

**STATEMENT OF
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U.S. DEPARTMENT OF TRANSPORTATION**

BEFORE THE

**COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM
SUBCOMMITTEE FOR GOVERNMENT MANAGEMENT, ORGANIZATION, AND
PROCUREMENT**

U.S. HOUSE OF REPRESENTATIVES

September 22, 2010

Good Morning Chairwoman Watson and members of the Committee.

Thank you for inviting the U.S. Department of Transportation (DOT) here today to discuss our efforts to comply with government-wide contracting requirements for minority owned business programs.

My name is Brandon Neal and I am the Director of the Office of Small and Disadvantaged Business Utilization (OSDBU).

DOT has been a strong advocate for ensuring the participation of small businesses, including small disadvantaged, women-owned, HubZone, veteran, and service-disabled veteran owned small businesses, in its procurement process at both the prime and subcontracting levels. Under the leadership of Secretary LaHood, our commitment is to ensure that opportunities created by our nation's investment are shared by all Americans. The objective is for each operating administration (OA) within the Department to work to provide small businesses a fair chance to participate in transportation projects.

DOT Small Business contracting opportunities are available through our direct federal contracting program and through recipients of DOT financial assistance via the Disadvantaged Business Enterprise (DBE) program. DOT has demonstrated its commitment to small and disadvantaged businesses by designing a successful program to increase the number of competitively awarded direct federal contracts to small businesses by maximizing opportunities and promoting use of small businesses in DOT contracts.

Small Business Strategy – Direct Contracting

Small businesses are the backbone of our economy, employing about half of all private sector employees, and paying for nearly 45% of the total U.S. private payroll. Cognizant of this reality,

DOT has implemented a successful small business program designed to ensure opportunities for small businesses to participate in DOT contracts and subcontracts.

In Fiscal Year 2009 DOT received an “A” scorecard rating from the U.S. Small Business Administration for meeting its direct contracting small business goal achievements, which is the highest rating an agency can receive. In Fiscal Year 2009 DOT spent \$1.9 billion in direct contracting, of which \$752 million (39 percent) went to small and disadvantaged, women owned, Historically Underutilized Business Zone (Hub Zone), and service disabled veteran-owned businesses.

The OSDBU program is supported at the highest level of the organization and reflected in the DOT strategic and performance plans. The Transportation Acquisition Manual and the Transportation Acquisition Regulations reinforce written policies and procedures for use by the OAs to implement small business contracting activities. Each OA has at least one small business specialist to assist small businesses seeking contracting opportunities with DOT.

Small Business Strategy – Financial Assistance Programs

The history of the DOT DBE program began with a 1980 DOT rule. The program has been specifically authorized by statute since 1983, and is intended to provide a level playing field for businesses owned and controlled by socially and economically disadvantaged individuals. In response to strong evidence of continued effects of discrimination against women and minority business owners in federal transportation contracting, Congress has enacted DBE or similar program requirements as part of every highway/transit authorization act since 1983, and similar requirements for airport programs were codified in 1987. Three major DOT operating administrations are involved in the DBE program. They are the Federal Highway Administration, the Federal Aviation Administration and the Federal Transit Administration.

The Department is committed to strong oversight of the DBE program. Our objectives are to foster equal opportunity in DOT-assisted contracts, improve the flexibility and efficiency of the DBE program, and reduce burdens on small businesses. To this end, the Department held a series of stakeholder meetings to bring together prime contractors, DBEs, and state and local government representatives. Additionally, the Department recognizes the need to address the continuing effects of discrimination in our programs, as identified, for example, by recipient’s disparity studies and testimony before the House Transportation and Infrastructure Committee in March 2009. As is made clear in those studies and testimony, DBEs continue to face discrimination in business lending, exclusion by networks of prime contractors, and less favorable treatment by suppliers, among others problems. In response, the Department has implemented program improvements and will continue to seek guidance to help all participants better understand and carry out their responsibilities.

The Department created a high level Task Force to look at the DBE program and develop long and short term recommendations to improve the administration of the DBE program. The Task Force is chaired by me and is composed of the heads of the General Counsel's Office, Government Affairs, Office of Civil Rights, Federal Highway Administration, Federal Transit Administration, Federal Aviation Administration, Federal Railroad Administration, and their respective DBE program directors. The Secretary and Deputy Secretary have personally participated in many of the Task Force meetings.

Secretary LaHood sent a letter to each governor and state DOT administrator indicating the Department's commitment to work together to provide small and disadvantaged businesses an opportunity to participate in transportation projects. Secretary LaHood also emphasized the need to take existing equal opportunity programs and resources to create innovative strategies to provide opportunities for small and disadvantaged businesses. Additionally, FAA, FHWA, and FTA Administrators sent a similar letter to their recipients stressing the importance of setting and meeting goals for DBE participation that reflect the level of DBE participation that would be expected absent discrimination, and indicating that they will be closely monitoring states that do not meet goals.

In a May 2010 notice of proposed rulemaking (NPRM), we proposed several important improvements in the DBE program. Some of the main provisions of this proposed rule include:

1. Accountability for state DOT recipients with respect to good faith efforts to meet overall goals.
2. Modifying and updating certification requirements.
3. Adjusting the personal net worth (PNW) threshold for inflation.
4. Providing for expedited interstate certification.
5. Adding provisions to foster small business participation and
6. Improve post-award oversight.

The comment period for this rulemaking has closed, and we received over 160 comments. We anticipate issuing a final rule within the next few months.

