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2026

March 2, 2026

Melissa Hernandez
 PRESIDENT

Edward Wright
 VICE PRESIDENT

Robert Powers
 GENERAL MANAGER

Subject: Disadvantaged Business Enterprise (DBE)/Airport Concession Disadvantaged Business Enterprise (ACDBE) Eligibility Reevaluation Required

Dear Business Owner(s),

DIRECTORS

Matt Rinn
 1ST DISTRICT

Mark Foley
 2ND DISTRICT

Barnali Ghosh
 3RD DISTRICT

Robert Raburn, Ph.D.
 4TH DISTRICT

Melissa Hernandez
 5TH DISTRICT

Elizabeth Ames
 6TH DISTRICT

Victor Flores
 7TH DISTRICT

Janice Li
 8TH DISTRICT

Edward Wright
 9TH DISTRICT

The U.S. Department of Transportation (U.S. DOT) issued an Interim Final Rule (IFR), which took effect on October 3, 2025. The IFR removes race- and sex-based presumptions from the definition of “socially and economically disadvantaged individual” as it pertains to DBE/ACDBE eligibility. Instead, majority owner(s) must now demonstrate on a case-by-case basis that the individual meets the criteria described in 49 CFR Section 26.67¹ to qualify as a DBE/ACDBE.

Section 26.67 states as follows:

- (a) ***Non-presumptive Disadvantage.*** All 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.
 - (1) To satisfy the SED requirement and ensure all determinations of disadvantage are not based in whole or in part on race or sex, an owner must provide the certifier a Personal Narrative (PN) that 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, non-disadvantaged persons.
 - (2) The PN must state how and to what extent the impediments caused the owner economic harm, including a full description of type and magnitude, and must establish the owner is economically disadvantaged in fact relative to similarly situated non-disadvantaged individuals.
 - (3) The owner must attach to the PN a current Personal Net Worth (PNW) statement and any other financial information he considers relevant.

Your firm was DBE/ACDBE certified by BART prior to the effective date of the IFR. As such, you are hereby provided with the opportunity to submit documentation demonstrating your DBE/ACDBE program eligibility under the updated standards set forth in 49 CFR part 26. If you wish to maintain your DBE/ACDBE eligibility, you are required to submit a

¹ The IFR made changes to the ACDBE regulations in 49 CFR Part 23 in a substantially similar manner to those changes made in 49 CFR Part 26.

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personal narrative, along with an updated PNW statement. It is requested that you provide this documentation to BART's Certification Unit **within 45 days** to be reevaluated for certification under the updated eligibility standards. *Your recertification submission is due on April 16, 2026.* A firm that meets the new requirements will be recertified as a DBE and/or an ACDBE. If you do not submit the necessary information, your firm will remain ineligible for the DBE/ACDBE Program until you submit the required documentation demonstrating DBE/ACDBE eligibility under the new standards.

To begin the re-evaluation process, please log into B2G and look for the reevaluation process. You will be asked to upload a Personal Narrative and an updated Personal Net Worth statement. Firms that submit documentation for reevaluation of DBE/ACDBE certification and are denied based on the new requirements will have the right to appeal the decision under 49 CFR Section 26.89. Instructions for submitting an appeal will be included in the denial letter.

If you do not wish to proceed with submitting the required documentation, or if you believe your firm no longer qualifies for the DBE/ACDBE Program, please notify us at ocrcertifications@bart.gov so that we may remove your firm accordingly.

Below you will find guidance for demonstrating social and economic disadvantage. Please note, this is intended solely as a guide for firms seeking to demonstrate DBE/ACDBE eligibility under the IFR requirements and does not constitute legal advice. Firms are advised to monitor any future guidance or changes to the regulations issued by the DOT. If you have any questions regarding the DBE/ACDBE program updates, please contact **BART Certification Unit** at ocrcertifications@bart.gov.

This guidance document is not intended to replace sound professional judgement. It is not legal advice. This document provides general information as part of the DBE reevaluation process.

