



House Committee on Transportation and Infrastructure

Hearing on “Driving Equity: The U.S. Department of Transportation’s Disadvantaged Business Enterprise Program”

September 23, 2020

Witnesses

- [Ms. Evalynn Williams](#), President, Dikita Enterprises, On behalf of the Conference of Minority Transportation Officials
- [Ms. Geri Boyer](#), President, Kaskaskia Engineering Group, On behalf of the American Council of Engineering Companies
 - [Ms. Mary Lerdahl](#), Owner, Emerald Consulting Services
 - [Mr. Farad Ali](#), At-Large Board Director, Airport Minority Advisory Council
- [Mr. Sandy-Michael McDonald](#), Director, Office of Economic and Small Business Development, Broward County, Florida
- [Ms. Sandra Norman](#), Administrator, Civil Rights Division, Virginia Department of Transportation
 - [Mr. Jon Wainwright](#), Affiliated Consultant, NERA Economic Consulting

Member Opening Statements

Chairman Peter DeFazio (D-OR) stated that the Disadvantaged Business Enterprise (DBE) Program is an essential program that seeks to remedy discrimination against women and minority-owned businesses as they compete for federally assisted transportation contracts. Discrimination has continued to plague the transportation sector and COVID-19 has made the need for DBE increasingly clear. The Committee has received qualitative evidence of this discrimination across the country. He closed by stating that DBE is not a perfect program, but it is essential to ensure a level playing field for all American businesses.

Ranking Member Sam Graves (R-MO) stated that Congress has recognized the success of the DBE Program by continuing to keep it in place and making adjustments. He stated that the DBE Program has continued to make progress towards realizing its goals.

Questions and Answers

Chairman Peter DeFazio (D-OR) asked Mr. Wainwright to compare the sizes of public and private sector DBE Programs. Mr. Wainwright answered that the private sector has no equivalent to DBE, so DBE is attempting to remedy discrimination with access to only 20% of the economy.

Rep. Randy Weber (R-TX) asked Mr. Ali if the DBE Programs assist minorities in attaining financing. Mr. Ali answered that DBE does not actually provide financing, and that businesses have to find their own sources and there is institutional discrimination in that process. Rep. Weber asked if there is a way to

track the success of the programs. Mr. Ali responded that his organization does measure when people look for financing opportunities and helps them to overcome any obstacles. Rep. Weber asked Ms. Norman what the biggest obstacle is for minorities in the transportation sector. Ms. Norman answered that the largest problems are access to capital and ensuring they can not only compete for contracts, but also win them. Rep. Weber asked Ms. Lerdahl how to better help companies successfully compete for contracts. Ms. Lerdahl emphasized the importance of access to capital and the existence of discrimination among banks and creditors.

Rep. Eleanor Holmes Norton (D-DC) asked why opportunities for small minority-owned businesses would decrease without the DBE Programs. Ms. Williams answered that the DBE Program encourages large companies to “check the box” for DBEs. Ms. Boyer responded that much work is based off of personal relationships and that many firms partner with DBEs just to please state Departments of Transportation win contracts. Rep. Norton asked Ms. Lerdahl if the DBE Program should exclude certain groups once they achieve parity in the market. Ms. Lerdahl answered that companies should not be excluded from the program before they graduate.

Rep. Rodney Davis (R-IL) asked Ms. Boyer if a mentorship program would have been helpful when she started her business. Ms. Boyer answered that mentor programs are extremely helpful, but they take a lot of administration and are not always executed properly.

Rep. Rick Larsen (D-WA) asked Mr. Ali how COVID-19 has affected airport concessions DBEs (ACDBEs). Mr. Ali responded that many large concessionaires look for women and minority-owned partners, which allows them to become concessionaires. Mr. Ali stated that COVID-19 has restricted concessionaires from being able to pay back their loans, putting them at risk of losing contracts. Mr. Ali stated that ACDBEs going out of business would have a significant impact on individuals and the airport community. Rep. Larsen asked Mr. McDonald about successful initiatives within the DBE Program that have attracted minorities into the aviation space. Mr. McDonald answered that community partners allow the attraction and engagement of DBEs.

Rep. Rob Woodall (R-GA) asked Mr. Wainwright how the DBE Program could be reformed to relieve fears of graduation and create a broader societal cure. Mr. Wainwright answered that society would benefit from seeing efforts like the DBE Program enter the private sector. Rep. Woodall asked Ms. Norman about how the “check box” program can be resolved. Ms. Norman responded that it would be valuable to decouple construction and professional service projects.

