



November 3, 2025

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U.S. Department of Transportation
Docket Operations
M-30, West Building, Ground Floor, Room W12-140,
1200 New Jersey Avenue, S.E.
Washington, D.C. 20590

RE: Request for Clarification on Disadvantaged Business Enterprise Program and Disadvantaged Business Enterprise in Airport Concessions Program Implementation Modifications, Docket Number DOT-OST-2025-0897

On behalf of the members of Airports Council International – North America (ACI-NA), we appreciate this opportunity to request clarification on a number of technical issues in the Interim Final Rule (IFR) referenced above, issued on October 3, 2025, as well as the Official Frequently Asked Questions (FAQs) on the U.S. Department of Transportation's Disadvantaged Business Enterprise (DBE) Program and Disadvantaged Business Enterprise in Airport Concessions (ACDBE) Program Implementation Modifications, Interim Final Rule issued on October 24, 2025. ACI-NA represents local, regional, and state governing bodies that own and operate commercial airports in the United States and Canada. ACI-NA member airports enplane more than 95 percent of the domestic and virtually all the international airline passenger and cargo traffic in North America. Approximately 380 aviation-related businesses are also members of ACI-NA, providing goods and services to airports. Collectively, U.S. airports support more than 11.5 million jobs and account for \$1.4 trillion in economic activity – or more than seven percent of the total U.S. GDP.

Airport sponsors play a central role in the implementation of the DBE and ACDBE programs, as many serve as members of their state's Unified Certification Program (UCP) responsible for certifying firms. Even for airports that are not directly part of a UCP, there remains a strong interest in how these programs interpret and apply the new IFR removing the presumption of social and economic disadvantage. The way UCPs implement this rule will directly affect the pool of certified DBEs and ACDBEs available for airport contracts and concessions, as well as the overall competitiveness of airport procurement and development opportunities.

The IFR requires each UCP to complete the reevaluation process as quickly as practicable. The reevaluation process will include the review of the current Personal Net Worth Statement and a Personal Narrative, after which the applicant may be certified if it "establishes the existence of disadvantage by a preponderance of the evidence based on individualized proof regarding specific instances of economic hardship, systemic barriers, and denied opportunities that impeded the owner's progress or success in education, employment, or business, including obtaining financing on terms available to similarly situated person who did not face barriers in obtaining terms." ACI-NA, on behalf

of its airport members, seeks technical clarifications and makes the following comments:

1. We request that DOT clarify the criteria for establishing social and economic disadvantage (SED) to assist UCPs in making consistent determinations nationally.
2. We request that DOT provide further information and training for UCPs to conduct reevaluations, specifically including how to evaluate the Personal Narrative and what, if any, financial documentation is needed other than an updated Personal Net Worth Statement.
3. The FAQs indicate that DOT will issue an updated Uniform Application Form.
 - When will it be available?
 - Please confirm that the new application form is not required for previously certified firms as part of the UCP re-evaluation process.
4. If a proposed DBE/ACDBE demonstrates SED without regard to race, but their Personal Narrative still makes a sex- or race-based reference, may a UCP proceed with certification, specifically noting it did not rely on sex or race? Or noting that the reference was only considered as part of the description of the individualized experiences rather than an assertion of presumptive disadvantage?
5. The IFR has revised 49 CFR 26.67 to state “[a]ll applicants must demonstrate social and economic disadvantage (SED) affirmatively based on their own experiences and circumstances within American society, and without regard to race or sex.” How should UCPs evaluate an applicant who presents, as either a basis for or as part of their description of their social or economic disadvantage, another strict scrutiny classification (national origin, religion, or alienage) or intermediate scrutiny (illegitimacy) classification?
6. If there is an agency that is a member of its state’s UCP, may the agency move forward with setting goals once the agency completes its reevaluation process, even if that occurs before the statewide UCP has completed its reevaluation process?
7. Please confirm that UCPs can determine they have fully completed their reevaluation process after making reasonable efforts to reach out to firms and allowing a reasonable amount of time following a non-response. In the FAQs, DOT states that a UCP cannot impose a deadline on currently certified DBEs for submission of the reevaluation documentation required under 49 CFR 26.111. We understand and appreciate that firms need adequate time to prepare their materials for reevaluation. Still, there may be lengthy delays in hearing back from currently certified DBEs, or they may choose not to respond at all and decline to communicate that. Presumably, these outliers would not prevent a UCP from determining, after reasonable time and effort, that the reevaluation process is complete.
8. We request DOT provide further guidance, including templates, for recipients to use in revising their ACDBE and DBE programs in compliance with 49 CFR Part 26.21(b).

Thank you for the opportunity to request technical clarifications. Please feel free to contact me with any questions.

Sincerely,

/s/

Leila Zahlan Lahbabi

Deputy General Counsel

Airports Council International – North America