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**Gavin Newsom**
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**Toks Omishakin**
Secretary

November 3, 2025

Peter Constantine
Office of the General Counsel
Office of the Secretary
U.S. Department of Transportation
1200 New Jersey Avenue SE
Washington, DC 20590

**RE: DOT-OST-2025-0897 – CalSTA Comments on Disadvantaged Business Enterprise (DBE) and Airport Concession Disadvantaged Business Enterprise (ACDBE) Interim Final Rule (IFR) Implementation Modifications**

Dear Mr. Constantine:

The California State Transportation Agency (CalSTA) hereby submits its comments on the Interim Final Rule (IFR) and subsequent Frequently Asked Questions document of the US Department of Transportation's (US DOT, or Department) Disadvantaged Business Enterprise (DBE) and Airport Concession Disadvantaged Business Enterprise (ACDBE) Program Implementation Modifications.

CalSTA is the cabinet-level agency focused on supporting California's robust transportation network – the movement of people and goods on our highways, roads, rails, sidewalks, and streets and more. CalSTA develops and coordinates people-first transportation policies and programs to achieve the state's mobility, safety, equity and environmental sustainability objectives. CalSTA oversees the policies and activities of eight transportation-related programs and services including the California Department of Transportation (Caltrans), California Highway Patrol (CHP), California High Speed Rail Authority (HSRA), and the Department of Motor Vehicles (DMV).

CalSTA is proud of the economic role that our State's transportation infrastructure plays in the global economy. Our state's economy is intrinsically tied to the success of our small businesses, particularly in the construction industry. In addition, CalSTA strongly supports the DBE program's goal of ensuring that socially and economically disadvantaged individuals are provided opportunities in federally assisted transportation contracting. As such, CalSTA supports the Department's commitment to ensuring the implementation of the Department DBE program continues to serve the public.

However, the IFR represents a significant operational shift for state recipients, Unified Certification Programs (UCPs), and industry partners with potential economic impacts and harms. We acknowledge the substantive and complex changes which will occur because of these modifications. Additionally, the sweeping and expedited changes in the IFR raise significant regulatory, legal, and operational concerns for recipients that require further clarification and the Department's guidance before successful implementation can proceed. These delays will essentially paralyze the ability of our State to build and support our transportation network not just in California, but as it relates to interstate, intrastate, and interregional economic activities.

The following areas are of significant concern to CalSTA and our member departments:

- **Impact on Existing Certified DBE/ACDBE Firms**: The rule mandates reevaluation of all current firms under the new individualized standard.

    - Across the board, firms certified as DBE prior to the IFR in California who no longer qualify will likely result in lost potential revenue – either from delays in successfully bidding on contracts as a recertified DBE or from no longer qualifying for those contracts based on new rules. The impact of stopped contracts and bids results in delayed construction, implementation, and direct, indirect, and induced economic activity.

    - Planned procurements may face schedule impacts due to required updates to contract language, bidder requirements and compliance language tied to DBE certification and participation goals. Many potential firms have already begun the work of forming teams prior to the issuance of the IFR.

    - The IFR establishes rules which impact contracts that are not officially approved, many of which are scheduled to be formally adopted or approved in the next six months. Delays in contract approval will result in deferred wages for workers, delayed projects and increased costs to public agencies.

    - In addition, State agencies, as recipients of USDOT funds, may not set any contract goals and may not count any DBE participation toward DBE goals until the UCP in the recipient's jurisdiction is complete. This fundamentally stalls projects and prevents UCPs from supporting local businesses from actively participating and benefiting from the DBE program. DBE participation cannot be counted toward program goals during the transition, affecting performance metrics and compliance tracking for current contracts.

    - Finally, implementation of the IFR could become prohibitively burdensome for the very firms it is intended to serve. This includes "consultants" seeking to "help" DBEs craft their personal narrative at a fee, particularly because of the urgency to recertify and continue to be a part of the DBE program. Clarity on these points is urgently needed to ensure consistent and constitutionally compliant national implementation across all UCPs.

- **DBE incentives for primes decrease**. Targets for DBE investments are often perceived as "ceilings" rather than "floors". Our departments have noted that those primes who track certain categories, such as DBE for instance, once they have hit their targets, they will not utilize that firm and pivot to other goals where they may be deficient, reducing the investment in our DBEs. If the Federal government is no longer requiring DBE goals, even temporarily, other certifications may be more popular, thereby relaxing the required use of DBE firms.

- **Transition Period for Recertification and Contract Goals**. While the IFR resulted in an immediate end to the consideration or race and gender as a precluding category in the DBE program, the action created an unrealistic expectation related to the time in which all DBEs would be recertified. This impacts the State's ability to achieve its DBE goals, which were not paused.

- **Delayed Goals Impact Current Federal Funding**. Many California agencies (Caltrans, airports, transit authorities) rely on DBE/ACDBE certifications and contract goals tied to federal funding. Any disruption in certification or goal-counting – such as this pause to recertify DBEs – will impact compliance with federal grant conditions, or risk funding issues.

- **Achievement of Future Goals**. Ongoing disparity studies, as required in the Ninth Circuit States, may be impacted as States consider how these studies align with the new individualized eligibility framework. Current disparity studies may not be able to continue as planned, be paused, and re-scoped as small and disadvantaged business capacity analyses.

Based on these concerns brought about by the IFR, CalSTA respectfully requests the following actions:

- **USDOT should clarify reevaluation steps and timelines**: To support our small businesses and expedient recertification of DBEs, the Department should clarify and extend the implementation timeline for the reevaluation of currently certified DBEs and ACDBEs under the new individualized disadvantage standard. For example:
    - A phased implementation schedule (e.g., reevaluation upon renewal or within one year).
    - Written guidance confirming recipients may continue using current DBE goals while reevaluations are underway.

- **Provide additional Federal guidance on transition and include flexibility in approach**: USDOT guidance allowing interim use of existing certified firms until reevaluation is completed, with safeguards to remove firms later found ineligible.

- **Minimize disruption to certification, contracting, and fair outcomes**: additional federal resources, funding, or technical assistance and training should be provided to support certification agencies in implementing new documentation and narrative requirements. Creating certainty around requirements, processes, and evaluation is critical to supporting our DBE goals. In addition, future guidance on goal-setting methodology (§26.45) and corresponding data to refine the DBE program is important to continue.

To provide consistent and transparent guidance to support the success of small businesses, a national implementation guide should be provided to ensure consistent timelines, documentation standards, and public communications across all recipients.

CalSTA and its member departments strongly support the U.S. DOT's objectives to promote fairness and inclusion in transportation contracting. We urge the Department to provide additional flexibility, phased implementation, and clear federal guidance to ensure that the transition preserves DBE program integrity, protects small businesses, and minimizes disruption to federally funded projects.

Please feel free to contact me at allison.joe@calsta.ca.gov, should additional clarification or discussion be helpful.

Sincerely,

Allison S. Joe
Deputy Secretary
California State Transportation Agency