



TRANSPORTATION RESEARCH
CIRCULAR

Number 449

November 1995

**Summary and Research Needs Statements
From the National Symposium on the
Disadvantaged Business Enterprise Program
in State and Federal Highway Contracting**

CONTENTS

INTRODUCTION	3
Legislative Development	3
Symposium Need	3
Symposium Strategy	3
Purpose of Report	4
GENERAL — PROGRAM INTENT AND PERCEPTIONS	5
Program Intent	5
Program Perceptions	5
ADMINSTRATIVE FOCUS: CERTIFICATION, GRADUATION, AND GOALS	6
Certification and Graduation	6
Goals — Compliance and Accounting	7
BUSINESS DEVELOPMENT ISSUES: SUPPORTIVE SERVICES, FINANCE, WORKING RELATIONSHIPS, CONCERNS	9
Supportive Services — Technical Assistance	9
Finance — Payment, Bonding	9
Working Relationships — Mentoring and Abuses	10
Future Concerns — Program Survival or Expansion?	10
SUMMARY: WORKING TOWARDS AN IDEAL SYSTEM	12
Closure	12
Acknowledgements	12
APPENDIX A: NOTES FROM THE NATIONAL SYMPOSIUM ON THE DISADVANTAGED BUSINESS ENTERPRISE PROGRAM IN STATE AND FEDERAL HIGHWAY CONTRACTING	13
APPENDIX B: PARTICIPANTS LIST	40

14
copy 1

INTRODUCTION

Stimulation of research-based solutions for problems facing the transportation industry is an important function of the Transportation Research Board (TRB). This publication, a product of a TRB technical committee, summarizes the comments recorded at The National Symposium On The Disadvantaged Business Enterprise Program in State and Federal Contracting and provides research problem statement summaries specific to issues identified at the symposium.

LEGISLATIVE DEVELOPMENT

Major legislation efforts and changes have occurred in the MBE/DBE programs since the publication of the original 49 CFR Part 23 in 1980. The first regulation required goals to be set for minority- and women-owned or controlled businesses. Between 1980 and 1983 various interpretations were cleared up and modifications issued when needed. In 1983 the first statutory MBE program provision was enacted. This required that the U.S. Department of Transportation authorize not less than 10% of all funds authorized for highway and transit financial assistance be expended with MBEs. Under this statute several groups were presumed to be socially and economically disadvantaged; women were not. In 1987 the statutory DBE program was re-authorized and Congress added women to the list of presumed social and economic disadvantaged groups. The FAA, in separate legislation, had a similar provision attached to the airport grant program. A very significant inclusion in the 1987 re-authorization was that the goal was defined as a single DBE goal. This is the current status of DBE legislation.

SYMPOSIUM NEED

The need for this symposium was demonstrated by the wide range of problems and opportunities that had been identified in the literature and discussed at committee meetings of most national organizations interacting in the DBE program. Seldom had an opportunity in the process presented itself for the various participants to address issues, share experiences, and work together to identify potential remedies. This symposium was designed to fulfill that need and identify opportunities for research to support the development of solutions.

The American Association of State Highway and Transportation Officials (AASHTO) and the Federal Highway Administration, Office of Civil Rights, were instrumental in sponsoring and supporting the planning and execution efforts of the Disadvantaged Business Enterprises Committee (A2F08) of the Transportation Research Board in the organization of this symposium.

SYMPOSIUM STRATEGY

The symposium was conducted March 9-11, 1995, at the Marriott Baltimore Inner Harbor Hotel, Baltimore, Maryland. The symposium was attended by more than 170 individuals who participate in the DBE program. The participants represented prime contractors, minority contractors, women contractors, state departments of transportation, U.S. DOT and FHWA, and other interested parties. A complete listing of participants is included in Appendix B.

The program agenda was established to allow for a candid exchange of ideas among participants. "Open Space Technology" was utilized as the functional symposium format. Mr. Harrison Owen facilitated the discussion process and established the record keeping procedures. The agenda was developed by symposium participants willing to volunteer a topic and convene a discussion group. Through this process it is evident that the issues discussed by the participants in the sessions represented common problems including many which have been experienced personally by participants in areas which have been problematic historically for administration of the program.

The symposium began with a few presentations by various representatives of industry, agencies, and associations presenting their viewpoints of the program and what they specifically felt were troublesome issues or opportunities which required further attention. At the welcoming dinner, Luz A. Hopewell, Director of the Office of Small and Disadvantaged Business Utilization, U.S. Department of Transportation and Francis B. Francois, Executive Director of the American Association of State Highway and Transportation Officials offered remarks on their perspectives of the program. The keynote speaker for the evening was Rodney E. Slater, Administrator, Federal Highway Administration who emphasized the need for Affirmative Action Programs. The opening session on March 9, 1995 commenced with introductory comments from

Joanne Payne, President, Payne Shey & Associates, Samuel A. Carradine, Jr., Executive Director, National Association of Minority Contractors, and Kent Starwalt, Director, Contractors Division, American Road and Transportation Builders Association.

These speakers effectively presented viewpoints of the three primary industry groups affected by the legislation: Women Business Enterprises (WBE), Minority Business Enterprises (MBE), and contractors. The speakers were requested to present open discussion comments and not focus on a specially prepared text. Their interesting and sometimes provocative comments provided the catalyst needed to spark the discussions.

After the presentation, the facilitator directed the group in preparation of agenda topics and timetable for conducting the breakout sessions on the proposed topics. Participants were then able to "sign up" for breakout issue discussions according to their meeting time and location. Participants were encouraged to move between sessions, if they had a need to present their viewpoint in concurrent sessions.

Forty-four sessions were convened and reported by the participants during the symposium. Once a breakout session was completed, it was the responsibility of the session convener to have a set of notes from the session prepared for posting. The session notes were available for review and comment as soon as they were printed. More than 44 sessions appeared in the preliminary timetable. However, many proposed sessions were grouped together to review common or related subject matters at the discretion of the conveners. The symposium participants generated a large number of comments, suggestions, and recommendations. The complete record of the symposium breakout comments is provided in Appendix A. These notes were prepared by the symposium participants and represent their feelings and discussions of the program. The notes do not reflect an opinion or position of the Transportation Research Board. They are provided to ensure that a complete and accurate record of the symposium is preserved.

PURPOSE OF REPORT

The purpose of this report is to provide guidance to research sponsors such as governmental agencies,

research institutions, industry, the academic community, and others in allocating financial support and manpower to the solution of problems identified within the Disadvantaged Business Enterprise (DBE) and Minority Business Enterprise (MBE) programs.

The report categorizes the primary issues and problems associated with the DBE program, as identified by symposium participants in their sessions. Based on these issues, areas needing research or whose resolution could be assisted by scientific fact finding have been identified. Historically, research funds committed to resolving these issues and for fact finding have been limited, regional, and sporadic. Research on contemporary, national scope, DBE program problems is currently not available to assist state department of transportation personnel with data and research recommendations.

This report organizes the various sessions into four primary topic areas: general, administration, DBE development and summary. The general section focuses on describing the intent of the program and perceptions of the process and participants. Topics that are administratively focused can be sub-grouped as goal achievement and certification processes, although these issues also have a significant impact on the ability of the DBE to perform work. The primary thrust of sessions in the DBE development area looked toward assisting DBEs in becoming viable contracting entities. Supportive services, financing, working relationships, program survival, and company expansion were key topics of development. The final section of this report summarizes a group of discussions that focus on re-engineering the DBE Program. These discussions captured many of the same topics discussed in the other sessions but in a more concise fashion with a particular interest in making substantive changes in the program legislation, administration, and execution.

The summarized topics have been given very broad definition in terms of the issues included within their boundaries. It is recognized that a great deal of overlap exists between certain topics. To avoid duplication, individual topics were assigned to one of these primary elements. However, sessions with overlapping topics had their comments considered when reviewing the material. Where it is appropriate, general background information is provided for clarity. The specific contributing sessions are identified at the end of each section.

GENERAL — PROGRAM INTENT AND PERCEPTIONS

Several sessions were primarily focused on the program intent. Perceptions of the program impact on non-DBE specialty contractors and the perception that many women owners of WBE's do not run their own businesses (they are fronting for someone) were discussed in symposium sessions. The program name, Disadvantaged Business Enterprise Program, has always been a point of contention within the eligible groups defined in the legislation. Renaming the program has been proposed in many venues, including the symposium sessions.

PROGRAM INTENT

Perhaps the best definition of the program purpose or intent can be found in the Preamble discussion of the proposed rule change (49 CFR Part 23) published in the Federal Register December 9, 1992. The Department of Transportation (DOT) program:

- Encourages the formation and growth of new and existing DBEs;
- Seeks to create an environment where eligible entrepreneurs have the opportunity to realize the full economic benefits of DOT funded and assisted procurement opportunities; and
- Works so former DBE firms function as full fledged participants in the free enterprise system, capable of gaining their share of transportation business activity without the help of a DBE program.

Issues discussed in the program intent sessions clearly indicate that the participants felt that a clearer definition or more specific purpose for the program would reduce some of the confusion they felt existed. Many would like to see the social and economic objectives of the program more clearly focused and defined.

The session on subcontractors rather than prime contractors brings out an additional point about the various programs. DBE contractors can work on local, state, and Federal transportation related projects each with different sources of funds, administration and requirements, generally in the role as subcontractors. There seems to be a lack of consistent factual information about specific level of participation, size, and distribution of funds for DBE participation.

PROGRAM PERCEPTIONS

Perceptions, for the purpose of this summary, are defined as well developed opinions of the program that have limited or inconclusive data to support either a proponent or opponent position. The session focusing on the adverse impact of the program on non-DBE specialty contractors is a key example. Unfortunately, the session did not report any findings on this issue for the symposium record. The perception, in this case stereotyping WBE ownership, that WBE firms are not owned and operated by women was clearly highlighted in a session. The session on the DBE Program vs. Perception and Credibility had a somewhat more substantive discussion with respect to perceptions. One key area was identified out of the symposium report that could be assisted through supportive research or data collection.

