



Technical Guide to Demonstrating Non-Presumptive Social and Economic Disadvantage for DBE Certification

Program Purpose

The DBE and ACDBE programs are small business initiatives intended to level the playing field for businesses seeking to participate in federally assisted contracts and in airport concessions. To be eligible to participate in the DBE/ACDBE program a business concern must be for-profit, 51 percent owned by one or more individuals who are both socially and economically disadvantaged; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

Definition of social and economic disadvantage

Socially and economically disadvantage individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who the certifier finds to be socially and economically disadvantaged on a case-by-case basis. A determination that an individual is socially and economically disadvantaged must not be based in whole or in part on race or sex. For that reason, applicants may qualify as socially and economically disadvantaged only if they can meet the relevant criteria described in 49 CFR 26.67.

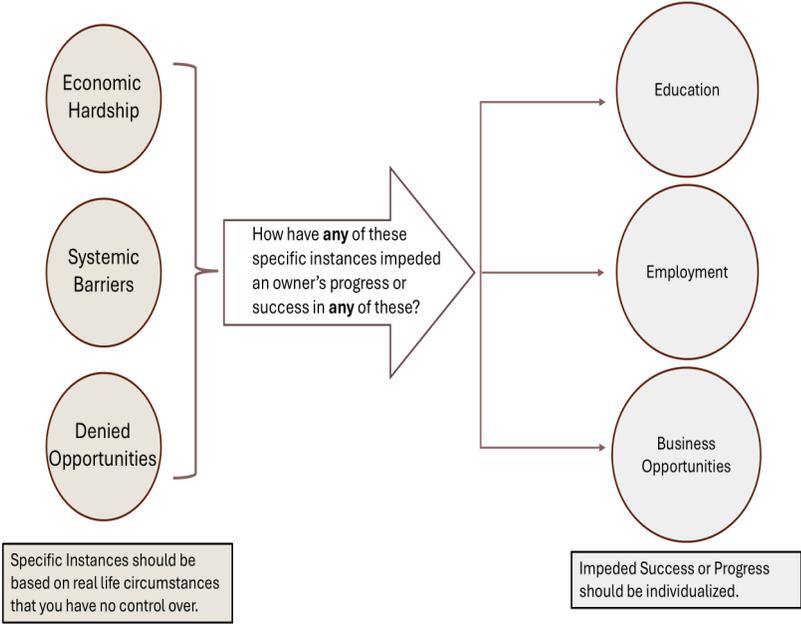
Criteria for establishing non-presumptive disadvantage

- Demonstrate that the owner is socially and economically disadvantaged based on his or her own experiences and circumstances that occurred within American society, and without regard to race or sex;
- Submit to the certifier a personal narrative establishing the existence of disadvantage by a preponderance of the evidence based on individualized proof regarding specific instances of economic hardship, systemic barriers, and denied opportunities that impeded the owner's progress or success in education, employment, or business, including obtaining financing on terms available to similarly situated, non-disadvantaged persons (See Illustration 1);
- State how and to what extent the impediments caused the owner economic harm, including a full description of **type and magnitude**, and establish the owner is economically disadvantaged in fact relative to similarly situated non-disadvantaged individuals; and
- Attach to the Personal Narrative (PN) a current Personal Net Worth statement (PNW) and any other financial information the owner considers relevant.

Important: You must submit the PN and PNW for each owner/partner making up the 51% or over ownership and control of the firm and claiming disadvantage status.

Please add your name, date and signature to your PN for the record.

Illustration 1



Demonstrating Social and Economic Disadvantage The Personal Narrative

Description of Instances and Impediments

An individual claiming social and economic disadvantage (SED) should provide at least one *specific instance* of **economic hardship**, **systemic barrier** and/or **denied opportunity**. One incident may be enough to establish social disadvantage.

The *specific instance/s* should be an applicant's own "real life" experience or circumstance that resulted in or caused impeded success or progress in **education**, **employment**, and/or **business history** (including current or previously owned companies).

Impediments

Education – factors such as denial of equal access, compared to all similarly situated persons, to institutions of higher education and vocational training, exclusion from social and professional association with students or teachers, denial of educational honors rightfully earned, and social patterns or pressures that discouraged the individual from pursuing a professional or business education.

