

MEMORANDUM

TO: SCDOT Industry Partners, Contractors, and Consultants
SCDOT Senior Staff

FROM: Karl McCottry, Deputy Secretary for Finance and Administration
Robert E. Perry, P.E., Deputy Secretary for Engineering

DATE: October 17, 2025

SUBJECT: Interim Final Rule (IFR)

The U.S. Department of Transportation (USDOT) issued an Interim Final Rule (IFR) that substantially amends the Federal Regulations that governs the Disadvantage Business Enterprise (DBE) Program by modifying the certification, compliance and reporting requirements. The IFR became effective upon publication in the Federal Register on October 3, 2025. A copy of the IFR is available at <https://www.govinfo.gov/content/pkg/FR-2025-10-03/pdf/2025-19460.pdf>.

The South Carolina Unified Certification Program (UCP), administered by the Minority and Small Business Affairs (MSBA) Office of the South Carolina Department of Transportation (SCDOT) provides "one-stop shopping" for applicants to apply for DBE certification within the state. The IFR requires the eligibility of all DBE certified firms to be re-evaluated on an individualized basis, without reliance on race-based or sex-based presumptions of disadvantage. The IFR requires small business concerns to demonstrate social and economic disadvantages based on their own experiences and circumstances without reliance, in whole or in part, on race or sex.

In compliance with the IFR, the certification process for new DBE's and the certifications of all existing DBE firms have been suspended pending the implementation of the new DBE certification guidelines consistent with the IFR. SCDOT is required to re-evaluate all currently certified DBE firms and to recertify those firms that meet the new certification standards, and to decertify any firm that does not meet the new certification standards. The decertification procedures found at 49 C.F.R. § 26.87 do not apply to any decertification decisions under this process.

Once SCDOT receives further clarification from FHWA regarding ongoing projects and certification timelines, MSBA will provide updated guidance to all stakeholders. Below is a summary of the coordinated actions underway.

Certifications

- **Notification Letters:** Letters have been sent to all certified DBE firms on October 6, 2025, suspending their certification with a link and copy of the USDOT's Interim Final Rule guidance.



- **Re-evaluation Process:** SCDOT is awaiting further guidance from the Federal Highway Administration (FHWA) on implementation of the IFR. Once received, a new certification process with required documentation will be established in compliance with the IFR.

Business Development Center (BDC)

- All Supportive Services training and outreach events for small business concerns shall continue and are not affected.
- Any inquiries or requests for training information will be addressed on a case-by-case basis.

Current and Future Contracts with DBE Goals

- **Contracts Awarded prior to October 3, 2025:** Pending further guidance from FHWA, DBE contract provisions remain in effect for contracts awarded prior to October 3, 2025.
- **Contracts Advertised prior to October 3, 2025; Not Awarded:** There are no projects affected in this category.
- **Future Projects:** Federally funded contracts will be advertised with a 0% DBE goal until SCDOT implements the required changes to the DBE certification process and can establish contract goals in accordance with the IFR. Due to the constitutionality issues considering race and gender in awarding contracts, SCDOT will not issue "set-aside" contracts under SC Code Section 12-28-2930.

Additional Questions

Should you have questions, please contact Director of Supportive Services & Business Development Sergio Aparicio-Fernandez at AparicioSE@scdot.org or 803-737-1982.