Supportive Research

The need to improve data collection on the demographics and distribution of participants, growth, and work distribution exists. Part of this research should define several criteria for program success and impact. Current measures of the program's impact or success seem inadequate. Economic factors should be developed and included in the scope of the research.

Session Summaries Appropriate to This Topic

The following list represents the sessions included in the development of this section. The format includes the issue title, convener, and page number (Appendix A reference). The topics are ordered by page number and no ranking should be interpreted from this listing. This format will be repeated for each topic.

"What is the Intent of the Program?," Caroline Carver, p. 15

"Should the Name of the Federal DBE Programs Be Changed?," Gail Charles, Esq., p. 15

"DBE Program vs. Perception and Quality," Carolyn Jordan, p. 26

"Respect for WBE's Business Accomplishments and Abilities," Regina McManus, p. 28

"Program Concentration on Subs Rather than Primes. Should it Shift?," James Wilkinson, p. 37

ADMINISTRATIVE FOCUS: CERTIFICATION, GRADUATION, AND GOALS

CERTIFICATION AND GRADUATION

Certification is an administrative determination of a firm's eligibility to participate in the DBE program. Certification effectively covers four requirements, group membership, business size, ownership, and control.

Certification Process and Standardization

Certification is required for participation in the DBE program. Recertification is required each year to continue eligibility for participation. Certification is not a pre-qualification process, although much of the financial and experiential information is similar. Two sessions focused on issues of certification and standardization of the certification process. The fundamental issues presented by the participants were:

- A need for a standardized certification process;
- A need for reciprocity within and across regions; and
- Standardized qualifications of those performing the certification review.

The recommendations from the focus groups keyed on these three ideas. In addition, a proposal was made that recommended the National Highway Institute be utilized as a vehicle to provide Certification Training. Reciprocity of certification is available on a limited basis in some regions. This issue will likely require local input to develop regional coalitions, but the process would be assisted with a uniform certification process.

Graduation

Business size and personal net worth are part of the evaluation performed during the certification process. "The term *graduation*, as used in the DBE program is a misnomer. In common parlance, graduation conveys successful movement from one stage of experience to another, proficiency, or prestige to a higher level. In the DBE program, graduation conveys movement only in the size of the firm."(GAO, 1994) Graduation is not a separate process from certification, although it is often discussed as a separate entity. The current certification limits, conforming with Small Business Administration (SBA) requirements, limit gross receipts of the firm to less than \$15.37 million per year average for 3 years and

continue to participate in the program. Personal net worth as a graduation measure is equally a misconception. Personal net worth is also considered under the certification requirements and a current ceiling of \$750,000 is sufficient to prevent certification or recertification.

It is clear that one difficulty experienced in the discussion was the concepts of prime and specialty contractors vs. prime and sub-contractors. In many discussions it would seem that prime and general contractor are used interchangeably as is specialty contractor and subcontractor. No effort has been made to clarify the intent of the participants in the symposium notes. However, for the record, prime contractors and sub-contractors reflect the relative contract relationship a contractor has with the sponsoring agency. General contracting and specialty contracting reflect the work categories performed by the contractor. General contractors typically perform the majority of the contract work and services on transportation projects and hire subcontractors to fill needs in more specialized areas. Specialty contractors usually focus their work on one or two primary market niches such as guiderail, traffic control, landscaping, or lighting. Specialty contractors can act as either prime or subcontractors and, likewise, general contractors may be prime contractors or subcontract to others. Therefore care should be exercised in reviewing the comments in some sessions, the terms appear to be used interchangeably.

Various proposals and issues of graduation were presented at the symposium. Graduation removes highly qualified firms from the available pool of DBE contractors. While it should open opportunities for new DBE contractors to enter the marketplace, there is a lack of evidence that this occurs. The participants at the symposium agreed only that "graduation" involved more issues than gross receipts.

Frauds

Fraudulent DBE businesses and fraudulent prime contractor practices have been identified over time in many transportation DBE programs and in the SBA 8(a) program. Fraud can occur under any of the certification areas. Ownership is commonly questioned for WBE firms by DBE's over this issue, as a class action suit which was filed in Maryland shows (ENR, 11/29/93). Other cases of fraud have occurred where net worth was not represented properly, the company only "fronts" for

a prime, and other businesses were developed to enable primes to continue to function with the least amount of involvement with DBEs. Current certification processes may not be able to identify all the fraudulent events or contractors in the program. However, sufficient evidence exists that many cases of fraud are discovered and prosecuted.

Supportive Research

1. Develop a Uniform DBE Program Procedures Manual through a detailed review of all state DBE certification processes. The primary deliverable of this project would be a unified set of procedures and requirements. How this would differ from the current DBE Program Administration Manual would primarily depend on the findings among the current state programs. The focus would be on consistent requirements for eligibility and consistent evaluation of recertification and graduation requirements.

2. Identify the advantages and disadvantages of various proposed or innovative graduation plans. The research would focus on factors in evidence when DOT contractors become self-sufficient. Included in the evaluation of the factors, consideration should be given to various plans that permit gradual "main streaming" of the successful DBE contractors.

3. A training course grant should be generated for training DBE coordinators using the Uniform DBE Procedures Manual. The need for this grant is demonstrated by the growing concern, expressed by participants at the symposium, regarding program qualifications. The existing FHWA program should be reviewed as part of this grant and corrections made where necessary.

Session Summaries Appropriate to This Topic

- "Capability Profiles," Geoff Clarke, p. 16
- "Graduation," Geoff Clarke, p. 16
- "Improving the Certification Process," Lou DiLillo, p. 18
- "State and Federal Appeals Procedure," Carol Ewing, p. 20
- "Building Capacity Among DBE Firms," Eugene, Johnson, p. 24
- "Accepted Standardization of WBE Certification Across State Lines," Elaine Martin, p. 28
- "Size Standard — DBE Credit," Oscar Trevino, p. 33
- "DBE's Graduation vs. Survival," Herb Watson, p. 35

GOALS — COMPLIANCE AND ACCOUNTING

Compliance

The current regulations set a 10% minimum participation goal for state programs. Recent Government Accounting Office (GAO) data indicate that many states are achieving a 13-14% participation. It is generally up to the state administrators, depending on restrictions within state legislation, as to how the goal is achieved. Contracting goals for states can be achieved through establishment of 100% DBE contracts, often termed set-aside contracts, or the goal can be met through goals established and modified higher or lower within contracts. The recent GAO report also focused on goals and, by all indications, the 10% minimum statewide goals are being achieved, with occasional exceptions. The GAO was critical of the lack of timely follow-up by U.S. DOT to states not achieving their goals.

Discussion within the symposium suggested that the accomplishment of states in excess of the 10% goal would indicate that the goal could be raised to 14% or 15%, since many states already achieved this level. The participants also indicated that penalties for non-compliance by contractors, for not achieving contract goals, were inconsistent and generally lacking standardization.

Discussions about standardization of good faith effort interpretations were provided by a session on good faith effort. In addition, reasonable price premiums, non-competitive bids, and commercially useful function concepts were brought to bear in the good faith effort. Since the state level programs in general achieve their goals, the good faith effort issue is a local administration problem for individual contracts and the resulting differences in interpretation are not surprising, although the practice leads to some inconsistent decisions.

Other topics identified in the compliance area were incentive programs to encourage participation on contracts higher than the contract minimum. Counter to the incentive issues are the sanctions to be imposed, if contractors failed to achieve the specified minimum participation levels. The use of contract incentives or sanctions may be limited by state contracting practice statutes.

Accounting

The accounting procedures, to count dollars contributing to contract goals and overall goals, are fairly well

detailed, although some confusion may exist on peripheral issues, such as counting second tier subcontract contributions. Accounting procedures were also discussed relative to whether the existing procedures are counting appropriate types of dollars. One session reported that less than 2% of the dollars were actually paid to DBE firms and the remainder was being paid for materials provided by non-DBE firms, which does not support the purpose of the legislation.

Discussions at the symposium addressed increasing the overall program goal to 15% rather than the 10% goal in the current regulation. Included in the discussion of goals was a single goal vs. separate goals (to separate WBE participation from the current single goal) to meet the goal of 10% minimum participation. One session made a blanket recommendation for a single National goal. At issue is the trend of WBEs gaining market share within the amounts awarded to all DBEs. The market share issue is critical when considering reduced contracting opportunities due to construction spending reductions and the overall political climate at the time of the symposium.

The goal separation issue was key to the overall discussions held on equitable distribution of awards among all disadvantaged groups. In addition to the WBE issue, it was noted in several instances that Hispanic and Asian DBE contractors were receiving more than their proportional share of contract dollars in comparison to other groups identified in the legislation.

Other issues of goal compliance and accounting are in the various session notes and recommendations provided in Appendix A.

Supportive Research

Several key problems were identified for further research.

1. A detailed study over several years is needed to determine the award patterns of states which would

include a comparison of goal setting processes used by the States in comparison to the criteria required by 49 CFR 23. There is no clear solution to how dollars are being counted and how equitable the distribution of dollars is among the various contractors. Collected data need to clearly show the level of DBE participation and work category. A model accounting procedure and a model for funds distribution could be developed from the research.

2. The specific role and administrative authority of DBE programs should be considered for evaluation. It seems many offices have a greater amount of autonomy than others in setting goals and procedures for the program as a whole. Successful innovative practices of these offices should be recorded and made available for other states to emulate.

