

# Is Your Business Undergoing a DBE Audit? What You Should Know

Article By:

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Recently, several Disadvantaged Business Enterprise (“DBE”) clients have reported that their certifying agencies have been performing an “audit” on the company. The clients have been required to go through what is essentially a recertification. This has come at a great deal of expense – both of time and money- for the client.

Most troubling is that audits are not something provided for in the federal regulations governing the DBE program (49 C.F.R. Part 26). The word “audit” does not appear anywhere in the regulations.

The regulations also expressly prohibit certifying agencies from requiring DBE certified businesses to go through recertification. Section 26.83(h)(2) states “You may not require DBEs to reapply for certification or undergo a recertification process.”

They may conduct a certification review if appropriate in light of changed circumstances (change in ownership, new CEO, etc.), a complaint or other information concerning your company’s eligibility.

A certifier may not use the required annual no-change affidavit as pretext for routinely requiring DBE owners to submit updated personal net worth statements. *Triple R Traffic Control & Barricade Rental, LLC*, 16-0119, December 2, 2016. This is an issue that I see come up often.

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