Speeding Up the Process - New Deadlines and Ability to Fix Errors - Proposed Changes to Federal DBE Program

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**Preliminary Note:** The U.S. Department of Transportation recently released a long-awaited Notice of Proposed Rulemaking to modernize the Disadvantaged Business Enterprise (DBE) program regulations. This blog is part of a series looking at some of the significant proposed changes. A copy of all of the proposed changes can be found here.

One of the complaints about the DBE process is how long it takes- whether that be referring to the application process, interstate certification, or appeals and hearings. The proposed regulations would put in place deadlines that should help speed up the process.

**Fixing Mistakes**
Proposed rule § 26.83(m) would allow a firm to make changes within the review period. This will save applicant firms a great deal of time and headache, as well as reduce workloads for the certifiers. Previously, certifiers would not allow a firm to make changes, even if the certifier had not yet made a final decision. This would result in a denial, and the firm would have to wait and reapply after the waiting period. An example of where this could be helpful would be an issue with the firm’s bylaws that needed to be changed to show the disadvantaged owner has legal control over the firm. Under the proposed regulations, that could easily take place.

**Faster In-State Certification Applications**

The proposed regulations seek a change to §26.83(k). Currently, the regulations provide that a certifier must decide within 90 days of receiving from the firm all required information and allows for a one-time extension on this period of 60 days (with notice and explanation to the firm). The proposed regulations cut this extension period in half, to 30 days.

**Quick Response on Interstate Certification**

In addition to the other significant changes to the interstate certification process discussed in my other blogs, one of the most exciting is that a certifier will have 10 business days (after receiving the materials) to verify that a firm is already certified as a DBE and to approve the DBE interstate certification application.

**Shortened Appeal Deadline**

Currently, the deadline to appeal a denial to the USDOT is 90 days. The proposed regulations reduce that time to 45 days. Firms receiving a denial will have to act quicker to prepare their appeal.

Have thoughts or suggestions on the proposed rules? You can make your voice heard by offering your comment here.

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