Session Summaries Appropriate to This Topic

"Trucking," Robert Brown, p. 14

"Fraud," Logan Dickerson, p. 18

"10% Federal Goal-Why States Only Set 10% When They Know They Can Do More," Charles Ford, p. 20

"Incentives vs. Sanctions for Contractors," Gilson Frances, p. 21

"Good Faith Effort," Peggy Harris, p. 22

"How to Reduce the Paperwork Required by DOT," Errol Johnson, p. 24

"Counting Second Tier Subcontracts Toward Meeting DBE Goals," Beverly King, p. 27

"Meeting Contract Compliance Goals," Renata Leckazas, p. 27

"One DBE Goal or Separate DBE Goals?," Efrem Casarez and Mike Madrid, p. 29

"Define/Promote Equitable Distribution of DBE Awards Among Participants," Will Terry Moore, p. 29

"Fairness Within the Law Through Enforceable Contract Specs," Kay Rollison, p. 32

"Require DBE Primes to Meet Contract DBE Goal," Floyd E. Romero, p. 33

BUSINESS DEVELOPMENT ISSUES: SUPPORTIVE SERVICES, FINANCE, WORKING RELATIONSHIPS, CONCERNS

These topics tend to relate to those administrative processes, programs, and activities that are focused on development of the DBE as an effective contractor. In contrast the previous section focused more on those issues affecting federal and state administrative processes or personnel.

SUPPORTIVE SERVICES — TECHNICAL ASSISTANCE

Supportive services denotes business development training and assistance provided to assist DBEs in achieving the proficiency needed to compete for federal contracts. FHWA is the only DOT agency providing support for supportive services. States may use supportive services funds for in-house programs or they may contract the services to a provider. Supportive services funds may not be used in training state personnel. Providing supportive services programs is voluntary for States. They do not have to provide supportive services in order for the state to receive federal highway money. The range of services provided by States with supportive services include: (GAO, 1994)

- Services related to certification;
- Estimating, bidding, and assistance in development of technical skill proficiency;
- Services to develop and improve immediate and long term business management, record-keeping and financial accounting capabilities;
- Services to help DBEs obtain bonding and financial assistance; and
- Other services contributing to long term development, increasing opportunities, and eventual self sufficiency of the DBE.

The participants included several new items for consideration of supportive services programs. "Entrepreneurial Assessment Centers" were suggested as a means of identifying those DBE contractors who most likely benefit from specific assistance to move into the independent competition mode. The specific discussion of supportive services addressed issues that fall well within the range of services identified above.

Supportive Research

Research is needed that models the growth and development phases of DBE firms from start-up

companies into self sufficient contractors. The research should focus on the recognized key factors for company growth and success. The results of this research should direct where specific technical and business assistance to DBEs can best be focused to maximize opportunities for DBEs, who wish to become general prime contractors.

Session Summaries Appropriate to This Topic

"The Role of Supportive Services," Jackie Gorman, p. 22

"Effective Use of Current Resources to Enhance DBE Success and Profits," Edward Powe, p. 31

FINANCE — PAYMENT, BONDING

Payment

A key issue also identified in discussions about DBE abuses was the lack of timely payment to subcontractors. An entire session was also devoted to the issues of ensuring prompt payment to subcontractors. Much of the discussion pointed out that payment problems are often a communications problem, either due to poor understanding of submission requirements or mistakes made in preparation of payment documents. Retainages imposed on subcontractors were discussed. The discussion identified the possibility of exempting some forms of work from retainage and expediting final payment to the subcontractor, even if the project has not been completed. Payment to subcontractors has traditionally been a difficult problem to correct. Prompt payment laws have the potential to remedy some payment abuses.

Bonding

This is a business development problem faced by all contractors. Obtaining bonding is often a key issue for being able to work on some contracts. The discussion on bonding focused on how DBEs could improve their presentation to bonding companies and suggested expansion of the bonding pilot programs by the Office of Small Disadvantaged Business Utilization.

Supportive Research

The timely payment of subcontractors would be suitable for a synthesis type research as well. Existing prompt

payment systems should be evaluated for effectiveness from the DBE contractors perspective in prompt payment states. The results could be compared to similar studies done in non-prompt payment states to measure effectiveness of the current legislation forms.

Session Summaries Appropriate to This Topic

"Bonding and Insurance Assistance," Betty J. Jones, p. 26

"How Can Prompt Payment Be Ensured?," Janice L. Wedell, p. 36

"Future Directions for DBE Profitability", Charles Wright, p. 37

WORKING RELATIONSHIPS — MENTORING AND ABUSES

Mentoring

The purpose of this program is to assist DBEs in moving into nontraditional areas of work through training, assistance, and formation of relationships with other firms. There are requirements for a written development plan, a formal mentor-protege agreement. The mentor's cost is fundable under the federally assisted program. (Proposed Rules, 12/9/92). However, it is apparent from the discussion of mentor-protege that the participants in that discussion targeted all forms of assistance to the DBE, not just for nontraditional work areas. They did support financial assistance to the mentoring agreement and also included the sponsor agency as part of the contract agreement.

Abuses

The primary focus of these discussions was the various participants' perception of relationship abuses by prime contractors of DBE subcontractors. Other abuses were also noted. The complexity of this issue is important to consider. What is perceived as an abuse may be a reflection of the prime contractor's integrity. Sensitivity training and increased partnering were considered important to reducing some of the perceived abuses.

Supportive Research

A research effort toward defining the content of a formal mentor-protege system would benefit the current

system. Expanded instruction could be developed based on a synthesis of existing mentor-protege arrangements.

Session Summaries Appropriate to This Topic

"Prime — Subcontractor Relationships," Geoff Clarke, p. 17

"Development of Mentor/Protege," Henry Droughter, p. 19

"How to Prevent Abuse of DBEs by Prime Contractors," Luther G. Godfrey, p. 21

FUTURE CONCERNS — PROGRAM SURVIVAL OR EXPANSION?

Several key issues were developed in the various focus groups. Groups discussing the future mission and role of Affirmative Action Programs, through the DBE program, also recognized the need for unity among the DBE groups. The group recognized clearly that, given the current congressional trends on Affirmative Action Programs, survival of the program in its current form was in question. Unity of the affected groups was discussed in several focus groups, including one where unity was the primary mission for discussion. Joint lobbying efforts were noted in several sessions, including a session entirely devoted to lobbying efforts. Expansion discussions covered the domestic market as well as the international market. The domestic market was viewed as a shrinking, highly competitive, reduced services environment. The international market was viewed as potentially friendlier to DBE's for developing a market niche.

Supportive Research

How much impact has the program had on disadvantaged groups? Social benefit cannot be measured in terms of cost-benefit analysis. Although not strictly a transportation research problem, there is a body of evidence that points to the gradual development of a few very large DBEs that dominate various regions and do not "graduate." Therefore, new firm development and economic development of other DBEs is blocked by a large DBE firm. The focus of this research, measuring the impact of the program on the affected groups, should be integrated with the development of "graduation" criteria.

Session Summaries Appropriate to This Topic

"Unity," Lesia Hulbert Batiste, p. 14

"Leadership," Cynthia Cooper, p. 17

"International Markets for DBEs," Eugene Johnson,
p. 25

"The Adverse Impact the DBE Program has had on
Non-DBE Specialty Contracts," William Shorb, p. 33

"The Inclusion of and Input by DBEs in Policy-
Making and Review," Oscar Trevino, p. 34

"How to Ensure the Survival of the Program, Where
do we go from here?," Grace Waters, p. 35

"DBE Lobbying (FY 95)," Charles Wright, p. 38

SUMMARY: WORKING TOWARDS AN IDEAL SYSTEM

When taken all together, it is obvious that not all issues will be resolved by an effective system of administering the DBE programs. However, at least one session, "Designing a DBE Program from Scratch," and, to some extent, portions of other sessions were devoted to re-engineering the DBE program. This one particular session was cut short due to time, but clearly the objectives for the program proposed by this session are not dissimilar to the current stated program objectives; however, they are more detailed in their focus.

Another session focused on where there was agreement, including those issues where everyone recognized the disagreement. This session, "On What Do We Agree?", generated 15 points of consensus. Many of these points of agreement are reflected in more detail in the other sessions. A pilot project was proposed wherein nondiscriminatory economically segmented competitive set-aside contracts would be established. These would be firms of similar competence and development competing in a limited pool of projects.

Supportive Research

Development of an entirely new program on the basis of research results and a similar coalition of participants would represent a significant achievement. The specific scope of this project would be difficult to define, but the objective would clearly be a new DBE program that reduces the current program conflicts.

Session Summaries Appropriate to This Topic

"Commitment/Accountability of Federal & State Administrators," Charles Hogan, p. 23

"Designing a DBE Program From Scratch," LeRoy Jamison, p. 23

"On What Do We Agree? (re: the DBE Program)," Ed Morris, p. 30

"Contracting Policies and Practices that Impede DBE Participation," Lisa Wormington, p. 37

CLOSURE

The symposium successfully achieved the objective of providing a forum for open discussion and exchange between administrators and contractors. Many social and economic issues, beyond the scope of transportation research, were presented at the symposium. How these and other issues should be resolved is not for our speculation. However, these and a significant number of other issues, would benefit from research and analysis. The research focus should be on gathering information appropriate to supporting suggestions for restructuring the current program. In addition, there were a significant number of recommendations made by participants that require legislative changes. It would be unlikely that legislative changes, without solid research evidence, would be able to resolve the problem. The symposium successfully identified these issues and opportunities. The suggested supportive research projects require detailed scope development, sponsorship by an agency, and budget support to develop the data and information needed to resolve issues in the current program.

ACKNOWLEDGEMENTS

The author, Gary R. Smith, would like to recognize the assistance of Deanna Corbett, a doctoral candidate at The Pennsylvania State University, in the organization and critique of the material. Mr. Frederick Hejl, Transportation Research Board, and his staff provided excellent support in conducting the symposium, distributing the symposium notes, and providing general assistance in preparation of this document. The membership of A2F08 provided review comments and corrections to this document.

