



DBE Update on the Interim Final Rule

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Agenda

DBE Interim Final Rule (IFR) Overview

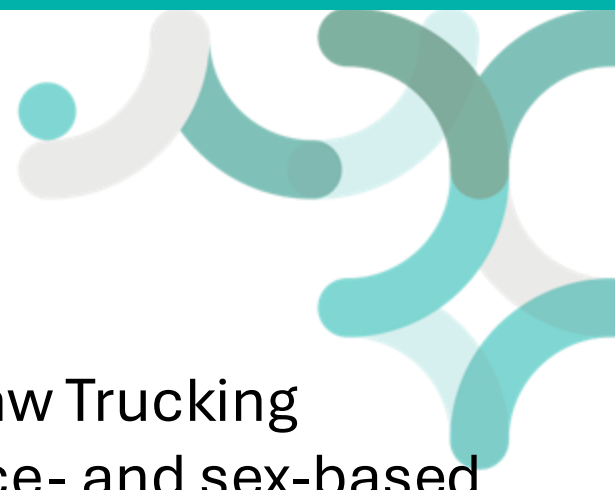
Summary of IFR Actions

Next Steps and Resources

Question & Answer

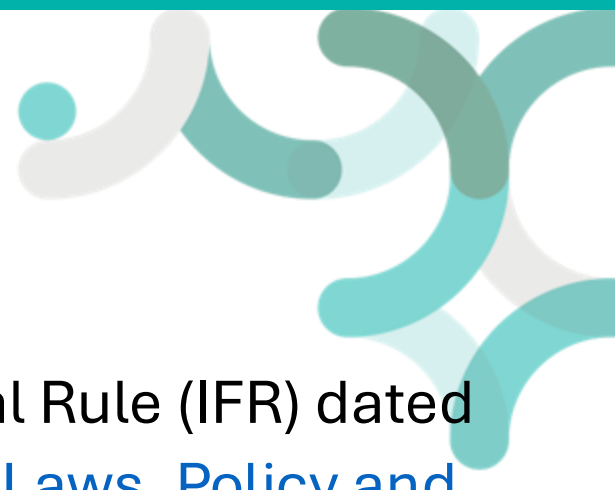


Interim Final Rule (IFR) Overview



Background Leading to IFR

- October 2023, Mid-American Milling Company and Bagshaw Trucking (MAMCO) lawsuit challenging the DBE Program's use of race- and sex-based presumptions of social and economic disadvantage
- In May 2025, the U.S. Department of Justice, 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 end the use of such presumptions.
- On June 25, 2025, the Solicitor General wrote to the Speaker of the House to advise the Speaker that DOJ had concluded that the DBE program's presumptions violate the Constitution.



Release of DBE Interim Final Rule

- On 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](#).
- On October 3, 2025, the IFR was published to [the Federal Register](#) for 49 CFR Parts 23 and 26 (Airport Concessions DBE and DBE Program)
- 30-day comment period. Visit the [DBE Federal Register](#) to submit a comment by November 3, 2025.
- *Note: The MAMCO court case is not resolved.*



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 recertified under the new IFR certification requirements Disadvantaged business must now demonstrate social and economic disadvantage through individualized evidence, including a personal narrative and financial documentation.
- For more information on recertification, contact the Caltrans Office of Civil Rights at DBE.Compliance@dot.ca.gov. DLA is not involved in the certification process.

■ DBE Requirements Suspended

DBE Program requirements are suspended until all DBEs in the CUCP database are recertified under the new IFR certification standards.

What happens after all DBEs are Recertified?

- Awaiting further guidance from US DOT/FHWA on updated DBE Program
- We do know from IFR:
 - IFR changes text from race-neutral and race-conscious to DBE-neutral and DBE-conscious
 - IFR removes all race, ethnicity, and gender data collection
 - IFR mentions change in disparity study formula and goal setting formulas





Summary of IFR Actions



Recertifications

- Race-and gender-based presumptions of social and economic disadvantage are removed.
- All applicants must now demonstrate social and economic disadvantage through individualized evidence, including a personal narrative and financial documentation, without regard to race and gender presumption.
- Every currently certified DBE will undergo reevaluation. Firms meeting the new standards will be recertified; those that do not will be decertified.
- Unsure how long the process will take. Seeking more clarification from US DOT (several states).