Employment – factors such as unequal treatment compared to all similarly situated persons in hiring, promotions and other aspects of professional advancement, pay and fringe benefits, and other terms and conditions of employment; retaliatory behavior by an employer or labor union; and social patterns or pressures that have channeled the individual into non-professional or non-business fields; or

Business history – factors such as unequal access, compared to all similarly situated persons, to credit or capital, acquisition of credit or capital under commercially unfavorable circumstances, unequal treatment in opportunities for government contracts or other work, unequal treatment by potential customers and business associates, and exclusion from business or professional organizations.

Include Details

For each instance, please describe **who, what, where, why, when,** and **how** disadvantage that caused impeded success or advancement occurred. Incidents are more readable if they provide information in the following order within a narrative:

When – Explain when experiences or circumstances of disadvantage that led to impeded progress or success occurred. Exact dates, where available, are preferred but are not necessary so long as the incident provides a specific time period.

Where – Explain where the experiences or circumstances of disadvantage that led to impeded progress or success occurred. The instance(s) must have occurred in American society.

Who – Explain who was responsible for your experiences or circumstances of disadvantage that led to impeded progress or success. This could include an individual, a group of individuals, or an institution. Individual names, where available, are preferred but not necessary so long as the incident provides a specific figure or organization.

What – Explain the details of the experiences or circumstances of disadvantage that led to impeded progress or success. Explain the type and magnitude of the extent the impediments caused economic harm.

Why – Explain the reason(s) that the experiences or circumstances of disadvantage that led to impeded progress or success was more likely than not motivated by circumstances beyond your control and why these experiences or circumstances makes you disadvantaged in-fact relative to “similarly situated non-disadvantaged individuals.” Without additional facts, a mere assertion that the action occurred will not be enough to support a claim of social disadvantage.

How – Explain how each instance of disadvantage, impacted your entry into or advancement in the business world. Offensive comments or conduct, while reprehensible, will not support a claim of social disadvantage if there is no negative impact associated with the incident.

Explain how the type and magnitude of the extent of the impediments caused economic harm. (See pg. 10, “Examples of How”, Examples 2 & 3).

Examples of When

The following are examples that may satisfy the level of detailed narrative required:	The following are examples that would <u>not</u> provide the level of detail required:
<ul style="list-style-type: none">(Education): Spring semester of my first year in college	<ul style="list-style-type: none">(Education): In college
<ul style="list-style-type: none">(Employment): January 28, 2021	<ul style="list-style-type: none">(Employment): In my mid-20s
<ul style="list-style-type: none">(Business history): Spring of 2015	<ul style="list-style-type: none">(Business History): Within the first few years of starting my business

Examples of Where

The following are examples that may satisfy the level of detailed narrative required:	The following are examples that would <u>not</u> provide the level of detail required:
<ul style="list-style-type: none">• (Education): University of Guy in [City, State]	<ul style="list-style-type: none">• (Education): At college
<ul style="list-style-type: none">• (Employment): DEF Corporation in [City, State]	<ul style="list-style-type: none">• (Employment): My first job
<ul style="list-style-type: none">• (Business history): DEF Bank in [City, State]	<ul style="list-style-type: none">• (Business History): The bank

Examples of Who

The following are examples that may satisfy the level of detailed narrative required:	The following are examples that would <u>not</u> provide the level of detail required:
<ul style="list-style-type: none">• (Education): My faculty advisor, (whose name I do not recall); and Dr. Mary Jane, the Director of the Department of Education – University of John	<ul style="list-style-type: none">• (Education): My professors
<ul style="list-style-type: none">• (Employment): Shawn Smith, VP for Human Resources, DEF Corporation	<ul style="list-style-type: none">• (Employment): One of the company's executives
<ul style="list-style-type: none">• (Business history): DEF Bank's Senior Loan Officer	<ul style="list-style-type: none">• (Business History): A bank employee

Examples of What

The following are examples that may satisfy the level of detailed narrative required:	The following are examples that would <u>not</u> provide the level of detail required:
<ul style="list-style-type: none">• (Education): After attending three semesters in the nursing program, I decided to pursue a degree in business. Under university policies, selecting a new major outside the School of Health Sciences would have required approval from my faculty advisor. My faculty advisor declined my request to change major	<ul style="list-style-type: none">• (Education): My faculty advisor, Mr. Jones, refused to approve my request to change my major.

