in Maryland or only those DBEs for which Maryland was the jurisdiction of original certification?

Under the certification reevaluation requirements at 49 CFR § 26.111, OMBE is required only to reevaluate the certifications of DBEs for which OMBE was the original certification entity, or the original certifying jurisdiction (*i.e.*, the State of Maryland).

OMBE is not required to reevaluate the certifications of DBEs that obtained certification from certifying entities of other states through the Unified Certification Program (UCP) interstate certification procedures at 49 CFR § 26.85. DBEs that received certification from UCPs through interstate certification will have their certifications reevaluated by the UCPs in their jurisdiction of original certification. If such DBEs are recertified by the UCP in their jurisdiction of original certification, they will be required to reapply for interstate certification with the UCPs for the jurisdictions in which they wish to be certified.

2. Is there a date by which OMBE must complete its certification reevaluation process?

No. The regulation at 49 CFR § 26.111 provides that UCPs should complete their reevaluation processes "as quickly as practicable." OMBE has set a goal to complete its reevaluation process by December 31, 2026.

3. Is there a deadline for currently certified Maryland DBE and ACDBE firms to submit reevaluation documentation?

No. The IFR does not set a deadline for currently certified DBEs to submit documentation demonstrating their eligibility under the new standards. As such, Maryland will not implement a deadline for DBEs to submit reevaluation documentation. However, submission of documentation before OMBE's initial submission date will ensure an earlier decision concerning recertification. Firms that do not submit the necessary information will remain ineligible for Maryland's DBE/ACDBE programs until they submit the required documentation demonstrating eligibility under the new standards.

4. Can OMBE simply decertify all currently certified DBEs without completing the reevaluation process?

No. The IFR requires OMBE to identify each currently certified DBE/ACDBE and provide each identified firm with the opportunity to submit documentation demonstrating its eligibility under the new standards described at 49 CFR § 26.67. OMBE will individually notify all DBEs and ACDBEs of its reevaluation process and provide an anticipated timeline for completion.

5. Must OMBE submit every DBE and ACDBE reevaluation decision to USDOT for approval?

No. OMBE is solely responsible for carrying out the reevaluation of currently certified DBEs and ACDBEs for which Maryland was the jurisdiction of original certification. However, USDOT may review OMBE's reevaluation process and individual certification decisions, as necessary.

6. Can a firm that is decertified through the reevaluation process appeal the decision to USDOT?

Yes. A firm that is decertified by OMBE under the reevaluation procedures described in 49 CFR § 26.111 is entitled to appeal their decertification to USDOT under the procedures described at 49 CFR § 26.89.

7. How can a DBE/ACDBE owner establish social disadvantage through a personal narrative?

Pursuant to new federal guidelines, OMBE will holistically consider the following when making a determination of social disadvantage:

- Education – factors such as denial of equal access, compared to all similarly situated persons, to institutions of higher education and vocational training, exclusion from social and professional association with students or teachers, denial of educational honors rightfully earned, and social patterns or pressures that discouraged the individual from pursuing a professional or business education.
- Employment – factors such as unequal treatment compared to all similarly situated persons in hiring, promotions and other aspects of professional advancement, pay and fringe benefits, and other terms and conditions of employment; retaliatory behavior by an employer or labor union; and social patterns or pressures that have channeled the individual into non-professional or non-business fields.
- Business history – factors such as unequal access, compared to all similarly situated persons, to credit or capital, acquisition of credit or capital under commercially unfavorable circumstances, unequal treatment in opportunities for government contracts or other work, unequal treatment by potential customers and business associates, and exclusion from business or professional organizations.

8. Will the owner of a DBE and/or ACDBE firm be required to submit a new personal net worth statement along with the personal narrative of social disadvantage as part of the certification reevaluation process?

Yes. DBE and/or ACDBE firms seeking recertification from OMBC under the reevaluation procedures described in 49 CFR § 26.111 must submit a personal narrative. In addition, they must submit a current personal net worth statement with the required supporting documentation.

9. When will Maryland notify USDOT that its DBE and ACDBE certification reevaluation process is complete?

Maryland has set a goal to notify USDOT that it has completed its certification reevaluation process by December 31, 2026.

In order to facilitate the relaunch of Maryland's DBE and ACDBE programs as soon as possible, while complying with the IFR's new eligibility standards, OMBC anticipates setting a certification reevaluation documentation submission date of March 20, 2026 for all currently certified DBE and ACDBE firms for which Maryland was the jurisdiction of original certification.

Maryland will notify USDOT of the completion of its reevaluation process after OMBC has completed its reevaluation of the firms that submit the necessary information by the anticipated certification reevaluation documentation submission date of March 20, 2026. The actual date will be confirmed and included in the official communications sent to email addresses registered with OMBC for all currently certified DBE and ACDBE firms for which Maryland was the jurisdiction of original certification.

10. Will currently certified DBE and ACDBE firms be permitted to submit certification reevaluation documents after the initial OMBC certification reevaluation submission date (anticipated to be March 20, 2026)?

Yes. OMBC will continue accepting DBE/ACDBE eligibility documentation on a rolling basis. This means that currently certified DBE/ACDBE firms, for which Maryland was the jurisdiction of original certification, may submit the required documentation to OMBC after the submission date. However, submission of documentation before OMBC's initial submission date will ensure an earlier decision concerning recertification.

Firms will remain ineligible to count toward Maryland DBE participation goals until they submit the required documentation demonstrating DBE eligibility under the new standards and obtain certification.

11. In what order will OMBC consider submissions for DBE and ACDBE certification reevaluation?

OMBC will evaluate submissions for DBE and ACDBE certification reevaluation on a first-come, first-served basis using the date on which the firm was deemed to have successfully submitted all required documentation for certification reevaluation.