During the DBE Suspension Period

There will be:

- No contract goals on contracts signed on or after October 3, 2025
- No Good Faith Effort evaluations
- No counting of DBE participation
- No monitoring of DBE program compliance
- No DBE forms submission

Executed Contracts

Executed Contracts signed on or before October 2:

- Existing contracts remain valid. No compliance monitoring is required.
 - DBE commitments and participation under existing contracts cannot be counted toward goal attainment during suspension period.
 - Good Faith Effort documentation is no longer required for termination and replacement.
- Prevailing wage, certified payroll, or prompt payment, termination/replacement continue as they are upheld by other subcontractor regulations

Contracts at Bid Solicitation and Procurement

- Bid solicitation and procurement must not include a DBE goal, and contracts will not follow DBE program requirements. Subsequently, Good Faith Efforts are no longer required.
- Currently advertised projects require an addendum removing the DBE goal and requirements from the bid package. The addendum may extend the bid opening period, if necessary, for bid adjustments.

Contracts at Bid Evaluation and Selection

- Projects at the bid selection stage are the most difficult. Re-advertisement is an option. Another option is selecting the lowest most qualified bidder without regard to DBE commitment.
- Caltrans recommends all agencies consult with their legal team to determine how to best proceed in these situations. Bid protest is a concern at this stage.