APPENDIX A: NOTES FROM THE NATIONAL SYMPOSIUM ON THE DISADVANTAGED BUSINESS ENTERPRISE PROGRAM IN STATE AND FEDERAL HIGHWAY CONTRACTING

PREFACE

The United States Congress passed the Surface Transportation Assistance Act (STAA) in 1982. The disadvantaged business requirement of this act, also known as Section 105(f), was enacted on January 6, 1983. This section required that not less than ten percent of the amounts authorized to be appropriated under this Act for federally assisted highway and transit contracts be expended with small business concerns owned and controlled by socially and economically disadvantaged individuals. The goal of Section 105(f) of the Surface Transportation Assistance Act was to increase disadvantaged businesses participation in federal-aid contracts. The Disadvantaged Business Enterprise Program (DBE) was re-authorized as Section 106(c) of the Surface Transportation and Uniform Relocation Act (STURAA) of 1987, and again in 1991 as a part of the Intermodal Surface Transportation Efficiency Act (ISTEA).

Since the implementation of the DBE Program, the United States Department of Transportation (USDOT) has spent hundreds of millions of federal-aid dollars on projects earmarked for disadvantaged business participation. In addition, considerable staff and financial resources have been committed and allocated at both the federal and state level to help ensure successful implementation of the DBE Program.

Over the past ten years, there has been little national effort undertaken to candidly discuss the implementation and enforcement of the DBE Program. The Federal Highway Administration determined that a forum to discuss the Program's effectiveness was long overdue, and it requested the Transportation Research Board's Disadvantaged Business Enterprise Committee to

organize and conduct a national symposium on the Disadvantaged Business Enterprise Program in state and federal highway construction.

The intent of the symposium was to provide government DBE liaison officials, DBE administrators, DBE contractors, and prime contractors a forum to candidly discuss the DBE program administration and to exchange views on the most effective ways to enhance the implementation and enforcement of the program.

In response, the TRB committee prepared a program for a national symposium. The symposium would use the services of a professional facilitator, known internationally for his "open space technique" in conducting meetings, to stimulate, direct, and control discussions. Topics to be discussed would be defined by participants at the meeting. Opening and introductory remarks would be made by representatives from DBE contractors, prime contractors, U.S. Department of Transportation, Federal Highway Administration, and American Association of State Highway and Transportation Officials.

The symposium was held at the Baltimore Marriott Inner Harbor Hotel, Baltimore, Maryland, March 9-11, 1995. More than 170 individuals participated in the symposium. The participants represented prime contractors, minority contractors, women contractors, state departments of transportation, USDOT and FHWA, and other interested parties.

The issues, discussions and recommendations presented in the following pages of notes do not represent the views and position of the Transportation Research Board and the other cosponsoring agencies. They are outputs generated by symposium participants discussing the respective issues in "open space" breakout sessions.

UNITY**Convener**

Lesia Hulbert Batiste

Participants

Janice L. Wedell, Elaine Martin, Kay Atwood, Sharon Arnold, Lou DiLillo, Regina McManus, Earle Beale, Gary Brown, Melissa Muskopf, John W. Gadson, Sr., Charles Hogan, Mike Madrid, Bob Bailey, Logan Dickerson, Cynthia Meyer, Helen Foster, Joann Payne, Robert S. Wright, Judy Stinnett, Harold Dorell, Mary Fernandes, Connie Yew, Linelle Clark, Charles E. Ford, Fran Gilson

Discussion/Recommendations

At issue is whether the participants of the program agree that the program is an universal economical benefit to the society.

This group agreed unanimously that there continues to be a need for a program. We concluded that the best method of defending a DBE program was to unite by creating a national coalition. Census studies have shown that the combined groups of minorities and women have huge spending and voting power. That as a group, we must vigorously fight to maintain economical opportunities for all concerned parties. It was suggested that an organization form on the national level to lobby the legislators, to express our position, interest and needs as a unified group. It was further concluded that immediate action is imperative.

We were advised by Joann Payne that she has discussed with Sam Carradine, the need to gather all concerned national organizations in support of programs and other related matters. (i.e. affirmative action programs). Those present in the group agreed to work to accumulate a list of national groups affected by changes in the affirmative action concepts. It was further agreed that participants listed above would within two weeks of this symposium, when contacted by the convener, submit what information he/she has gathered to contribute to the composition of this list of national organizations.

It was suggested that a name for the coalition could be DBE's in Support of Affirmative Action.

The group proposed the following resolution to be voted on by those attending the final session:

The participants of the TRB/AASHTO National Symposium on the DBE Program support the continued need for the affirmative action ideals embodied in the

DBE Program, agreeing that the disadvantaged groups in America need the assistance of affirmative action to achieve equity in government contracting and to suppress the unproductive effects of discrimination in this nation.

THE RESOLUTION WAS ADOPTED AS STATED WITH ONLY THREE DISSENTING VOTES.

TRUCKING**Convener**

Robert Brown

Participants

Helen Zimmer, Terri Chaney, Cynthia Meyer, Brenda Hall, Delores Kelly, Dave Rostad, Larence Jones, LaJune Mclaze, Barbara Christian, Jesse Haynes, Cleveland Kelly, Robert Brown, Lisa Wormington, Judy Stinnett

Discussion/Recommendations

Current guidance is — A DBE trucker must furnish some of the trucks; which can be as few as one. Situations have arisen where a DBE, owning only one truck, was given the work on a project that required at least 27 trucks per day. The remainder of the trucks were leased from a majority-owned trucking firm.

The dollar amount that was awarded the DBE was very sizable and eliminated many other DBE's that could have performed on the project. Some of the concerns are as follows;

- Number of trucks vs. number leased — what should count toward the DBE goal?
- Is it important who owns the trucks?
- Rates hour/load/tons/how truckers get paid?
- Brokers/independent haulers — What should be counted toward the DBE Goal?

Trucker owning one truck can lease three, but a percent of the owner operators must be members of the affected class. DBE Trucker should own 50% of the trucks on the job.

Trucker leasing trucks must have 70% of the trucks operated by members of the affected class.

Use Title VI to take action on trends that have been identified.

Have Fed supply Leadership - question has already been addressed in the proposed rule changes two years ago.

Industry lends itself to activities that normally would be constituted as brokering, so therefore, credit similarly. Don't put the Fox in charge of the Hen House.

WHAT IS THE INTENT OF THE PROGRAM?

Convener

Caroline Carver

Participants

Horatio Lopez, New Ventures, Inc. 716 S. 6th St. LV, NV 84101, 702-384-3881; Robert Ames, AK DOT, 907-762-4268; Kay Rollison, same, John Gonzalez, JAG Assoc. P.O. Box 690444, San Antonio, TX 78269, 210-981-8980; Floyd E. Romero, NMSHTD, P.O. Box 1149, Santa Fe, NM 87504, 505-827-1776; Wilbert Baccus, FHWA, 202-366-0780, Jim Wilkinson, Baker Heavy & Highway, 412-323-4753; Richard Abacus, Applied Business Conception, 5312 N. 12th St. #302, Phoenix, AS 85104, Caroline Carver, ATSSA, 5440 Jeff Davis Hwy., Fredericksburg, VA 22407, 703-898-5400.

Discussion/Recommendations

Intent: to increase the vendor base totally:

- To improve economic development of disadvantaged communities;
 - Not to create an elite group to take advantage of the program;
 - To even the playing field for everyone;
 - To enable the minority community to be able to compete in the marketplace;
 - To open doors for minorities;
 - To force the highway community to open its doors to minorities and women — this is in recognition of past discrimination; Can't provide equal opportunities without recognizing past discrimination;
 - Intent should be for DBEs to become prime contractors — can use set-asides to achieve this (Ohio);
 - The tenants of affirmative action are: We have goals and when those goals are achieved, then we don't need the program anymore;
 - Forced now to hire and notice color — to be more subjective in the bidding process.

- If the goal is to improve economic development of disadvantaged community, is this realistic? How can hiring a disadvantaged business help the disadvantaged community?

- DBE program was a national correction to a problem that might not have existed in every state — question of economic and geographic realities. We need to address local solution — need more flexibility to do this.

- Resources and funds should be aligned to development of education with entrepreneurs--need to be interfaced. Target how to best spend the money and break the poverty cycle. Address economic development by targeting communities.

- What is a reasonable period of time the government wants to invest in a business--need to look at this in terms of graduation from the program.

- Intent is to maximize contracting opportunities and improve skills and contracting opportunities of new and existing firm. Note: New and existing may not be the issue. In the beginning had to have capacity, but how could minorities participate — less than 1% of the industry in 1982, so had to create a separate pot.

- Intent is not to entice people into the construction industry, but to assist those who had been in it who had some experience (Alaska).

Do we want to help a few or bring in more so there is better competition, and are the companies receiving contracts from the program truly socially and economically disadvantaged?

Should conduct a disparity study and see what problems are in each area.

SHOULD THE NAME OF THE FEDERAL DBE PROGRAMS BE CHANGED?

Convener

Gail Charles, Esq.

Participants

Gail Charles, Esq., Diane Sumpter, Valerie Payne, and Elaine Martin

Discussion/Recommendations

The group felt very strongly that the current name "Disadvantaged Business Enterprise" was a negative label. The majority of the firms that are participating in these programs are established and viable businesses and should not be labeled as "disadvantaged."

Recommendations for changes to the program name were as follows:

1. Historically Underutilized Businesses (HUBs);
2. M/WBE Program - same as the State Programs;
3. Do not want emerging Small Businesses Program as an alternative name change for the program.

