

October 9, 2025

TO: MDOT Industry Partners, Contractors, and Consultants

FROM: Acting Secretary Samantha J. Biddle

SUBJECT: United States Department of Transportation (USDOT) Interim Final Rule on the Disadvantaged Business Enterprise Program

Since the 1970s, the State of Maryland has supported small and disadvantaged entrepreneurs participating in federal transportation contracting opportunities, usually in partnership with the federal government. The Moore-Miller Administration is committed to ensuring fairness across the marketplace, supporting small businesses, and being a strong steward of public dollars. The Maryland Department of Transportation (MDOT) and the Department of Social and Economic Mobility (DoSEM) is committed to working with all stakeholders and federal partners on a path forward.

On October 3, 2025, the U.S. Secretary of Transportation issued an Interim Final Rule that makes significant changes to the Disadvantaged Business Enterprise (DBE) program. The Interim Final Rule became effective upon publication in the Federal Register and a copy is available at <https://www.federalregister.gov/documents/2025/10/03/2025-19460/disadvantaged-business-enterprise-program-and-disadvantaged-business-enterprise-in-airport>. This new rule does not impact the State's Minority Business Enterprise (MBE) Program.

Among other changes, the Interim Final Rule removes the use of race- and sex-based presumptions of social and economic disadvantage in the certification process, contains new requirements that replace race- and sex-based presumptions of social and economic disadvantage, and requires that all businesses currently certified as DBE and Airport Concessions Disadvantaged Business Enterprise (ACDBE) must be re-evaluated in accordance with the new rules. Moving forward, current DBEs and ACDBEs and any others seeking certification must demonstrate, on a case-by-case basis, social and economic disadvantage based on their own experiences and circumstances within American society in order to participate in the DBE or ACDBE programs.

Effective immediately, in accordance with the Interim Final Rule, DBE and ACDBE goals on all active contracts funded by federal transportation dollars will not be enforced until all currently certified DBEs and ACDBEs are re-evaluated under the new certification requirements set by the Interim Final Rule, the MDOT will not include DBE and ACDBE goals on federally funded contracts or monitor DBE or ACDBE participation on active contracts.

DBEs and ACDBEs with current contracts or subcontracts should **not** be removed from those contracts. Prime contractors and consultants must honor contracts and concessions agreements

with all subcontractors consistent with relevant contract provisions, nondiscrimination law and applicable Maryland contract law.

The information above is based solely on interpretation of public information provided by USDOT and is not intended as legal advice. Should you have questions regarding Interim Final Rule implications specific to your circumstances, please seek advice of counsel. MDOT will provide updates on changes to the DBE and ACDBE program as additional information becomes available.