



October 31, 2022

U.S. Department of Transportation
1200 New Jersey Ave. SE
West Building Ground Floor, Room W12-140
Washington, DC 20590-0001
Via Regulations.gov

Re: Disadvantaged Business Enterprise and Airport Concession Disadvantaged Business Enterprise Program Implementation Modifications (Docket No. DOT-OST-2022-0051/RIN 2105-AE98)

To Whom it May Concern:

The American Cultural Resources Association (ACRA), the trade association for private firms that specialize in cultural resources management (CRM), appreciates this opportunity to comment on the U.S. Department of Transportation's (DOT) Disadvantaged Business Enterprise and Airport Concession Disadvantaged Business Enterprise Program (DBE/ACDBE) Implementation Modifications (Docket No. DOT-OST-2022-0051/RIN 2105-AE98).

ACRA member firms undertake much of the legally mandated CRM studies and investigations in the United States and employ thousands of CRM professionals, including archaeologists, architectural historians, anthropologists, historians, and an increasingly diverse group of other specialists. To help guide smart, sustainable economic development and safeguard important historic and cultural heritage assets, ACRA members apply specialized research skills within a framework of federal, state, local, and/or Tribal law and facilitate an open dialogue where every stakeholder has a voice.

Nearly 97 percent of CRM firms in the United States are small businesses; they operate in every state and region in the country, creating jobs, shepherding infrastructure projects through the regulatory process, and protecting our nation's cultural heritage. A sizable number of CRM firms are owned by socially and economically disadvantaged individuals and are therefore eligible to participate in DBE programs.

ACRA agrees with and supports several of the proposed changes in DOT's Implementation Modifications. ACRA supports provisions that:

- Increase the personal net worth (PNW) cap for DBE owners from \$1.3 million to \$1.6 million. The cap was last increased in 2011 and has not kept up with inflation; increasing the cap ensures that the program continues to target owners who are truly economically disadvantaged.

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- Exclude retirement income from the PNW calculation and change how married couples' assets are calculated.
- Create a process to increase the cap every 5 years, without the need for new rulemaking, to keep up with inflation in national household net worth.
- Improve procedures for ensuring state-by-state reciprocity for DBE certifications.

However, we are concerned that one proposed change would hurt DBE firms by making it more difficult for them to attract new, younger owners and engage in succession planning.

The proposal would amend 49 CFR § 26.69 to require that a Socially and Economically Disadvantaged Owner (SEDO) who has financed their investment through a loan must have paid at least 15% of the total value of the investment by the time the firm applies for certification. In addition, under the proposed change, the company cannot be a party to the loan, and its property cannot serve as collateral.

In practice, this change may be onerous for younger owners, for whom it may take years to pay off 15% of the initial investment, and are less likely to have collateral, like property, to access. For CRM and other DBE firms that are well into succession planning, this proposed change could force them to choose between delaying succession or losing DBE status until the new owners meet the criteria.

This change could serve as a significant disincentive for new owners – particularly those who are socially and economically disadvantaged – from becoming owners unless they have access to large amounts of capital. This would run counter to the intent of the DBE program, which is to reduce barriers for socially and economically disadvantaged people to become business owners and build capital. Therefore, we urge DOT to reconsider this proposed change.

ACRA appreciates this opportunity to provide comments on DOT's Disadvantaged Business Enterprise and Airport Concession Disadvantaged Business Enterprise Program Implementation Modifications.

Sincerely,



Amanda Stratton
Executive Director