CAPABILITY PROFILES

Convener

Geoff Clarke

Participants

Valerie Payne - DOT; Dan Moncreif, III - MBE; Bob Briant, Jr. - UTCA/NJ; Gennaro Liguori - contractor; Roger Chapman - contractor; Elaine Martin - WBE; Oscar Trevino - MBE; Kent Starwalt - ARTBA; Kay Atwood - WBE; Tim Wilkinson - contractor; Robert Ames - DOT; Lisa MacPhee - DOT; Connie Yew - FHWA; Sumitta Hapuarachy - MBE; Tom Stingley - DOT; Leroy Jamison - DOT; Larry Patterson - MBE; Lesia Batiste - DOT; Mike Nee - CAWPA; Luther Godfrey - FHWA; Thom Purdum - DOT; Horace Dickerson; Henry Droughter - DOT; Mike Wilson - FHWA.

Discussion/Recommendations

What is a Capability Profile or what makes up a Capability Profile?

1. Banking History-credit references
2. Information from financial reports
3. Type of work
4. Corporation Structure
5. Resumes of key employees
6. Resources, equipment/labor/materials
7. Current work backlog
8. Current work in progress
9. Previous work history

This information is used to estimate work capacity recognizing the need for realistic growth.

Who uses this information? How do they use it?

1. DOT and/or administrator of program.
2. Do not tie C.P. to certification process.
3. Must do for all participating in highway program or not at all.

4. Bonding companies use the same information to establish bonding limits.

Why is there a need for C.P.?

1. Primes can get a feel for subcontractor abilities.
2. DOTs can get a feel for subcontractor abilities.
3. Do DBEs want to provide this information to DOTs?
4. Information establishes who is qualified to perform.
5. Helps to establish realistic goals based on identified capacities.

Why we should not have C.P.?

1. There only a few states doing it now.
2. It could put an unfair limit on subcontractor growth.
3. Give us a goal and we will grow to meet it.

Other issues discussed:

1. Change program from a prime contractor obtaining a DBE goal oriented program to a DBE set-aside program administered directly by the state DOT.
2. Utilize recommendation in 1.) above with the current program.

GRADUATION

Convener

Geoff Clarke

Participants

Henry Droughter DOT, Robert Bradley DOT, Tom Stingley DOT, Peggy Harris NAWIC, Sue Alexander DOT, Roger Bierbaum DOT, Leisa Batiste DOT, Roger Chapman Prime, Mike Rath DBE, Kent Starwalt ARTBA, Charlie Price DOT, Gina McManus WBE, Effrem Casarez DOT, Kay Atwood WBE, Bill Fung FHWA, Sam Prestipino DOT, Logan Dickerson Prime, John Finck Consultant, Errol Johnson DBE, Janice Wedell Consultant, Tyrone DOT, Caryn Johnson DOT, Bob Wright FHWA, Connie Yew FHWA, Dennis Luhrs FHWA

Discussion/Recommendations

The group discussed the concept of graduation as it relates to program participants. During everyone's

introductions it was determined that half of the group favored some type of graduation because it would allow for new DBE growth. The other half of our participants did not favor graduation because they felt it would remove qualified DBE's from the program.

We discussed the parameters of graduation (it was determined that the concept of graduation was not real) and we recognized that DBE's are removed from the program when their 3 year average receipts exceed the \$16.6 mil range for certain prime DBE's and \$7.0 mil for specialty subcontract DBE's. This is the best info available from FHWA personnel present. There was some additional information regarding SIC codes, # of employees, net worth of the DBE (\$750,000.00), measurement of management skills, acceptance as a DBE sub, \$ of payroll, time in the program, and net worth less certain items such as stock within the company and value of the first home.

We reached no conclusions other than; any system developed to gauge a graduation level will be very complex and will be debated at length.

PRIME — SUBCONTRACTOR RELATIONSHIPS

Convener

Geoff Clarke

Participants

John Gonzales, DBE; Richard Abalos, DBE; Anne Keenan, Supportive Service; Caryn Johnson, Supportive Service; Carolyn, DBE

Discussion/Recommendations

There are problems encountered by DBE subcontractors in dealing with Prime contractors. Some of these problems are:

1. Primes are domineering;
2. Primes are greedy;
3. Primes dominate the market and control the subs;
4. State DOT pay periods are good in some states 3 to 5 days in one and 7 to 10 days in another. One state has installed prompt pay laws to prevent delayed payment to subs and primes;
5. Slow pay is still a problem, #4 above could be a remedy;
6. There is an opinion that there are three types of Primes:

- a. Predators;
- b. Middle of the roaders; and
- c. Cooperative/Supportive.

There was a suggestion that there is a need for SENSITIVITY TRAINING for:

1. ARTBA,
2. AGC, and
3. WCOE.

These groups need to have more interaction with DBE subcontractors.

There is a need to spread more success stories. We all need to develop a WILLINGNESS TO LISTEN.

LEADERSHIP

Convener

Cynthia Cooper

Participants

James Posey, Denise Bailey, Horacio Lopez, Angela, Robert Wright, Connie Yew, Carol James, Angela Hawkins, Bea Hudson

Discussion/Recommendations

The purpose of the discussion was to address:

1. Lack of leadership on the issues of Affirmative Action. Lack of leadership is expressed best in the lack of direction SHAs are experiencing.
2. Methods/suggestions to address lack of leadership.

Initially, the discussion centered around defining leadership. The group agreed that leadership is not a hierarchal relationship with the President, Congress and U.S. DOT at the top and DBEs at the bottom. Leadership is a community — a circle and leaders within the circle are responsible and accountable. Leaders within the circle listen and communicate. Leadership is inclusive and builds coalitions. Leadership conveys its beliefs in the ideals and provides access for others to communicate and act.

The groups submit a model for the conference conveners to employ.

We ask that the conveners identify individuals by name who will be responsible for implementing this model and state when it will be implemented. The

model must also include success stories from the private sector and coalitions that work (like NAMC etc.).

The model is called the circle of leadership beginning with the center and moving outward:

- Listen
- Communicate (Policy, Correct "Myths" about DBEs, educate contractors, consultants)
 - Take Responsibility/ Be accountable
 - Show Value (interrelatedness between Commerce/Business/Politics require that value be added to any idea. Show value of DBE program/accomplishments)
- Competency
- Reward/Recognition

FRAUD

Convener

Logan Dickerson

Participants

G. Craig Wingfield - VDOT; Brenda Hall - MSHA; John Covert - MDDOT; Janice Ward - RIDOT; Tom Jasien - AGCofAmerica; Cleveland Kelly - WIC, Inc.; Gary Brown - MSHA; Earle Beale - MSHA; Deloris Kelly - WIC, Inc.; Raleen Reiher - T.A. Mekis & Sons; Michael nee - Constructors Association of Western Pa; Lisa MacPhee - US DOT/OST/OGC/Litigation; Susan Alexander - OklaDOT; Richard Carter - MHTD; Peggy Harris - NAWIC; Frank Powell - F.M. Powell, Inc.

DISCUSSION/RECOMMENDATIONS:

1. Assure realistic goals.
2. Orientation meeting re fraud.
3. Training of project inspectors.
4. More effective compliance review auditing for DBE & prime, including financial job records.
5. Communicate court decisions regarding prosecution of fraud to DOT's and all contractors.
6. Have a fraud hotline number posted.
7. Separation of certification/monitoring agencies responsibilities.
8. Prosecution of fraud should be treated as a higher priority.

IMPROVING THE CERTIFICATION PROCESS

Convener

Lou DiLillo

Participants

Gail Charles, NJ DOT; Efreem Casarez, TXDOT; Leroy Jamison, PENNDOT; Gary Brown, MSHA; Carol James, OH Contractors Assoc.; Sam Prestipino, MT DOT; Jim Wilkinson, Baker Heavy & Hwy; Charles Price, OH DOT; Richard Carter, MO Hwy & Transp. Dept; Beverly King, King & Wright Consulting, Inc.; Frank Powell, FM Powell, Inc.; Mike Madrid, Mike Madrid Co.; Carol Ewing, Curbs Etc, Inc.; Freddie Jones, VA DOT

Discussion/Recommendations

Issues:

I. Certification Process

A. Qualifications of Reviewers

1. Training and background in business
- B. Lack of continuity in interpretation of eligibility standards
- C. Inconsistency in documentation required
- D. Confidentiality of files
- E. Inadequate staffing

II. Expertise

- A. Managerial Control
- B. Operational Control
- C. Owner does not have to be holder of license
- D. Equipment "Standard Industry Practice Lease agreements acceptable
- E. Staffing — Standard industry practice and union relationships
- F. Certification of nonconstruction related businesses — States use certification criteria to certify these types of business

Recommendations:

I. Certification Process

- A. Training for certification staff, i.e. NHI Courses
- B. Guidelines from FHWA
- C. Nationwide Uniform Application

D. States should individually review current processes and improve confidentially of certain information such as taxes.

II. Expertise

A. Applicants had to demonstrate expertise necessary for the type of industry in which they worked

B. Owners do not have to have licenses but must have ability to control the day-to-day operations of the firm. The exception is if the state law requires a license.

C. Agreed that firms should own or lease equipment in accordance with standard industry practice for that type of work. Agreed that leasing equipment is acceptable so long as DBE applicant provides evidence of ability to lease or copies of lease agreements.

D. Union firms should not be required to have permanent staffing, should be allowed to hire from the hall, and should not be held to any standards that are more stringent than standard industry practice.

