

10/3/2025 USDOT Interim Final Rule (IFR)

NDDOT FAQ Document

Interim Final Rule

- What is the Interim Final Rule (IFR)?
 - The IFR and supplemental information can be accessed on USDOT's webpage [DBE and ACDBE Final Rule | US Department of Transportation](#). The IFR removes race and sex based presumptions from the DBE Program. The IFR was published to the Federal Register on October 3, 2025, and was effective immediately. Each certifying agency must reevaluate each DBE for which they are the Jurisdiction of Certification (JOC) to determine eligibility under the IFR. USDOT created an FAQ document for the IFR, it can be viewed at the same link above.

NDDOT's DBE Program

- Has the DBE Program been shut down?
 - NDDOT's DBE Program is currently paused while we go through the reevaluation process and update our program documents/goal to reflect the IFR requirements.
- Why are there no DBE goals on projects?
 - The IFR states that DBE goals cannot be placed on projects during the reevaluation process and updates to program documents/goal.
- Why is the DBE Directory not available?
 - It was disabled during the reevaluation process and will be made available again once that is completed

NDDOT Highway Construction Projects

- Is Prompt Pay still a requirement?
 - Prompt Pay is still required. All federal aid projects include the Prompt Pay Special Provisions outlining the requirements.
- Are Utilization Plans still required?
 - Utilization Plans (UPs) will still be sent to Prime contractors that were awarded a federally funded project. Any non-DBE subs that will be used on the project must be added to the UP. Any DBE subs and suppliers that will be used must also be added; however, Primes should select "No" for "Included in Goal" as DBE participation cannot be counted until NDDOT has completed the IFR requirements.
- Why is the Sign-In and Advertisement System not available?
 - That system was part of the DBE Special Provisions requirements. As the program is on pause, the system has been temporarily disabled. It will be available again once the program is back up and running.
- Can a DBE that was committed to being used prior to 10/3/2025 be removed from a project without approval from the DBE Program Manager?
 - The USDOT's FAQ document states that the termination provisions in 49 CFR 26.53(f) continue to apply to existing contracts. A Prime contractor cannot terminate a DBE or any portion of the DBEs work listed in response to the GFE bidding requirements of 49 CFR 26.53(b) without the recipient's (NDDOT) prior written consent upon a showing of good cause.

- Will the DBE Triennial Goal be updated once all DBEs are reevaluated?
 - NDDOT will be required to create and submit for approval a new DBE Triennial Goal once either all North Dakota based firms have been reevaluated or a cut off date approved by FHWA has passed. It is unknown at this time if the new goal will be DBE Neutral, DBE Conscious or a mix of both types. Once interstate firms reapply for certification the goal may need to be adjusted.
- Are DBEs still able to quote NDDOT projects?
 - Yes, DBE firms are still encouraged to quote NDDOT projects. Prime contractors that use DBE firms in their bids should mark “No” for “Counted Towards Goal” in the Utilization Plan when it is submitted until the program is back up and running.
 - DBEs are encouraged to register as a subcontractor, if they have not previously done so, during the transition period.
 - DBEs may continue to identify their quotes as DBE unless they are found ineligible in the reevaluation process and had their certification removed.
- Are DBEs still required to submit quotes to subquotes@nd.gov prior to the bid opening?
 - DBEs are not required to submit quotes but are still encouraged to do so as that data may assist us in setting the new DBE Triennial Goal
- Will there be any adjustments to projects that were bid while the program was on pause? Will DBE goals be retroactively set?
 - No, goals and/or DBE requirements will not be retroactively set on projects that are bid while the program is on pause. Per the IFR, goals cannot be set until the reevaluation process is complete, and the agency has updated/gotten approval of DBE program documents and a new DBE Triennial Goal

DBE/ACDBE Certification Reevaluation Process

- What are the requirements to remain DBE/ACDBE certified under the IFR?
 - Any North Dakota based DBE/ACDBE that was certified prior to 10/3/2025 must submit a Personal Narrative and current Personal Net Worth (PNW) statement to be reviewed by the Unified Certification Program (UCP) Board. If the UCP finds the firm eligible under the new socially disadvantaged criteria listed in the IFR and the firm is economically disadvantaged as determined by their PNW they will remain certified. If the UCP finds the firm ineligible, they will be removed. If a firm does not wish to pursue the reevaluation process, they can request withdrawal of their certification. All interstate DBE/ACDBEs that were certified with NDDOT prior to 10/3/2025 have been removed and must reapply once applications are being accepted again and their UCP has completed the reevaluation process.
- Will the ND UCP be asking for changes or clarifications to Personal Narratives once they have been submitted?
 - Once a Personal Narrative has been submitted to NDDOT it will be accepted as is with no revisions allowed. If you need assistance with writing your Personal Narrative, Project Solutions, Inc. has created a Personal Narrative Workshop and Worksheet that can be utilized. Project Solutions, Inc. also provides one-on-one assistance if needed. All assistance for North Dakota based DBEs is provided at no cost as part of NDDOT's DBE Supportive Services contract.
- Is the Personal Narrative subject to North Dakota's Open Records Law?
 - This is a case-by-case determination. This document likely will contain personal information. Information that is medically or financially related may be redacted.

NDDOT's Legal Division and Records Department will make determinations on what is subject to open records.

- How soon do the Personal Narrative and PNW need to be submitted?
 - There is no deadline to submit documents for reevaluation. A date that must be approved by FHWA, may be set so that NDDOT can continue in the process of getting the program up and running again. Any DBEs that have not withdrawn their certification or submitted a Personal Narrative/PNW for reevaluation after that date will remain ineligible. It is in the best interest of all that Personal Narrative/PNWs be submitted as soon as possible.
 - NDDOT has set a "move forward date" of May 31, 2026. What that means is that after that date we consider all firms that have wanted to submit their Personal Narrative and PNW for review in a timely manner have. We will start to update our program documents and goal setting after this date. Any ND based firms that were certified prior to 10/1/2025 that have not requested withdrawal or submitted reevaluation documents will remain ineligible until they do either of those items. The date allows NDDOT to move forward in restarting the program without waiting until every firm has either withdrawn or submitted reevaluation documents.
- In writing a Personal Narrative, if it includes other construction companies must those companies be named?
 - Specific company names are not required to be included; however, Personal Narratives should be as detailed and descriptive as possible. If you are uncomfortable with names use other ways to describe them.
- Is backup documentation required to be submitted with the Personal Narrative?
 - No, it is not required. It is highly recommended, if available.
- How many instances of social disadvantage must I provide in my Personal Narrative?
 - One persuasive instance or two instances is recommended.
- How long will it take until I know if my Personal Narrative and PNW were found eligible under the IFR?
 - A determination should be made in a month or less. You will receive a letter informing you of the decision through your certification record in the Certification and Compliance System (B2Gnow).