<p>from nursing to business administration which caused ...</p>	
<ul style="list-style-type: none"> • (Employment): I had been working for DEF Corporation for three years when a site manager position became available. I applied because I met all of the requirements, but my co-worker Sarah got the job even though she did not have the qualifications and this impacted ... 	<ul style="list-style-type: none"> • (Employment): I applied for internal promotion opportunity and didn't get it.
<ul style="list-style-type: none"> • (Business history): I applied for a 60k business line of credit with DEF Bank. My application was tentatively approved so the bank Senior Loan Officer asked me to come in-person to sign the final application documents. Without explanation, the application was denied the following week based on concerns related to my company's ability to repay. This denial impeded my ability to ... 	<ul style="list-style-type: none"> • (Business History): The bank denied my company's business line of credit application.

Examples of Why

<p>The following are examples that may satisfy the level of detailed narrative required:</p>	<p>The following are examples that would <u>not</u> provide the level of detail required:</p>
<ul style="list-style-type: none"> • (Education): I completed the necessary pre-requisite classes and was otherwise eligible to be declared a business administration major. During a meeting with my faculty advisor and Dr. Doe, Dr. Doe explained that I would have more career options, as a mother of school-aged children, in an education major. I later learned that several other nursing students in my class were given approval to declare majors outside the school of Health 	<ul style="list-style-type: none"> • (Education): My faculty advisor declined my request because he agreed with the Director that I would be better off seeking employment in a predominantly female profession

<p>Sciences. For these reasons, I believe my request was denied which caused ...</p>	
<ul style="list-style-type: none"> • (Employment): I requested a debrief with Jane because I had more experience and a higher trade certification than Michael. Jane stated that the company needed someone who could inspect active and/or dangerous job sites. I reiterated, just as I had during the interview, that I could perform all aspects of the site manager role to include on-site inspections. Michael does not have a physical disability like I do. For these reasons, I believe Michael was selected over me due to unfounded stereotypes associated with my physical disability which severely impeded ... 	<ul style="list-style-type: none"> • (Employment): It was clear that they saw my physical disability as a limitation and moved on to the next candidate despite demonstrating that I could perform the tasks required for the position.
<ul style="list-style-type: none"> • (Business history): The line of credit was tentatively approved because my business met minimal revenue and capital requirements for approval. Additionally, I had an excellent credit score of 790. Only after I met the loan officer in person did concerns arise over my ability to repay. A former colleague, who started a business in a community with a low crime rate, applied for the same line of credit with a lower credit score than I had and was successful. For these reasons, I believe my application was denied due to my business being located in a community with a significantly higher crime rate than the state's average which caused me ... 	<ul style="list-style-type: none"> • (Business history): Plenty of other business owners were able to obtain lines of credit from DEF Bank. Thus, the bank and its employees must have arbitrarily set higher standards for business owners and borrowers of color.

Examples of How

The following are examples that would satisfy the level of detailed narrative required:	The following are examples that would <u>not</u> provide the level of detail required:
<ul style="list-style-type: none"> (Education): Because my business major was not approved, I did not graduate with the education and experience necessary for an entry-level career in marketing. I spent the next 5 years completing my marketing degree as a part-time student, which delayed my entry into the marketing field. 	<ul style="list-style-type: none"> (Education): The treatment towards me was upsetting and I oftentimes think of where I would be today had I not experienced this form of bias.
<ul style="list-style-type: none"> (Employment): Had I received the site manager promotion, I would have earned an additional \$20,000 a year. This extra income would have allowed me to accumulate capital faster and start my business three years earlier than I did. 	<ul style="list-style-type: none"> (Employment): Being passed over for the promotion was demoralizing. It made me question why I should continue to work so hard if people would not be able to see beyond my disability. For this reason, I did not apply for several other promotion opportunities in the company.
<ul style="list-style-type: none"> (Business history): Because my line of credit was declined, I could not purchase an additional truck to increase our company's capacity. As a result, we bid on but lost a contract opportunity valued at \$4M with the municipal government for facilities maintenance. 	<ul style="list-style-type: none"> (Business history): The line of credit would have helped my company to compete for larger contracts.