E. Use criteria more applicable to nonconstruction related firms.

DEVELOPMENT OF MENTOR/PROTEGE

Convener

Henry Droughter

Participants

Tom Pierce, Aida Santiago-Brown, Helen Foster, Cynthia Myers, Frank Powell, Connie Yew, Dennis Luhrs, Roger Chapman, Logan Dickerson, Leroy Jamison, Tom Smith, Luther G. Godfrey, Laverne Jones, Lisa Wormington, Lou DiLillo, Grace Waters, Jackie Gorman, Robert Ames, John Milligan, Larry E. Patterson, John W. Gadson, Sr., F. Linelle Clark, Roger Bierbaum, Charles M. Price, Charles E. Ford, Efrem Casarez, William Fung, Oscar Trevino, Harold Dorell, Lesia H. Batiste, Robert Brown, Charles Hogan, Betty Jones, Charles Wright, Helen Zimmer, Denise Bailey, Jan Wedell

Discussion/Recommendations

The mentor/protege concept is a development program that allows established contractors (non-minority and minority) to provide assistance and training to meet

specific needs of DBE's. The participants in this discussion agreed that a mentor/protege program should be used to assist DBE's in the professional development and provide training to strengthen the possibility of success in executing highway related contracts. All participants believed that DBE's should be independent of the mentor and should be able to satisfy the eligibility standards for participating in the DBE program.

Recommendations:

Provide incentive for participation:

- Cash,
- Reduction of Retainage, and
- Provide reimbursement to the contractor similar to the On-The-Job-Training Program.

Develop eligibility standards for participation

- DBE must satisfy the eligibility standards for participation in DBE programs.
- Should be a tri-part agreement between mentor, protege, and contracting agency.

Clear guidelines for program implementation

- Develop profiles on mentors and proteges.
- Clearly define the assistance to be provided.
- Define responsibility of those involved in the arrangement.
- The arrangement should be for a specific period of time.

Must be approved by FHWA

- Submit as component to DBE Program.

DBE must be independent of mentor and must be allowed to bid on other projects if desired

Interest groups should participate in initial plan development.

State DOTs should establish parameters for candidates.

FHWA should develop and make available a best practice manual of mentor/protege arrangements to be used by the States.

- Explore mentor/protege arrangements used by other agencies (i.e. Department of Defense, Corps of Engineers, etc.).

Periodic evaluation and documentation of the program

- Consideration should be given to developing a computerized program to reduce the paperwork associated with reporting.

- Prepare a summary at the end of the program identifying programmatic benefits in an effort to promote the program.

Establish a mentor/protege office (similar to a consulting engineering firm) staffed with personnel who have construction knowledge and experience to administer the program

- This office may be established with supportive services funds.

STATE AND FEDERAL APPEALS PROCEDURE

Convener

Carol Ewing

Participants

Carol Ewing, Tom Smith, Celina Benovidez, Pat Reiman, Charles Price, Floyd Romero, Pamela Deppe, Jerry Franco, Jesse Haynes, Lisa MacPhee

Discussion/Recommendations

Initial Discussion related to appeals procedures at state and federal levels. Speaker's premise was that the current appeals process is totally ineffective.

- All states do not allow for appeals at the state level.

- All states do not use independent hearing officers.

- Appellants have no opportunity to review the state's record that is forwarded to US DOT.

- No opportunity to present oral argument at the federal level.

- History indicates that US DOT decisions are just rubber stamps of the state decisions. The fact is, 95% of appeals are ruled in the state's favor. It's hard to believe that the states are so correct. In reality there is no independent review.

- If in fact clearly incorrect information has been used by US DOT in its decision, the appellant has no rebuttal opportunity.

- No set time for response by US DOT to the appeal.

Suggestions

- ALJ's should be used at the state level.

- All US DOT decisions should be reviewed by the Office of General Counsel prior to being issued.

- The state's record should be made available to appellant prior to the time of appellant's filing deadline.

- Response time requirements need to be established.

- Opportunity to correct factual inaccuracies in the US DOT's decision.

10% FEDERAL GOAL — WHY STATES ONLY SET 10% WHEN THEY KNOW THEY CAN DO MORE

Convener

Charles Ford

Participants

Paul A. Adams, Cynthia Meyer, Herb Watson, Angela Hawkins, Lesia H. Batiste

Discussion/Recommendations

1. 40 out of 52 states only set 10% as their goal for DBE participation.(38 out of 40 actually achieve over 10% some substantially over)

2. May be inconsistency in Federal Regulations and how states arrive at goal.

- Regulations state that you review projects for potential DBE participation and availability and expertise of DBE's must justify if set goal at less than 10% and if do not meet goal must explain why.

3. It appears that states can do more or set higher goals, however feel it is safer to set only at the minimum of 10%.

4. States that set their goals in accordance with Federal Regulations and are over 10% feel their ability to set over 10% may be challenged because of the trend of only setting goal at 10% by the majority of the states.

Recommendations

1. The fact that the nationwide average between 15% to 20%, the actual DBE participation Federal Goal should be raised (maybe to 15%), especially since other groups have been added that compete for the same 10%.

2. Federal Regulations should be reviewed in relation to the 10%, to determine if the correct message is being interpreted by the states on the goal setting process for DBE participation.

3. FHWA should encourage states to set goals in line with Federal Regulations and not just at the minimum of 10%, and goal set should be monitored based on past percentages achieved.

INCENTIVES VS. SANCTIONS FOR CONTRACTORS

Convener

Gilson Frances

Participants

Robert Ames - Alaska DOT, Linda Bloodsworth - Maryland SHA, Karen Russo - Maryland SHA, Karen Bream - Maryland SHA, Helen Zimmer - Penn DOT, Kay Rollison - Alaska DOT

Discussion/Recommendations

Question: Are there ways to provide incentives to prime contractors to exceed contract goals, use new or unused DBE firms, and provide new opportunities to DBE firms?

Discussion: The State of Alaska currently has an FHWA approved incentive program which allows payments to prime contractors for exceeding a published project goal. FHWA participates in the incentive payments of 2% of the dollar value of the contract up to \$100,000 or 1% of the contract value whichever is less.

The participants were not aware of any other state which uses this type of program. However, Mr. Ed Morris advised us that there are other states which have such programs, including Rhode Island.

This information brought up the question, "Why are these programs so uncommon?" If FHWA has approved this type of program in some states, why not in all. Of course any such state proposed program must first comply with applicable state law. Participants were not aware of any special requirements or unusual circumstances which must exist in order to obtain approval from FHWA. However, it was observed that it may be difficult to obtain FHWA approval if a state's goal accomplishment is consistently higher than the required 10%.

The group also discussed possible ways of providing incentives to prime contractors to use new or unused firms. The State of New Jersey allows additional goal credit for use of a new DBE firm. However, no one was familiar with New Jersey's program.

The Convener will follow-up this meeting by requesting program information and contract specifications from states identified as having incentive programs. She will make this information available upon request. If anyone is interested in receiving copies of these documents, please contact Fran Gilson, Compliance Programs Director, Louisiana Department of Transportation and Development, P. O. Box 94245, Baton Rouge, Louisiana 70804-9245, or phone (504) 379-1382.

HOW TO PREVENT ABUSE OF DBE'S BY PRIME CONTRACTORS

Convener

Luther G. Godfrey

Participants

Other Convener: Gail Charles; Mary Furnance, Jim Cossingham, Diane Sumpter, Tyrone Press, Cynthia Cooper, Brenda Hall, Frank Powell, Michael Wilson, Roger Chapman, Barbara Christon, Wilbert Baccus, Lawrence Jones and Bea Hudson

Discussion/Recommendations

The following issues/abuses were identified by the group:

1. Prompt Payment,
2. Scheduling: Lack of timely notice and unreasonable delays,
3. Lack of redress by State Agencies and FHWA,
4. Bid shopping,
5. Racial discrimination by prime contractors and suppliers,
6. DBEs being "black-listed" by prime contractors for complaining to State Agencies and/or FHWA,
7. Intentional selection/utilization of weak DBE firms to discredit the DBE Program, and
8. State Inspectors and/or Resident Engineers abuse of DBEs on the job.

The following recommendations and/or solutions were proposed:

1. Debarment of prime contractors for violation of any abuses;

2. State Agencies/Federal specifications must address abuses and include violations of DBE Program specifications as a breach of contract with appropriate sanctions;

3. State and FHWA must enforce DBE Program regulations;

4. Timely investigation and enforcement of Title VI complaints;

5. Additional supportive services funding for bonding and financial assistance for DBEs. Also, the bonding process needs to be less complex;

6. The group did not reach a consensus on bid shopping. However, the following suggestions for improvement were made:

a. DBE subcontractors/suppliers should be listed/named at the time of bid opening. Oregon/Vermont and some other States currently require prime contractors to submit at the time of bid opening.

b. The prime contractors perspective was that this would prevent and limit opportunities for DBEs and suggested that DBE listing be submitted within two weeks.

- Bookkeeping
- Legal support
- Identify contracting opportunities
- Identify bonding sources
- Help develop business plans
- Prepare loan packages
- Provide bidding and estimating assistance/training
- Provide construction management assistance
- Provide certification assistance
- Provide assistance with computer systems
- Provide capital for mobilization

- Act as a mediator/advisor
- Should be market oriented
- Should facilitate networking
- Workshop and training development
- Plan Room (center)
- Safety Assistance
- Disseminate information on new programs to DBEs and Native Americans
- Communicate among themselves
 - A supportive services liaison at the DOT OSBU
 - A supportive services newsletter
- Needs to understand the needs of the DBEs
- At a minimum must know the industry

THE ROLE OF SUPPORTIVE SERVICES

Convener

Jackie Gorman

Participants

Oscar Trevino; Anne Keenan; Richard Abalos; Caryn Johnson; Charles E. Ford; Deborah K. Thompson; Leroy Jamison; Aida Santiago-Brown; Horacio Lopez; John GW Finkle; Robert S. Wright; Mike Wilson; Brenda Welter; Frank Topping; Roger Welsch; John Milligan; Grace Waters; Betty Jones; Frank Powell; Cynthia Myers; Roger Brerbaum; Woodrow James, Jr.; Dr. James Cossingham; Henry Droughter

Discussion/Recommendations

What should be the role of supportive services?