Implementation of Recovery Act

DOT quickly disbursed contracts funded through the American Recovery and Reinvestment Act (ARRA). The projects include bridge and pavement improvements, safety/traffic management and other transportation infrastructure projects. These projects continue to provide contracting and subcontracting opportunities for small businesses.

Our current reporting data indicates FHWA funded \$24.5 billion in ARRA funded contracts and \$1.7 billion (7 percent) in commitments to DBEs. FAA reports \$1.1 billion in ARRA obligations and \$92 million (8.4 percent) committed to DBEs. FTA will be unveiling a new web-based DBE

reporting module to their Awards Management System. A sampling of data from FTA's largest 50 ARRA recipients indicates of \$2.8 billion awarded in contracting opportunities, with over \$380 million awarded to DBEs (13 percent).

One of the major goals for the DBE Task Force is to have consistency and transparency in our data reporting. Projected improvements in our reporting mechanism will enhance DBE data collection including the number of jobs created.

We recently implemented a Bonding Education Program in partnership with The Surety and Fidelity Association of America to get small businesses bond ready. Becoming bondable is a major obstacle for many disadvantaged businesses, and this pilot program aims to address the issue and help these businesses grow by becoming bond ready.

Small Business Strategy – Increased Opportunities

The OSDBU developed and implemented several strategies to increase opportunities for small businesses. These strategies include working with each OA, small business organizations, and the minority small business community across the country.

Some examples of our efforts and strategies in the past year were:

- We conducted over 170 outreach activities, including webinars, DOT/OSDBU Small Business Days, and participating in major events like the Hispanic National Veterans Conference sponsored by the US Department of Veterans Affairs, Congressional Black Caucus Legislative Conference and the Minority Business Enterprise Development Conference. We have also participated in more than 70 congressional and community based events to ensure information is disseminated at all levels.
- The OSDBU is participating in the White House Interagency Task Force on Federal Contracting Opportunities for small businesses. The task force's mission is to coordinate the efforts of Federal agencies to improve capital, and business development opportunities for small businesses. I served as co-chair, along with Ginger Lew of the White House National Economic Council, of a working group entitled "Enabling Small Business Contracting through Training, Outreach, Bonding, and Access to Capital.
- In March 2010 DOT hosted the inaugural Small Business Summit entitled, "The Road to Recovery." More than 700 business leaders and representatives from the small disadvantaged business community came together to discuss the demands and challenges presented by today's economy, opportunities under the Recovery Act, and ways to grow businesses in the future.

- We hosted major vendor outreach days with a focus on veteran owned small businesses and women owned small businesses and each attracting over 500 small businesses. These special vendor outreach events provided small businesses an opportunity to have one-on-one sessions with representatives from each of our operating administrations and to learn about DOT small business programs.
- Our Minority Business Resource Center loan guarantee program, formerly referred to as the Short Term Lending Program, continues to help small businesses gain access to the financing they need to participate in transportation contracts.
- We increased our Small Business Transportation Resource Center program to 11 centers across the country. These centers offer a comprehensive delivery system of business training, technical assistance, and dissemination of information targeted toward transportation related small business enterprises.
- We established a "Pilot Entrepreneurial Training and Technical Assistance Women and Girls Program," a partnership with Spelman College in Atlanta, GA to encourage girls to pursue careers in science, engineering, and technology and help women in the field to achieve their goals. As part of our overall efforts to introduce students to such careers, this program provided internships and mentoring for young women as well as entrepreneurial training for women owned small business owners. This program is part of a broader effort, led by the White House, to ensure that federal programs and policies take into account the distinct needs and concerns of women and girls.
- The Pilot Entrepreneurial Training and Technical Assistance internship program has been very successful, and we just announced the expansion of the program through our Small Business Transportation Resource Centers – each of our 11 centers will now offer an internship program for female colleges students based on the Spelman model, allowing young women from all across the country to pursue careers in transportation.
- The Federal Highway Administration in conjunction with Federal Transit Administration and the OSDDBU office are conducting a series of community workshops across the country to bring together all stakeholders in the contract process, including prime and subcontractors, federal, state, and local transportation agencies, unions, trade associations, and faith-base and civic groups – to discuss opportunities for DBE, set goals and develop plans to meet these goals. Also, the Federal Aviation Administration has conducted three national conferences, and has partnered with major trade associations to conduct other workshops and conferences to provide stakeholders the tools they need to implement a robust DBE program.

- We developed an internal committee for women owned small businesses and a committee for service disabled veteran owned small businesses – each to promote, coordinate and monitor DOT procurement plans and programs towards continued achievement of our procurement goals.
- DOT leadership has met with the representatives from the Tri-Caucus/Transportation and Infrastructure Committee to discuss our efforts to ensure that small and disadvantaged businesses have equal opportunities to benefit from DOT programs.
- Last month Secretary LaHood announced the award of \$11.6 million in grants for minority and women-owned businesses. The grants from the Federal Highway Administration's Disadvantaged Business Enterprise/Supportive Services program provide federal aid to state DOTs for DBE firms to improve their ability to compete for and fulfill federal highway contracts.

But more is needed to address the barriers that DBEs continue to face in the marketplace and to ensure that they receive fair access to federal contracting opportunities. As a result, DOT will robustly implement its DBE program and is continuously looking at ways to increase opportunities for small and disadvantaged business contracting. Thank you for the opportunity to appear before you today. I will be happy to answer any questions.