



DEPARTMENT OF TRANSPORTATION

4910-9X

Office of the Secretary

49 CFR Part 26

[Docket No. OST-2012-0147]

RIN: 2105-AE08

Disadvantaged Business Enterprise: Program Implementation Modifications

AGENCY: Office of the Secretary (OST), DOT.

ACTION: Notice of Proposed Rulemaking (NPRM); Rescheduling Public Listening Session; Reopening of Public Comment Period.

SUMMARY: On September 18, 2013, the Department of Transportation (DOT) issued a notice announcing a public listening session on October 9, 2013 concerning the proposed changes to the Department's Disadvantaged Business Enterprise (DBE) program found in the Notice of Proposed Rulemaking (NPRM) published on September 6, 2012. The Department also announced that it would be reopening the public comment period from the date of publication until October 30, 2013. However, due to the lapse in government funding on October 1, 2013, the Department canceled the October 9, 2013 meeting. The Department is rescheduling the public listening session on this rulemaking to December 5, 2013 from 11:00 am to 5:00 pm Eastern Standard Time. The comment period is extended to December 26, 2013.

DATES: A public listening session will be held on December 5, 2013, in Washington, D.C., from 11:00 am EST to 5:00 pm EST. The comment period for the NPRM is reopened and extended to December 26, 2013.

ADDRESSES: The public listening session will be held at DOT's Washington, D.C. Headquarters at 1200 New Jersey Avenue SE, Washington, D.C., 20590, in the Media Center auditorium located on the ground floor of the West Building.

FOR FURTHER INFORMATION CONTACT: Jo Anne Robinson, Office of General Law, Office of the General Counsel, U.S. Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590, 202-366-6984, JoAnne.Robinson@dot.gov.

SUPPLEMENTARY INFORMATION: On September 6, 2012, the Department published a notice of proposed rulemaking (NPRM) entitled, "Disadvantaged Business Enterprise: Program Implementation Modifications," at 77 FR 54952, that proposed various changes to the Department's DBE program, including: revisions to personal net worth, application, and reporting forms; modifications to various certification-related provisions of the rule; and revisions to several other provisions of the rule, concerning such subjects as good faith efforts, transit vehicle manufacturers and goal setting. The Department then published a notice on October 25, 2012, at 77 FR 65164, which corrected minor errors in the NPRM related to the Paperwork Reduction Act and extended the public comment period until December 24, 2012. Several commenters suggested that the Department hold a public meeting or listening session on the proposed changes before issuing a final rule. After reviewing the comments, the Department decided to schedule a public listening session on October 9, 2013, as announced in a September 18, 2013 notice. 78 FR 57336. At that time, the Department also announced that it would be reopening the public comment period from the date of publication until October 30, 2013.

However, due to the lapse in government funding on October 1, 2013, the Department canceled the October 9, 2013 meeting with the intent of rescheduling the meeting at a future date and time. The rescheduled listening session will be held on December 5, 2013 from 11:00 am to

5:00 pm Eastern Standard Time at the Department's Washington, DC Headquarters, 1200 New Jersey Avenue SE., Washington, DC 20590, in the Media Center auditorium located on the ground floor of the West Building. The public comment period is reopened and extended to December 26, 2013. The public is invited to offer its views on specific aspects of the NPRM set out in the September 18, 2013 Federal Register notice that are noted below.

Listening Session Procedures

The listening session will provide an opportunity for the public to speak to the Department about certain aspects of the NPRM. Specifically, the Department is interested in hearing from the public on the following:

1. What are the specific, quantifiable costs and benefits associated with completing or reviewing the proposed forms (Personal Net Worth, Certification Application, Uniform Report on Awards/Commitments; DBE Payment Data) from the perspective of a certifying entity, an applicant firm, or a recipient (where applicable)?
2. What are the specific, quantifiable costs and benefits associated with requiring certified DBEs to submit additional documents with the annual no change affidavit from the perspective of a certifying entity and a certified DBE?
3. What are the specific, quantifiable costs and benefits associated with requiring good faith efforts documentation when bids are due and requiring additional documents (i.e., DBE and non-DBE quotes, DBE subcontracts) from the perspective of a prime contractor, a DBE, and the recipient letting the contract?

We are reopening registration for the listening session. Due to security and seating limitations, any person wishing to participate in the listening session must register no later than

November 21, 2013, by going to the OSDBU website at www.dot.gov/osdbu and following the instructions. If you registered for the October 9th session, you must re-register for the December 5th session. You may attend the session in person (to speak or listen) or participate by Web Conference (comments may be provided through the chat room). The registration form will ask you to identify the party you represent and provide your contact information. If you are attending the session in person, you will be asked to identify the subject(s) described above you plan to address (if any). Speakers will be limited to 5 minutes each; however, the Department may need to reduce the time allotted, if necessary, to provide all participants the opportunity to speak before the session ends. A copy of the agenda will be posted after registration closes.

A panel of Department representatives from the Office of the Secretary and the Operating Administrations will be present to listen to the speakers and may ask questions, if necessary, to seek clarification of comments made by a speaker. However, there will not be a question and answer period during the session where speakers ask questions of the panel. The Department will not respond to questions posed through the chat room. If necessary, the Department may provide additional instructions at the time of the listening session. A transcript of the session will be made a part of the public docket in this rulemaking. All comments submitted through the chat room also will be made a part of the public docket in this rulemaking.

For information on facilities or services for persons with disabilities or to request special assistance at the meeting, please contact Marilyn Hearn in DOT's Office of the General Counsel by telephone (202-366-9154) or by email (Marilyn.Hearn@dot.gov) as soon as possible.

Reopening of Comment Period

The comment period is reopened and extended to December 26, 2013, to provide the public an additional opportunity to submit comments on the NPRM or to submit comments in response to views or information provided at the public listening session or in other public comments. You may submit comments (identified by the agency name and DOT Docket ID Number OST-2012-0147) by any of the following methods:

- Federal Rulemaking Portal: Go to www.regulations.gov and follow the online instructions for submitting comments.
- Mail: Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12-140, Washington, DC 20590-0001.
- Hand Delivery or Courier: West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue SE., between 9:00 am and 5:00 pm Eastern Standard Time, Monday through Friday, except Federal holidays.
- Fax: (202) 493-2251.

Issued this 4th day of November, 2013 at Washington, D.C., under authority delegated in 49 CFR part 1.27.

Kathryn B. Thomson,

Acting General Counsel.

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