

Issuance from USDOT, Office of the Secretary, 49 CFR Part 26, Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs, Final Rule:

The following is a summary of the Final Rule followed by highlights of its impact on the VTrans DBE Program:

The U.S. Department of Transportation issued a final rule making several improvements in its Disadvantaged Business Enterprise (DBE) program. The new provisions will make it easier for small businesses, prime contractors, and state and local governments to work with the DBE program. "The DBE program is an important tool to ensure that there is a level playing field for all businesses who seek work in state and local transportation programs that receive DOT financial assistance," said U.S. Secretary of Transportation Norman Y. Mineta. "It's our responsibility to do everything we can to make the program work well for all participants."

DOT's DBE program is administered by state and local recipients of financial assistance from the department's Federal Highway Administration, Federal Transit Administration and Federal Aviation Administration. The program seeks to ensure a nondiscriminatory "level playing field" for small businesses owned and controlled by socially and economically disadvantaged individuals in competing for DOT-assisted contracts and grants. The new amendments reduce administrative burdens and clarify program requirements in a number of ways:

- * There is a new uniform application form that small businesses can use everywhere in the country to apply for DBE program eligibility.
 - * The rule implements a memorandum of understanding between DOT and the Small Business Administration (SBA) to facilitate DBE certification for SBA-certified small disadvantaged businesses.
 - * There is a new, simplified form that all state and local agencies in the program will use to report DBE information to the department.
 - * State and local governments will be required to take steps to reduce burdens on prime contractors with respect to the "retainage" of funds at the conclusion of a contract.
 - * The rule implements a statutory change broadening DBE program eligibility for businesses owned by Alaska native corporations.
 - * The rule increases privacy protections for confidential business information provided by DBE companies.
 - * The rule eases limits on the participation of DBE trucking companies.
 - * The rule clarifies provisions of the rule on such subjects as evidence of disadvantaged group status, multi-year project goals, and proof of economic disadvantage.
- ***The rule appears in today's Federal Register, and goes into effect 30 days later on July 16, 2003. The final rule, proposed rule and public comment may be obtained on the Internet at <http://dms.dot.gov>, docket OST-2000-7639.

Impact on the VTrans DBE Program:

- * Clarification Concerning Monitoring and Counting DBE Participation: we will be expanding our current system to capture awards or commitments and attainments and will be reporting on a semi-annual rather than quarterly basis.
- * Retainage: USDOT proposed three different approaches that DOTs could use. VTrans current policy is different from those listed. We will be reviewing this issue in-house to determine which method makes the most sense for the Agency and those who do business with us while maintaining the spirit for which it was intended.
- * Certification application and determination: we are now required to use the form provided without modification. In determining personal net worth (PNW) we must count present value of retirement savings or investment device toward the PNW calculation. No longer is the spouse of the applicant required to complete the PNW, only on a case-by-case basis. In determining group membership we must do so uniformly for all minority groups. To ensure confidentiality we may not release business information of a DBE without their written consent.

This summary will be posted on the Civil Rights DBE web page (<http://www.aot.state.vt.us/civilrights/dbe.htm>) and we encourage those who are in contact with the contracting community to refer questions to the site or our office.