

PUBLIC PRIVATE PARTNERSHIPS & DBES

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Jo Anne Robinson
Senior Counsel
DOT Office of General Counsel

PPPs & DBEs

▣ Basic Requirements

- ❖ DBE Program Plan
- ❖ DBE Goals
- ❖ DBE Contractual Assurances

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▣ DBE Program Plan

- ❖ Recipients that let DOT-assisted contracts must have an approved DBE program plan (49 CFR 26.21)
- ❖ Not eligible to receive financial assistance without an approved program and must be in compliance with the plan and Part 26.

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▣ DBE Goals

- ❖ Contract Goals: Established to meet regular overall goal
- ❖ Project Goals: An overall goal separate from the regular overall goal applicable to contracts not part of the project

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▣ DBE Contractual Assurances

- ❖ Financial assistance agreements between OA and primary recipients, or between primary recipient and sub recipient, must contain prohibition on discrimination in award and performance of DOT-assisted contract or in the administration of the DBE program.
- ❖ Recipient's approved DBE program incorporated by reference into the agreement.

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▣ Contract Assurances (cont'd)

- ❖ Failure to implement the DBE program constitutes a violation of the financial agreement
- ❖ The Department may impose sanctions authorized under Part 26 and may refer the matter for enforcement by DOJ under 18 USC 1001 or enforcement by DOT under the Program Fraud Civil Remedies Act

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▣ Contract Assurances (cont'd)

- ❖ Contracts between the recipient and a contractor and between the contractor and its subcontractor(s) must contain the clause at 49 CFR 26.13(b) which makes the failure of the contractor to carry out applicable DBE requirements a material breach of the contract, which may result in termination of the contract or other appropriate remedies.

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▣ QUESTIONS?