Guide for Demonstrating Social and Economic Disadvantage (SED)

1. Purpose

To participate in the Disadvantaged Business Enterprise (DBE) and Airport Concession Disadvantaged Business Enterprise (ACDBE) Program, a firm must be at least 51% owned and controlled by one or more individuals who are socially and economically disadvantaged. The owner(s) claiming social and economic disadvantage must submit a Personal Narrative (PN) that establishes the existence of disadvantage by a preponderance of the evidence, as well as a current Personal Net Worth (PNW) statement and any other financial information they consider relevant. The PN must also state how and to what extent the social disadvantage caused the owner's economic harm.

This guide will provide insight into what elements to include in demonstrating social and economic disadvantage.

2. Definitions

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and whom a certifier finds to be socially and economically disadvantaged on a case-by-case basis. A determination that an individual is socially and economically disadvantaged **must not be based in whole or in part on race or sex.**

3. Key Elements of Social and Economic Disadvantaged Narrative

To demonstrate social and economic disadvantage, business owner(s) should include the following elements in their PN:

- a. Description of personal experiences of disadvantage within American society.
- b. Description of specific instances of economic hardship, systemic barriers, or denied opportunities in education, employment, or business.
- c. Explanation of how and to what extent these impediments caused economic harm, including a full description of the type and magnitude, and evidence that the owner is economically disadvantaged relative to similarly situated non-disadvantaged individuals.

Experience(s) should be related to education, employment, or business history (including current or previously owned companies). The following describes broad types of experiences which may, on a case-by-case basis, establish social and economic disadvantage.

- **Education** – Individualized factors such as denial of equal access, compared to all similarly situated persons, to institutions of higher education and vocational training, exclusion from social and professional association with students or teachers, denial of educational honors rightfully earned, and social patterns or pressures that discouraged the individual from pursuing a professional or business education;
- **Employment** – Individualized factors such as unequal treatment compared to all similarly situated persons in hiring, promotions and other aspects of professional advancement, pay and fringe benefits, and other terms and conditions of employment; retaliatory behavior by an employer or labor union; and social patterns or pressures that have channeled the individual into non-professional or non-business fields; or
- **Business History** – Individualized factors such as unequal access, compared to all similarly situated persons, to credit or capital, acquisition of credit or capital under commercially unfavorable circumstances, unequal treatment in opportunities for

government contract or other work, unequal treatment by potential customers and business associates, and exclusion from business or professional organizations.

All experiences, whether related to education, employment, or business history, must describe how the disadvantage/impediment caused the owner economic harm.

4. Description of Incidents

A PN should, without relying on race or sex, identify any incidents and experiences of economic hardship, systemic barriers, and denied opportunities from any point in your life within American society that impeded your progress or success in education, employment, or business opportunities, including obtaining financing on terms available to similarly situated, non-disadvantaged persons.

For each incident, please describe who, what, where, why, when, and how disadvantage occurred. Incidents may be clearer if they provide information in the following order within a narrative:

- **When** – Explain when the incident occurred. Exact dates, where available, are preferred but are not necessary so long as a specific time period is provided. The incident may be from any period of your life.
- **Where** – Explain where the incident occurred. The incident must have occurred within American society, not in another country.
- **Who** – Explain who was involved in the specific incident. This could include an individual, a group of individuals, or an institution. Individual names, where available, are preferred but not necessary so long as a specific figure or organization is identified
- **What** – Explain the specific incident of social and economic hardship, systemic barriers, or denied opportunities.
- **Why** – Explain the motivation, based on your understanding, for the circumstances detrimental to your progress.
- **How** – Explain how and to what extent the impediments caused the owner economic harm, including a full description of the type and magnitude, and evidence that the owner is economically disadvantaged relative to similarly situated non-disadvantaged individuals.

Please note: Any owner(s) claiming social and economic disadvantage in connection with the submission of a PN shall be required to sign, under penalty of perjury, affirming that all statements provided in the certification application for review are true and accurate.