

MDOT Program Update – Disadvantaged Business Enterprise (DBE) & Small Business Program (SBP)

1. Legal Context and Program Status

- The DBE Program continues to face ongoing legal challenges questioning its constitutionality, especially the presumptions of racial and gender disadvantage.
- A preliminary injunction issued September 23, 2024, limited some program activities, but MDOT largely continued operating under existing federal regulations.
- The case has been rendered moot based on program changes.

2. Interim Final Rule (IFR) – Major Program Changes

- Issued October 3, 2025, by USDOT, removing race and gender as automatic qualifiers of social disadvantage.
- DBE applicants must now provide evidence of social disadvantage per 49 CFR 26.67.
- All existing DBEs require full reevaluation under the new criteria.
- MDOT could not set DBE goals during the reevaluation period.

3. MDOT’s Approach to Implementing the IFR

- MDOT partnered with UCP agencies to create a unified approach.
- **Nov 3, 2025:** Personal narrative and PNW requests sent to all Michigan-based DBEs (45-day deadline).
- Out-of-state firms were removed from the directory pending reevaluation by their home state.
- MDOT held informational virtual meetings and weekly workshops to support firms.
- Firms that failed to submit their re-evaluation documentation were listed as inactive on January 5, 2026.
- Determination letters sent to recertified firms Feb 18.
- **Updated DBE program plan and methodology submitted to FHWA Feb 20. Approval is still pending.**
- Contractor announcements were sent.
- DBE project goal-setting resumes **April 2026**.

4. Reevaluated Program Snapshot (Chart Summary)

The pre- and post-IFR numbers for home-based DBEs:

- Submitted narratives: **159**
- No response: **109**
- Moved to Small Business Program: **14**
- Withdrew/Opted out: **2**
- Total before IFR: **284 firms**

5. DBE Goal Changes (Chart Summary)

Overall DBE Goal for FHWA

FY23–25: 9.5% (6.6% RC / 2.9% RN)

- **FY26–28 prior to IFR:** 8.32%
- **FY26–28 after IFR: 5.5% total**
 - 4.0% DBE-Conscious
 - 1.5% DBE-Neutral

6. Small Business Program (SBP)

- Required under 49 CFR 26.39; fully race- and gender-neutral.
- Includes prime contractor set-asides and facilitates subcontracting opportunities.
- SBP is **not a replacement for DBE**, but an added tool.
- DBEs automatically qualify as SBPs; however, SBP and DBE goals **will not be set on the same project**.

7. SBP Contract Performance (Table Summary)

Across lettings from Nov 2025–Feb 2026:

	LETTING					
	11/7/2025	12/5/2025	12/19/2025	1/9/2026	1/14/2026	2/6/2026*
Total Contracts with SBP Goal	5	8	1	32	0	28
Total Contracts that Met SBP Goal	5	6	0	25	0	23
Total Contracts that Did NOT meet SBP Goal	0	2	1	7	0	5
GOOD FAITH EFFORT (GFE) Awards	0	2	1	7	0	5
SBP Commitment (USD\$)	\$3,215,219.68	\$6,000,461.85	\$1,379,467.00	\$10,862,192.16	\$0.00	\$9,911,822.90
*Single letting in February						