- Advocates for both DOT and DBE
- Should be solution oriented
- Non judgmental
- Provide management and technical assistance such as:

The goal of providing supportive services is to . . .

- This varies from contractor to contractor
 - Open agenda
 - Flexible
- Transfer skills
- "Teachers not doers — Helpers not rescuers"
- Sensitize the banking community and investigate their Community Reinvestment Act portfolios
- Sensitize the prime contractors for the DBE community
 - Identify other resources in the community
 - Be the experts in highway construction
 - Broker the services that are available in the area
 - Capacity building

GOOD FAITH EFFORT

Convener

Peggy Harris

Participants

Elain Martin, Lajuana Glage, Horacio Lopez, Charles Klemstine, Robert S. Wright, Michael S. Nee, Jim

Wilkinson, Kay Rollison, Glenn R. Reed, Robert Ames, Leroy Jamison

Discussion/Recommendations

Definition Of Good Faith Effort:

- A. Goal vs. Quota
- B. Relying on integrity and good will of the general contractor to provide the equal opportunity.

Discussion:

1. Get rid of it totally
2. Expand on criteria for meeting goals
3. Hearings should be open to contractors
4. Uniformity of states process
5. More specific specifications from F.D.O.T.

Recommendations:

1. Standardization of a more definitive criteria.
2. Quantified terms; i.e., reasonable solicitation time non-competitive
3. National definition of reasonable price premium (sub contractors bid)

COMMITMENT/ACCOUNTABILITY OF FEDERAL & STATE ADMINISTRATORS

Convener

Charles Hogan

Participants

Paul A. Adams, Grace Waters, Luther G. Godfrey, Mike Wilson, Roger Bierbaum, Pamela Deppe, Janice Ward, Horace Dickerson, Charles Ford, Tom Stingley, John Gonzalez, William Fung, Beverly Hill

Discussion/Recommendations

Discussion: Why are we still doing business the same old way?

Problems:

1. Lack of organized lobbying for these programs
2. Need for change in program policies
3. Inadequate resources [Monetary & Human Resources]

4. Need for Uniform Procedural Manual

Recommendations:

1. Train staff with specific procedural manual
2. Develop program implementation standards [staffing level recommendations]
3. Conduct surveys to determine effective resource level
4. Develop an award or recognition program that will promote respect for what we do
5. Expectations should be included in performance evaluations
6. Define progress [What's been done - What needs to be done] to facilitate a sense of accomplishment
7. Revitalize the 1968 commitment
8. Use the available supportive service funds [I.S.T.E.A.]
9. Video tape motivational seminars [Rodney Slater & Francis Francois]
10. Review the overall program [All State Task Force]

DESIGNING A DBE PROGRAM FROM SCRATCH

Convener

LeRoy Jamison

Participants

LeRoy Jamison, John Milligan, Beverly King, Harold Dorell, Mike Wilson, Charles Hogan, Craig Wingfield, Leon Malczewski, Horace Dickerson, Wilbert Baccus, Beatrice Hudson, Denise Bailey, Helen Zimmer, Helen Foster, Tom Smith, John Gadson, Larry Patterson, Frank Topping, William Fung, James Posey, Frank Powell, Woodrow Jones, Barbara Christian, Sam Prestipino, Roger Chapman, Jerry Franco, Robert Brown, Jan Wedell

Discussion/Recommendations

Objectives of the program:

- Maximize opportunities
- Contribute positively to the economic impact of communities
- Increase management and technical assistance
- Increase capital ownership and assets
- Provide a discrimination-free environment
- Improve a firm's capability to compete
- Assist firms to be more capable subs or primes
- Increase the pool of eligible firms

- Increase financial capacity
- Consistent application of rules by all agencies

Participants in the program

- DBE's (we don't like the word, but for now we use the term)
 - Primes
 - State and Local Agencies
 - Federal agencies (Including DOT, HUD, etc.)
 - Supportive services
 - Financial institutions

Elements of the program

- Eligibility: ethnic and gender, income/net worth, disabled, proven economic/social disadvantage, pre-qualification, redefinition of controlling ownership
- Contract Award Process:
 - Require Bid Depository
 - Require prime to provide all DBE bids received
 - Specific description of work
 - Review post-award data and compare to pre-award commitments
 - List all subcontract work items and their prices

ALAS OUR SESSION ENDED WITH ONLY HALF OF THE WORK DONE. AREAS NOT ADDRESSED, BUT INITIALLY ON OUR LIST: Role of the Participants, Justification of the Program, Funding Sources for the Program, Evaluation of the Program Results and Intents, Enforcement of the Program, Changing the Name of the Program.

HOW TO REDUCE THE PAPERWORK REQUIRED BY DOT

Convener

Errol Johnson

Participants

Raleen Reiher, Jan Wedell, Mike Nee, Deborah Thompson, Errol Johnson

Discussion/Recommendations

The State and Federal Employee Utilization Form should be unified so that only one form is needed instead of two.

Contractors presently submit separate paperwork for each job in a district; only one set of paperwork should be required for all jobs in each district.

Contractors must submit monthly reports whether they work or not. They should not need to submit paperwork if they are not working on site.

BUILDING CAPACITY AMONG DBE FIRMS

Convener

Eugene Johnson

Participants

Dr. Jim Cossingham, Geoff Clark, John W. Gadson, Dan Moncrief, Paul Adams, Larry Jones, Michael Wilson, Luther Gerry Godfrey

Discussion/Recommendations

Definition of Capacity Building — Assisting in/developing the ability of DBE firms to competitively and reasonably perform on contracts in their area of interest.

The elements/components of capacity include the DBE's reproductive resources:

1. labor force
2. equipment
3. management expertise/entrepreneurial ability
4. finances
5. facilities
6. external technical assistance

Issues

- I. Expanding the capacity of existing DBEs
- II. Increase the number of new DBEs
- III. Who does what. Roles of the players i.e. Government (federal/state), DBEs, Primes, Contractor Associations, Community Based Organizations, Other Partners.
- IV. Methodology

Other Concerns

- Market conditions-saturation of firms, too many firms. In this area of specialty.
- Resources follow opportunity
- Change in market outlook and conditions
- Who determines capacity of DBEs

Issue # 1

I. Capacity of Existing DBE Firms

A. Encourage entrepreneurial spirit

1. Role of government

- a. first meet goals that are set
- b. use set-a-sides and sheltered markets

2. Role of prime

- a. recognize market area that exists then communicate it to DBEs.
- b. encourage mentor/protege between prime and DBEs
- c. generally inform DBEs about opportunities outside the market area, i.e., product line, geographic area.

3. Role of DBE

- a. hire needed expertise not currently on staff
- b. DBE seek joint venture partner—agreement must be known to state DOT first.
- c. refine J/V and mentor protege agreement to work better within DBE guidelines and industry practices.

Sub-issues

- What does the mentor bring to the table? For example:

- Money
- Training-bidding, management
- Equipment
- Skill foremen
- Opportunity to perform
- Time-long term commitment
- Bonding/financing assistance with loans.
- Educate lenders re: DBE community and DBE borrower
- Government sponsored loan programs
- Should mentor get involved in assisting DBE with obtaining bank loans, bonding...?
- J/V union signatory

II. Increase number of DBEs

- A. Seeding — encourage hiring and promotion of women and minorities in construction work force.

MARKETS

- 1. Barriers to entry
- 2. Project packaging
- 3. Structured market opportunities

III. Roles of Government

- A. Have a proper proactive attitude to help DBEs

- B. Be adaptive and quick to respond to problems as they arise, such as problems with payment-prompt payment

INTERNATIONAL MARKETS FOR DBES

Convener

Eugene Johnson

Participants

Cynthia Cooper, W.F. Bowles, Charles Wright

Discussion/Recommendations

International Markets Emerging:

- Africa
- Eastern Europe
- Pacific Rim
- America/Latin
- Canada

I. Conditions

A. Domestic Market

- 1. Shrinking Market vis a vis increased competition
 - a. Dog eat dog
 - b. Predator
 - c. Big firm/ little firm
 - d. Specialized/diversity
- 2. Less federal dollars available to States
- 3. Cut in services to firms and in general
- 4. De-regulation/less regulation which impact DBE presumed negative
- 5. Question now is --what markets are available "friendly" to DBEs

B. Foreign Markets

- 1. More open for American DBEs
- 2. Less hostile, fewer competitors
- 3. DBEs can more easily find market niche.
- 4. DBE (American) have relatively more advanced capacity and expertise.
- 5. American DBEs have a relatively better capacity compared to average foreign firm in identified emerging market to penetrate.

II. Strategies/Opportunities for DBEs

A. Mentoring/Expertise

- 1. Domestic
- 2. Foreign

- B. Partnering
 - 1. Gov/Private sector
 - 2. non-profit
 - C. Joint Ventures
 - 1. DBE/DBE
 - 2. Gov/Gov
 - 3. Domestic/foreign
 - D. Policies favorable (of foreign and domestic)
 - E. Trade Markets
 - F. Economic Incentives e.g. tax relief
 - 1. Foreign and domestic — Government
 - G. Consortium of State DOTs/DBE Programs
- III. Role of Major Players
- A. Federal Government — FHWA/DOT, US DOC, USAID, State Department, US Information Agency, The World Bank, Treasury, HUD, SBA (8A) AND OSDBU
 - B. State Gov DOTs, DOT DBE Programs, Dept. of Finance and Procurement, Development and Economic, Universities, HBCUs (Public)
 - C. Private Sector DBEs (Certified and non-certified — graduates) Major non-DBE firms, major contractors/consultants, financial institutions, for example banks and credit unions.
 - D. Private non-profits Foundations, professional organizations, trade associations, religious groups, private education and academic institutions, especially HBCUs.

