

Challenges To Your DBE Certification – What Are Your Rights?

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If your business receives a notice that there are questions about your Disadvantaged Business Enterprise (DBE) Certification, you should be aware of your rights when your DBE certification is on the line.

A certifying agency may seek to remove your DBE certification upon the following events:

- After receiving a written complaint (containing specific information) from a third party indicating that your company is ineligible for certification;
- If there has been a change in circumstances or other information that your business self-reported (such as a change in ownership) that may affect eligibility; or
- If the Department of Transportation directs the agency to initiate a proceeding.

Federal regulations (42 C.F.R. § 26.87(d)) **require** that your company be given a hearing to respond as to why you continue to be eligible. During that hearing, your company has the right to be represented by an attorney. The agency seeking to disqualify your company from certification has the burden of proof to show why the company does not meet the certification standards. They are also required to keep a complete record of the hearing. If your company would like, it can forego the in-person hearing and submit all arguments and evidence in writing. The agency still bears the burden of proof.

After the hearing, the certifying agency **must** provide you with written notice of the decision, including listing specific reasons and references to evidence supporting their findings. If your certification is removed, it must also inform you of your right to appeal the decision to the U.S. Department of Transportation.

If your company's DBE certification is being questioned, I can help guide you through the process and work to protect your certification.