



**U.S. Department of  
Transportation**

Office of the Secretary  
Of Transportation

Departmental Office of Civil Rights  
1200 New Jersey Avenue, S.E., W76-401  
Washington, DC 20590

To: State and Local Recipients Implementing the Disadvantaged Business Enterprise (DBE) and Airport Concession DBE (ACDBE) Programs

From: Charles E. James, Sr.  
Director, Departmental Office of Civil Rights (DOCR) *Charles E. James, Sr.*

Re: DBE and ACDBE Program Monitoring During COVID-19 Public Health Emergency: Update and Supplemental Guidance<sup>1</sup>

Date: April 30, 2020

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The U.S. Department of Transportation (Department or DOT) is entrusted with billions of dollars of public funds used to finance State and locally initiated projects throughout the United States and its territories. As stewards of these funds, State and local recipients must ensure that all grants and associated expenditures are made consistent with applicable statutory and regulatory authorities. I am writing to remind you of the importance the Department places on the Disadvantaged Business Enterprise (DBE) and Airport Concession DBE (ACDBE) programs, which support sustained infrastructure development and greater economic efficiency.

The Coronavirus Disease 2019 (COVID-19) public health emergency is still affecting many aspects of our collective personal and professional lives. The COVID-19 public health emergency has also created challenges for many small businesses, including DBEs and ACDBEs, such that it may be difficult for these businesses to remobilize their workforce.

Flexibility has been an important aspect of the DBE program, supporting recipients' ability to establish and provide opportunities for DBEs, while ensuring the integrity of the DBE and ACDBE programs. The Department's March 24, 2020, and April 1, 2020, memoranda on the DBE and ACDBE Program Requirements (see: <https://www.transportation.gov/mission/civil-rights/covid-19-guidance>) provide guidance on appropriate flexibilities that you may apply during the COVID-19 public health emergency.

In the coming weeks and months, funding from the Coronavirus Aid, Relief, and Economic Security (CARES) Act (P.L. 116-136) and the continuation or resumption of existing projects will provide economic relief for small businesses, support for workers, and strengthen our communities. It is important to continue your organization's commitment to the DBE and ACDBE program rules and implementing those rules as set forth in the DBE and ACDBE regulations, 49 CFR parts 23 and 26. This includes continuing to take all necessary and reasonable steps to ensure nondiscrimination in the award and administration of contracts.

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<sup>1</sup> This guidance is not legally binding in its own right. Conformity with this guidance, as distinct from existing statutes, regulations, and grant assurances, is voluntary only, and nonconformity will not affect existing rights and obligations.

DOCR and the Department's Operating Administrations (OAs) take compliance with the DBE and ACDBE program rules seriously and investigate instances of program violations. We request that you communicate with us early to address possible instances of noncompliance by program participants, including prime contractors and subcontractors, or if you encounter new issues or questions that need to be addressed. The Office of the Secretary and OA civil rights staff use this information to craft policies and guidance that support the DBE and ACDBE programs. Allegations of fraud, waste, abuse, or mismanagement in the DBE Program may be reported to the Department's Office of the Inspector General: [www.oig.dot.gov](http://www.oig.dot.gov).

In addition to the Department's existing DBE and ACDBE program guidance available at <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise/dbe-guidance>, the Department maintains a webpage for COVID-19 information and resources <https://www.transportation.gov/coronavirus>.

I hope you, your family, and colleagues are coping as well as possible and staying safe. Once again, thank you for your dedication and effort during these challenging times.