



# DBE/ACDBE Interim Final Rule Overview

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- Mid-America Milling Company v. U.S. Department of Transportation
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# Mid-America Milling Company – Defendant Sides with Plaintiffs

- Kentucky Court enjoined DBE program in 26 states, including MN
- In May 2025, the DOJ, on behalf of USDOT, submitted a proposed consent order stipulating that the government's past use of DBE presumptions in awarding contracts violated the Equal Protection Clause and agree to stop setting DBE goals on projects in all 50 states.
- The Mid-America Milling Company v. U.S. Department of Transportation court case is not resolved!

# Release of DBE Interim Final Rule

- October 1, 2025, the US DOT posted a DBE Interim Final Rule (IFR) dated September 30, 2025, and IFR Guidance to the US DOT DBE Laws, Policy and Guidance website
- October 3, 2025, the IFR was published to the Federal Register for 49 CFR Parts 23 and 26 (Airport Concessions DBE and DBE Program)
- October 24, 2025, USDOT issued DBE IFR FAQs effective October 3, 2025
- November 3, 2025, DBE IFR Public Comment period closed

# IFR – Key Provisions

- Elimination of presumptions
  - Race-and gender-based presumptions of social and economic disadvantage are removed
- Reevaluation of all firms
  - All applicants must be reevaluated under the new IFR certification requirements
- Firms certified in multiple states (interstate certification)
  - Certification is reevaluated by the UCP in their jurisdiction of original certification
  - If 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



# MnDOT Contract Administration

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## **Projects with state funds:**

- Targeted Group Business & Veteran Program: No changes at this time

## **Projects with federal funds:**

- Disadvantaged Business Enterprise Program
- Contracts completed prior to October 2:
  - Continuing same process for final clearance/project closeout

# MnDOT Contract Administration

## Projects with federal funds continued:

- Contracts executed on or after October 3 – completion of reevaluation process:
  - DBE-Neutral (DBEN)
  - DBEN documentation and Bidder/Quoter data required
  - No Good Faith Effort evaluations
  - No counting of DBE participation
- Contracts executed on or before October 2:
  - DBE terminations, substitutions, and reductions must still be approved by OCR
  - DBE participation under existing contracts cannot be counted



## Reevaluation Process

# Reevaluation Process

- Elimination of presumptions
  - Race-and gender-based presumptions of social and economic disadvantage are removed
- Reevaluation of all firms
  - All applicants must be reevaluated under the new IFR certification requirements
- The reevaluation will be conducted by the MnUCP member agencies
  - MnUCP – total of 944 firms
- Each certifying agency is reevaluating the firms they originally certified
  - MnDOT – 308 firms
    - As of today, about 160 firms have submitted



## Next Steps and Resources

# Current State and Next Steps

- DBE terminations/substitutions still require OCR approval
- Reevaluation process is underway
- More to come with project goals – SBE, ESBE, mandatory subcontracting, etc.

- DBE [Interim Final Rule](#)
- [USDOT DBE IFR FAQs](#)
- [MnUCP DBE IFR FAQs](#)
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Questions?