



**New Jersey Department of Transportation**  
**Division of Civil Rights & Affirmative Action**  
**Contract Compliance Unit**

**November 14, 2025**

**Guidance to Consultants, Contractors and Local Public Agencies for NJDOT  
Federally Funded Contracts or Contracts Administered through NJDOT  
for Existing Active Professional Service Agreements/Contracts or  
Construction Contracts**

Pursuant to the **Disadvantaged Business Enterprise Program and Disadvantaged Business Enterprise in Airport Concessions Program: Implementation Modifications**, 90 Fed. Reg. 190 (October 3, 2025) (to be codified as 49 C.F.R. pt. 23 and 26) please note the following guidance for **active professional service agreements and construction contracts**:

1. Contracts with DBE or ESBE goals advertised and awarded prior to October 3, 2025, do not need to be modified.
2. Prime contractors/prime consultants must comply with their DBE or ESBE commitments, even if the DBE or ESBE has not started work on the contract.
3. DBE or ESBE participation cannot be counted toward the project DBE or ESBE goal until a re-evaluation of the eligibility of all DBEs in the NJUCP Directory has been completed by the NJUCP partners.
4. Prime contractors must still submit DBE or ESBE Plan revisions for approval by Civil Rights.
5. Commercially Useful Function (CUF) reviews are suspended until the NJUCP completes a reevaluation of the eligibility of all DBEs in the NJUCP Directory.
6. Monthly CR-267s must still be submitted.
7. Termination, substitution and replacement provisions continue to apply during the NJUCP reevaluation period, unless the NJDOT or the Local Public Agency ("LPA") causes the termination or reduction. This includes changes in firms, changes in dollar value and changes in work items. Prior to implementation, Civil Rights must approve the termination.
  - a. DBEs may not be terminated without "good cause." "Good cause does not exist if the prime contractor seeks to terminate a DBE or any portion of its work that it relied upon to obtain the contract so that the prime consultant/prime contractor can self-perform the work for which the DBE or ESBE contractor was engaged, or so that the prime contractor can substitute another DBE or ESBE or non-DBE/non-ESBE contractor after contract award."
  - b. If a DBE loses its certification after the NJUCP reevaluation process is completed, good cause for termination exists because the DBE is ineligible to receive credit for the type of work required.
8. Prime contractors/prime consultants are required to comply with contract prompt payment requirements to pay subconsultants/subcontractors (all those involved on the project – on-site and off-site) no later than 10 days from receipt of payment from the State of NJ or local public agency, and to not withhold retainage. This applies to tier-down firms as well.