

Women First National Legislative Committee

Fall 2025

The Reauthorization of the Disadvantaged Business Enterprise (DBE) Program

The DBE program was created to provide an equal opportunity for women- and minority-owned small businesses in federal contracting to thrive in the highway, transit, and airport construction industries that had excluded them.

Overview of the DBE Program

1. The DBE program is firmly rooted in federal procurement and civil rights law, strengthened by 30 years of federal judicial and Congressional review and 40 years of regulatory updates—it is **distinct from diversity, equity, and inclusion initiatives**.
 - The **DBE program requires that recipients of federal transportation funding make good faith efforts** to level the playing field for small business owners who have historically and presently faced discrimination.
 - In the DBE program, **anyone who qualifies, including white males** who are considered socially and economically disadvantaged, can participate in the program.
2. The **program has a national aspirational goal of 10%**, but all state contract goals are flexible and to be based upon real evidence of the local availability of DBEs.
 - State agencies are encouraged to use race/gender-neutral efforts to support DBE small businesses.
 - Non-DBEs receive 90% of the billions of dollars appropriated for transportation and infrastructure projects.
3. The DBE program has **enormous economic impacts** such as fostering competition and lowering the price of projects—ultimately **saving taxpayer dollars**.
 - There are **52,000 DBEs** in the nation contributing to the economic health of our country, in part by **employing over 500,000 people**.
 - If the **DBE program is not reauthorized**, states and localities that have fashioned similar programs will see those programs eliminated.
 - The **domino effect will have large impacts on small businesses, tax revenue, and the local economy**.
4. The **top ten states** that have the largest DBE communities are:
 - Maryland, 9,815
 - California, 6,337
 - Texas, 6,292
 - Georgia, 4,780

- New York, 4,445
 - Oregon, 4,298
 - Florida, 4,019
 - Virginia, 3,731
 - New Jersey, 3,476
 - Illinois, 3,389
5. In the **Supreme Court's *Adarand Constructors, Inc v. Peña* ruling, and as urged by Congress**, the Court held that the DBE Program is a **narrowly tailored program**, which means state DOTs are required to implement the program in the following ways, which serve a compelling governmental interest:
- **Quotas and set asides are prohibited.**
 - Recipients **may use race-neutral methods** (good faith efforts) like outreach and technical assistance) to meet as much as possible of their overall goals.
 - **Firms owned by socially and economically disadvantaged white males shall be allowed to participate as DBEs.**
6. **Not every state contract** with federal dollars let to general contractors **has a DBE goal**:
- The following states —Alaska, Florida, Maine, Montana, New Mexico, and Wyoming—reached their goals for women and minorities through the narrowly tailored means outlined by the *Adarand* Supreme Court decision.
7. **Women- and minority-owned small companies** that participate in the DBE program **go through an in-depth certification process**:
- This process includes on-site evaluation, proof of ownership, name of board of directors, all financial documents, list of personal items in the household, **demonstration that the DBE controls and manages the business**, limited personal net worth, limited gross receipts, and the threat of decertification.
 - Women-owned firms are presumed to be fronts and frauds—no matter how much experience they have—but a DBE contractor **must be qualified to do the work**.
8. **99% of DBEs are small business specialty sub-contractors** with gross receipts determined by the Small Business Administration (SBA) size standards.
- The **DBE program has a gross receipts limit** for DBE prime contractors and personal net worth (PNW).
 - DBE small specialty **contracts are with the general contractors and not the state or federal governments**.
 - **Once a DBE reaches an average** of a certain gross receipt, determined by Congress, total for five years, **they graduate out** of the program.

9. The **Mid-America Milling Company/Bagshaw Trucking court injunction** against the DBE program has resulted in contracts in several states with DBE goals being adjusted to “0” so these larger businesses can bid on contracts.
 - The **injunction’s impact has been devastating for DBEs, as many DBEs have lost most of their federal contract opportunities**, more than half their business, and many have gone out of business.
 - The **injunction is a window** to what will happen to the DBE businesses throughout the United States, if the DBE Program is not reauthorized.
 - **52,000 small businesses** in the highway, transit, and airport construction industries **are at risk of going out of business** around the same time and **500,000 people could lose their jobs**.
 - **Bank loans will go into default** and bonding, and insurance companies will be negatively impacted.
 - **Losing the DBE program would severely impact rural communities**, as many DBE businesses are major employers in rural America.
 - When a **DBE graduates or loses their certification**, they often **lose 50% of their business** just in the first year—this shows what will happen if thousands of DBEs suddenly lose certification with the end of the program.
 - Once **DBEs are out** of these programs, **primes and other contractors just don’t use** the former DBEs or any DBEs on local, state transportation projects if there are no federal funding, and they very seldom use DBEs on commercial projects.
 - If the DBE Program is not authorized the subcontracting arm of the construction industry will be diminished or eliminated because the general and prime contractors will do 100% of the work themselves. There will be few opportunities for specialty contractors to receive work.
10. Women First’s decades of experience in the program show that **women-owned businesses depend on the DBE program**.
 - Without this program, small business owners all over this country will end up closing down.
 - That won’t just be a tragedy for those companies and their employees, it will be a tragedy for our country.