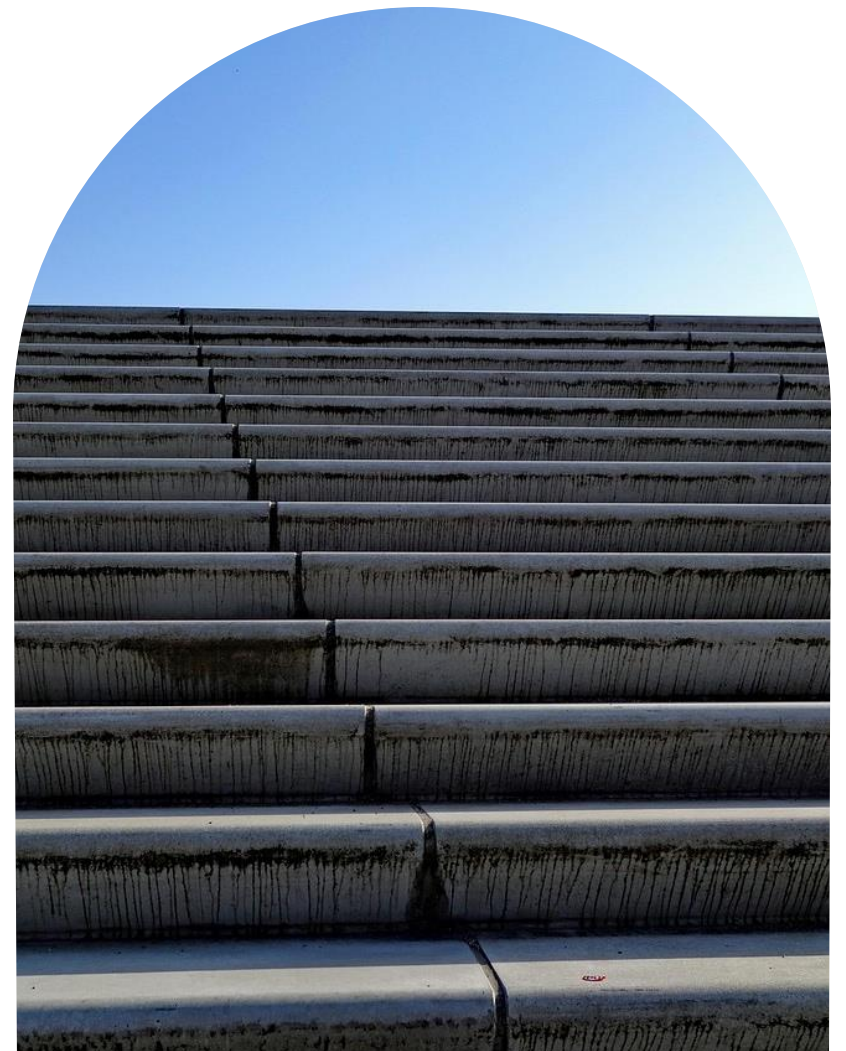


Next Steps and Resources



Next Steps for LPA's

- Read the [Interim Final Rule](#) closely
- Read the [Caltrans Letter to DBE Program Stakeholders](#)
- Watch for emails from Caltrans DLA and monitor the [DLA Blog](#) for DBE Program Updates
- Watch for Office Bulletin 25-07
- Encourage your primes to continue utilizing small businesses on their federal contracts



Next Steps for Caltrans/DLA

- Looking at developing templates and better guidance to share with LPAs, such as addendums.
- Keeping website and blog updated.
- More webinars and training.
- Office hours.
- Supporting certification branch to speed up process.





■ Important Communication

- Local Agencies please contact your respective District Local Assistance Engineer or DBE Coordinator should you have questions regarding your specific projects.
 - [DLAE and DBE Coordinators List](#)
- Subscribe to the Local Assistance Email List
 - Visit the [Local Assistance Blog](#) and subscribe using the form in the right sidebar



Additional Important Links

FOR LOCAL PUBLIC AGENCIES

- [DLA DBE Website](#) (Updates coming)
 - This webinar will be recorded and posted
- [LAPM Office Bulletin Website](#)
 - 25-7 will be live by Monday, Oct 13
 - A more detailed Office Bulletin will follow with actual changes to the [LAPM](#) language
- [Caltrans of Civil Rights Website](#)
- Certification questions? Email DBE.compliance@dot.ca.gov
- [Federal Register – DBE Program Implementation Modifications \(IFR\)](#)
- The USDOT is accepting **public comments** through November 3, 2025, at <http://www.regulations.gov>



Q & A



Questions Submitted at Registration

- Are all Federal agencies affected by the DBE Final Rule?
 - Yes, the Interim Final Rule (IFR) covers administrative requirements for the DBE Program for recipients of federally assisted contracting.
- Questions regarding Caltrans Division of Construction, please contact the Office of Civil Rights
 - Please direct questions to 916-324-0990 or DBE.compliance@dot.ca.gov.
 - Contact information is in the initial letter, linked in the presentation.

Questions Submitted at Registration

- Can agencies still award contracts during this time?
 - Yes, we encourage award and use of small businesses/subcontractors during this time. Caltrans recommends all agencies consult with their legal team to determine how to best proceed in these situations.
 - As a result of the Interim Final Rule, please confirm all DBE Goals are removed from all projects in CA, effective immediately?
 - DBE goals, counting and monitoring are suspended until further notice. Effective October 3, 2025.

Questions Submitted at Registration

- How do you prove evidence of disadvantage in the re-certification process?
 - Please contact the Office of Civil Rights DBE.certificaton@dot.ca.gov for further details
- If a DBE becomes decertified during the life of the project, is this cause for termination?
 - The program is currently suspended, and the subcontractor's DBE certification becomes irrelevant. Please follow subcontracting/subletting regulations.

Questions Submitted at Registration

- How shall agencies proceed with existing projects if there is a decrease in DBE percentage performed during construction?
 - Compliance monitoring/reporting is paused. There will be no penalties at this time. With that said, however, as mentioned earlier, prevailing wage, prompt payment, termination is covered under other California regulations.
- Please clarify dates for changes to be implemented for current, upcoming projects and differences for Design or Construction
 - October 3, 2025, DBE program in its current form is suspended. No differences in design/construction.

Questions Submitted at Registration

- Are subrecipients still required to obtain DBE goal concurrence from Caltrans Office of Civil Rights for their projects?
 - Contract Goal setting is suspended. Concurrence is not needed, at this time.
- Does this suspension need to be implemented retroactively on contracts that have been awarded? Or is this for new contracts?
 - Retroactively, DBE compliance monitoring and reporting is suspended. Please follow subcontracting/subletting regulations.
 - On new contracts remove reference to DBE program goals, commitments, compliance monitoring, reporting.