Rep. Albio Sires (D-NJ) asked Mr. Ali what role the DBE Program plays in the recovery of businesses from COVID-19. Mr. Ali answered that a slowdown in traffic decreases the revenue to concessionaires, but that they still have to pay their contracts to the airports.

Rep. Carol Miller (R-WV) asked Mr. Ali about the difference between direct and indirect discrimination. Mr. Ali responded that direct discrimination is organizations deciding that they will not have inclusion, while other issues are cultural and lead to not allowing DBEs at the table. Rep. Miller asked Mr. McDonald how DBEs were prepared for COVID-19. Mr. McDonald answered that many projects were allowed to continue during COVID-19 and his company assisted DBE partners with securing loans.

Rep. Eddie Bernice Johnson (D-TX) asked if there is any reason to believe there is a serious effort to include minority-owned businesses. Mr. McDonald responded that there must be enforcement language to supersede good-faith efforts.

Rep. Brian Babin (R-TX) expressed his belief that focusing on the widely approved and supported DBE Program and identity politics only distracts from more serious problems and further divides the nation.

Rep. Hank Johnson (D-GA) asked Mr. Ali about the challenges that minority airport concessionaires face and the challenges that DBEs will face with post-COVID recovery. Mr. Ali responded that underwriting requirements must be addressed and that concessionaires would benefit from additional Congressional relief. Rep. Johnson asked Ms. Boyer if the state-by-state DBE certification process is an obstacle to growth and competition. Ms. Boyer answered that it is not an intentional barrier, but the challenges that face small companies would be alleviated and flexibility would be fostered by a national certification process.

Rep. Mike Garcia (R-CA) asked if individual business owners have access to a repository of best practices and lessons learned from previous experiences. Mr. Wainwright answered that many organizations provide regular networking opportunities to pass on institutional knowledge.

Rep. Donald Payne (D-NJ) asked Mr. Ali what tools can be used to prepare DBEs for work at airports. Mr. Ali responded that face-to-face training and development, and now webinars, are used to build networks and foster participation with contractors. Rep. Payne asked Mr. McDonald if his program plan could be implemented broadly around the nation. Mr. McDonald confirmed that his program can be duplicated.

Rep. Gary Palmer (R-AL) asked Ms. Boyer if DBEs limiting their contract dollars to remain in the program is harmful. Ms. Boyer confirmed that it is harmful, but many businesses fear having to leave the program.

Rep. Salud Carbajal (D-CA) asked Mr. Wainwright what would occur if the DBE Program were not in effect. Mr. Wainwright responded that availability would be depressed due to discrimination. Rep. Carbajal asked if excluding groups who reach parity is the right approach. Mr. Wainwright stated that it is not the right approach.

Rep. Garret Graves (R-LA) asked Mr. Ali for his reaction on the changed size standard for DBEs in the aviation space. Mr. Ali responded that altered size standards did help DBEs. Rep. Graves asked if any partnerships or strategies have been established to increase DBE participation. Mr. McDonald answered that workshops and meet and greets help to inform DBEs and build relationships. Ms. Norman also stressed the importance of collaboration, symposiums, and mentorships programs.

Rep. Greg Stanton (D-AZ) asked Ms. Williams how removing the gross receipts cap would benefit DBEs seeking to participate in highway and transit projects. Ms. Williams responded that lifting the cap would help, but it is the cap on personal net worth that presents the greatest challenge. Rep. Stanton asked Mr. Ali how participation in the DBE Program makes members more competitive outside of the program. Mr. Ali answered that joint ventures allow DBEs to venture into other industries and build invaluable relationships.

Rep. Lizzie Fletcher (D-TX) asked Ms. Williams about the distinction between public and private work. Ms. Williams responded that private work is very infrequent, is not capable of sustaining a business, and creates a number of challenges that are not present in public work. Rep. Fletcher asked Mr. Wainwright where the DBE Program can be used to further reduce disparities. Mr. Wainwright answered that further efforts for diversity in contracting would be valuable in other federal agencies outside of the Department of Transportation (DOT) and in the private sector.

Rep. Adriano Espaillat (D-NY) asked if changes need to be made to the INVEST in America Act to ensure that DBEs are not held back. Mr. Ali answered that there needs to be an evaluation of personal net worth standards and how that creates economic discrimination. Mr. McDonald responded that apprenticeship programs need to be expanded and that the pipeline issue needs to be addressed.