Use of this guidance does not ensure that your firm will receive a favorable determination.

Example of a personal narrative that will **NOT** work:

I have always felt that people like me must work twice as hard to get the same recognition. Throughout my career, I have experienced unfair treatment in the construction industry, which is dominated by people who do not look like me. It has been difficult to secure contracts and build relationships with larger firms, who tend to award jobs to companies they already know. I have also been denied access to many opportunities that I believe were given to others who had better connections.

I have faced several obstacles, such as being ignored in meetings and not being taken seriously by project managers or potential clients. I've been told that I "don't fit the mold" for a business owner in this field. Because of these attitudes, I have not been able to grow my business the way I wanted to. I do all the work myself and sometimes have to turn down projects because I don't have enough staff.

Overall, I believe that the system is unfair and that small minority-owned firms like mine are at a disadvantage. I am applying for DBE certification because I want a fair chance to compete for contracts and to help others who have experienced the same kinds of barriers I have faced.

Why this narrative fails: The owner's narrative provides a general description of perceived bias in the construction industry but fails to meet the evidentiary requirements of §26.67. The statement lacks specific, individualized "real life" examples of disadvantage that impeded their success or advancement. The narrative does not identify the time, place, or entities involved in any of the events described. No supporting documentation or corroborating details is provided to establish systemic barriers or to demonstrate that the experiences resulted in measurable economic harm. While the applicant expresses a sincere belief that discrimination has limited their business opportunities, the narrative does not show, by a preponderance of the evidence, that the disadvantage caused quantifiable or verifiable financial impact. Without individualized proof and a clear causal connection between the disadvantage and the applicant's economic position, the submission does not satisfy the standards for social and economic disadvantage, and this personal narrative would be deemed insufficient for certification.

Conclusion

In summary, the personal narrative is a critical part of eligibility under the new DBE and ACDBE regulations. Each applicant must demonstrate that their social and economic disadvantage is real, specific, and connected to measurable economic harm. NJDOT's role is to evaluate these narratives objectively under the preponderance of the evidence standard, ensuring consistency, fairness, and compliance with the Interim Final Rule. As the owner of a firm, you are encouraged to present complete, truthful, and well-documented accounts that allow us to clearly understand how disadvantage has affected your ability to compete on equal terms.

Important: Any purposefully misleading or false information, or representations to gain DBE certification is disqualifying under 49 CFR Part 26.63 (a)(2) and may be subject to the provisions of 49 CFR 26.107(a).

Checklist

I. Content – Individualized Proof

Does the narrative establish disadvantage through specific, individualized evidence?

- Describes specific instances of disadvantage (not general claims or assumptions)
- Provides details of the events described
- Identifies who caused or contributed to the barrier (i.e. lender, employer, contracting agency)
- Demonstrates that the barriers were beyond the owner's control
- Avoids reliance on race or sex
- If available, provides supporting documentation

II. Establishing Disadvantage

Does the narrative describe credible, systemic barriers, economic hardship, or denied opportunities consistent with the rule? (Y/N)

- Clearly and credibly describes specific instances of systemic barriers, economic hardship, or denied opportunities.
- Explains how those specific instances impeded the owner's progress or success in [MUST BE AT LEAST ONE]:
 - Education
 - Employment
 - Business

III. Economic Hardship and Harm

Does the narrative connect the disadvantage to actual economic harm?

- Clearly identifies how each barrier caused economic harm
- Describes the type of harm (i.e., lost income, contract denial, loan rejection, delayed promotions)
- Describes the magnitude of harm (i.e., amount of loss, duration, ongoing effect)
- Establishes that the owner is economically disadvantaged in fact relative to similarly situated, non-disadvantaged persons
- Supports the claims with sufficient detail and/or evidence (corroborated by PNW or documentation)