

February 29, 2016

United States Department of Transportation
Docket Management Facility
1200 New Jersey Avenue S.E.
West Building, Ground Floor, Room W12-140
Washington, D.C. 20590

Re: Docket ID Number DOT-OST-2015-0255, Agency Information Collection Activities: Request for Comments; Clearance of a New Information Collection(s): Voluntary Web-Based Questionnaire of Disadvantaged Business Enterprise (DBE) Firms

On behalf of the more than 6,000 members of the American Road and Transportation Builders Association (ARTBA), we respectfully offer comments on the December 30 Federal Register notice of information collection regarding a proposed voluntary web based questionnaire for DBE firms.

ARTBA's membership includes public agencies and private firms and organizations that own, plan, design, supply and construct transportation projects throughout the country. Many of these are small and/or family-owned businesses. On the construction side, our membership includes prime contractors, subcontractors and suppliers, some of which are DBE firms. Overall, our industry generates more than \$380 billion annually in U.S. economic activity and sustains the equivalent of 3.3 million American jobs. ARTBA's membership structure includes nearly three dozen affiliated chapters, each of which takes a major interest in the planning and implementing of the DBE program by the recipient agencies in their respective states or regions.

ARTBA and its members recognize the objectives of the DBE program and the need to encourage the participation and utilization of disadvantaged businesses on federal-aid projects. At the same time, the integrity of the program is critical. Compliance with its many requirements is a key task for contractors. It must come within the industry's overall objectives of delivering these projects safely and efficiently, while at the same time minimizing disruption to the traveling public and maximizing the use of innovation. We hope the U.S. Department of Transportation (U.S. DOT), its agencies and the recipients (i.e. state and local departments of transportation) share these values.

Compiling accurate information on firms eligible to participate in the DBE program is essential to accomplishing the program's overall objectives. Among other effects, this type of information can help inform the goal-setting for the program in particular states, so it must be as accurate as possible. To this end, ARTBA offers the following input as the department drafts the proposed questionnaire:



- U.S. DOT and recipients should use this data-collection exercise to address the chronic issue that “DBE directories” often include firms that are no longer in operation or perform work that is not relevant to federal-aid transportation projects (such as custodial services). Agencies should regularly reach out to DBE firms and ensure their information is current, accurate and relevant to transportation work.
- Prime contractors need accurate information on the type of construction work individual DBEs are qualified and able to perform. Many DBE listings have not included this critical information. Related to this issue, the current federal DBE rule is emphasizing the assignment of North American Industry Classification System (NAICS) codes to DBE firms. U.S. DOT must recognize that these codes often do not translate accurately to heavy/highway work. As a result, ARTBA is aware of current examples where otherwise-qualified DBEs (particularly women-owned businesses) are being summarily disqualified from their state’s DBE program, or much of their work is no longer eligible for DBE credit. The latter is actually a disincentive for the firm to enter new construction disciplines, grow and graduate from the DBE program on its own, which is one of the supposed objectives of the program itself. Given these developments, ARTBA respectfully requests that U.S. DOT engage in a dialogue with industry, recipients and – most importantly – the U.S. Small Business Administration about possible shortcomings of the current NAICS code system, especially given that they have become so critical to DBE program administration and compliance. ARTBA is ready and anxious to assist in this discussion in any way.
- U.S. DOT should query DBE firms on the issue of training. Specifically, do individual firms believe they are really prepared to participate in a federal-aid project, or would they benefit from additional training conducted by their state or local recipient-agency? Would training by prime contractors (within appropriate legal parameters) be helpful, so DBE subcontractors can get practical insight into prime contractors’ expectations during the bidding and construction processes?
- The *Federal Register* narrative indicates the surveys will ask DBE firms about “perceived barriers/challenges that may have prevented them from receiving a contract or successfully competing in DOT’s DBE program.” While critiques of the overall program from the perspective of a DBE firm may well prove useful to U.S. DOT, any responses involving a specific construction job or naming a specific prime contractor should not simply be taken at face value. Rather, responses of this nature should be examined from the perspective of any and all other parties mentioned as well.

We appreciate consideration of these comments. As always, ARTBA stands ready to participate in meaningful discussion on continuing efforts to improve the administration and effectiveness of the DBE program.

Sincerely,



T. Peter Ruane
President & C.E.O