BONDING AND INSURANCE ASSISTANCE

Convener

Betty J. Jones

Participants

Aida Santiago-Brown, Chales Hogan, VA Dept Min. Bus. Ent., Larry E. Patterson, L.E. Patterson Construction Co., Caryn Johnson, WSDOT DBE Supp. Svce, Dennis Luhrs, FHWA Kentucky, Henry Drenghter, AR Hwy & Trans Dept., Linell Clark, TXDOT, Jacke Gorman, TEEX, Harold Aikens, FHWA Office of Chief Counsel, Sumith P. Hapurachy, SMH Construction Co., Inc., Barbara Christian, MD State Hwy Admin.

Discussion/Recommendations

Topic was to discuss how "Some" DBE's have so much trouble trying to get bonding and insurance. so that they may become Prime Contracting projects. How do we go about trying to get bonded?

Where do we go for help in trying to achieve this and who can we get to help us?

HOW: 1. DOT sponsored bond program
2. Bond waiver program (Baltimore)

WHERE: Individual State Supportive Services providers and/or compliance officers.

Women/Minority Local Associates

Who: USDOT Bonding Program
Professional Presentation

Discussion Held and Suggestions:

- Be prepared to access Bonding
- Graph the company's Annual Growth using several years, if possible
- Financial Statements
- Knowledge of your WEAKNESSES AND STRENGTHS
- Find an agent willing to work with you
- Strength in Alliance Groups
- Management Skills
- Access a SURETY Association in your state
- Cash Reserve for Bond Guarantees
- Expand OSDBU's Bonding Pilot Programs nationally

Supportive Services/Providers educate local lenders/sureties relative to the uniqueness of highway construction.

DBE PROGRAM VS. PERCEPTION AND CREDIBILITY

Convener

Carolyn Jordan

Participants

Tyrone Press, Charles Wright, Deborah Thompson, and Frank M. Powell, III.

Discussion/Recommendations

DOT should develop a mission statement that clearly sets forth the true purpose and objectives of the DBE PROGRAM, which we believe to be as follows:

1. To generate economic development in the minority community.

2. To enhance and stimulate the job market through job creation and additional job opportunities.

3. To assist with the growth and stability of viable MBE/WBE firms-support services.

4. To assist with the creation of an industry environment that is receptive to growth and mainstreaming of the DBE firms.

DOT should require each state/agency to possess an effective organizational structure for the program which is directly related to the tasks of PROGRAM IMPLEMENTATION for the following reasons:

1. The DBE program officer should report directly to the Bureau Chief.

2. Staff should be required to receive some training in construction so that they might address some of the issues and concerns of the small sub-contractor.

3. We believe that support staff should receive adequate training in problem solving techniques.

4. Support staff should develop a competency in conducting compliance investigations.

5. The DBE Program's Administrator should have sufficient power to intercede where necessary on behalf of the DBE complainant, since time is of the essence.

DOT should require agencies to ascertain a method of data collection that would support the objectives of the program utilizing some of the components listed below:

1. Actual data that reflects the tracking data, of growth patterns and payments received by the DBE firms.

2. To identify an independent contractor/consultant to evaluate the DBE program's effectiveness.

3. We further recommend that DOT utilize the resources of historically Black Colleges to furnish technical assistance and other support services.

4. DBE firms as a member of the private sector need to develop links to lending organizations, Insurance Industry, Bonding, Labor Unions, and vendors/suppliers.

COUNTING SECOND TIER SUBCONTRACTS TOWARD MEETING DBE GOALS

Convener

Beverly King

Participants

James E. Wilkinson, Pittsburgh, PA; Logan Dickerson, Youngwood, PA; Leroy Jamison, Harrisonburg, PA; Beverly A. King, Culver City, CA

Discussion/Recommendations

Discussion of issues:

1. While a few states and local jurisdictions allow prime bidders to count second-tier DBE firms toward meeting the contract goal, many state agencies do not.

2. On very large jobs, with large first tier subcontracts, DBE firms capable of performing those large subcontracts are not always available.

3. In certain areas, DBE firms are shut out of certain industries because a few large non-DBE firms are able to consistently underbid.

4. Counting second-tier subcontractors is a way of addressing concerns by prime-contractors that goals are often too high and they cannot find enough "qualified" DBE firms to meet goals.

5. Counting second-tier subcontracts is a way of breaking contracts down into sizes more conducive to DBE contracting, since a DBE may be able to perform a portion of the work but not the entire subcontract.

6. Is there a way of setting subcontract goals on extremely large subcontracts such as structural steel, concrete, within the overall contract goal?

7. Currently the federal regs are silent on counting second-tier subcontracts, however, all of the instructions refer to first-tier subcontracting. Many jurisdictions will not allow primes to count second-tier subs and use the excuse "the Federal Regs don't say that you can do it" but ignore the fact that they don't say you cannot do it.

Recommendations:

1. DOT should issue specific guidance stating that second tier subcontracts can be counted toward meeting goals and include instructions for doing so.

2. Prime contractors should not be deemed to have made a good faith effort if the goal has not been met and no effort was made to require large first tier subcontractors to find and utilize DBE subcontractors and documented this effort.

3. Minimum "Good Faith Efforts" standard should include that the prime contractor establish requirements for large first tier subcontractors to identify DBE subcontractors as part of their contract.

MEETING CONTRACT COMPLIANCE GOALS

Convener

Renata Leckszas

Discussion/Recommendations

The group discussed barriers and solutions to successfully monitoring the DBE goals on contracts.

Barriers:

1. Federal & State regulations are not standardized for the monitoring process.
2. Not all DBE's are qualified or knowledgeable in their field of work.
3. There is not a standard federal policy for enforcing the DBE goals when there is a violation.
4. The compliance staff is not properly trained to do review of projects.
5. Contractors do not feel that goals are realistic.
6. Not all DBE's are certified before being permitted to start on projects. This creates a situation of non-compliance at the end of the contract if the DBE is never approved.
7. There are no penalties for non-compliance.
8. Contractors arrive at pre-bid without enough DBE's to meet goal.

Solutions:

1. Standardize state and federal regulations across the nation. This will permit better communication between administrations, personnel and contractors regarding rules governing compliance.
2. Make sure compliance staff has field experience. This way they understand what actually happens on a construction site.
3. Educate all staff involved in compliance(project inspectors, EEO, etc.)
4. Remove contractor from bidders list if they fail to comply with goals.
5. Do not permit contractor to bid on contracts for 90 days if they are in non-compliance.
6. Intensify penalties.
7. Partnering meetings should be established to promote better communication between the state, prime contractor and DBE.
8. Provide realistic goals.
9. Non-compliance should be considered a breach of contract and liquidated damages should be assessed.

ACCEPTED STANDARDIZATION OF WBE CERTIFICATION ACROSS STATE LINES

Convener

Elaine Martin

Participants

Pamela Deppe, Peggy Harris, Susan Alexander, Virginia Tsu, Deloris Kelly, Tom Pierce, Cleveland Kelly, Ron Derricks, Charles Klemstine, Jancie Frazier, Sam Prestipino, Woody James, Tyrone Press, Kay Atwood, Carol Ewing, Bob Briant, Gail Charles, Leroy Jamison, John Covert, Lou Dilillo

Discussion/Recommendations

During discussion the original subject evolved into the following solutions:

Solutions:

1. In-depth certification training for all new and existing personnel. This training shall be a requirement. The course would be developed by the National Highway Institute with input from DOTs and other interested construction entities. The course would be in addition to the existing DBE Training Course, which includes all areas of certification.
2. Standardized and uniform application and recertification forms to be utilized by all certifying agencies.
3. Reciprocity within and across regions.

RESPECT FOR WBE'S BUSINESS ACCOMPLISHMENTS AND ABILITIES

Convener

Regina McManus

Participants

Melissa Muskopf, Judy Stinnett, Cheryl Englehart, Carol Ewing, Kay Atwood, Geoff Clark, Kent Starwalt, Cynthia Myers, Gerry Fanco

Discussion/Recommendations

The discussion centered on the widespread misperception that WBE's don't actually run their businesses and have easy access to capital. It is always assumed that some man is responsible for their success. This is a perfect example of continued discrimination; making uninformed judgements about a class of individuals without any attempt to obtain the facts. This

only adds to the discrimination we supposedly don't suffer.

Discrimination is discrimination. Its a different type of discrimination than a person of color experiences but just as damaging. The fact is, WBE's have sat at this conference for two days and been told by other DBE's, state DOT officials and FHWA officials that WBE's are shams. This is just another example of lack of respect. We continue to ask ourselves "What can we do to change this situation?"

"R E S P E C T, find out what it means to me" (Aretha Franklin)

ONE DBE GOAL OR SEPARATE DBE GOALS?

Convener

Efrem Casarez and Mike Madrid

Participants

Betty Jones, Mario Blanco, Teresa Banks, Harold Dorell, Regina McManus, Aldric Borders, F. Linelle Clark, Charles E. Ford, Henry Droughter, Charles Hogan, Michael Nee, Raleen Reihe, Mellisa Muskopf, Cynthia Meyer, Jackie Gorman, Cheryl Englehart, Judy Stinnett, Leon Malczewski, Roger Bierbaum, Roger Chapman, W. Franklin Bowles, Dennis Luhrs, James Bailey, Robert Bradley, Mike Rath, Helen Zimmer, Tom Smith, Connie Yew, Robert S. Wright, Charles Price, Floyd E. Romero, Janice L. Wedell, Kay Atwood, Leon Larson, Sharon Arnold, Horace Dickerson

Discussion/Recommendations

One National DBE Goal.

Allow states flexibility to examine and set their own DBE ethnic and gender goals based on availability and capacity of DBE's in a given area. Any disparity study must be consistent with Richmond vs. Croson. USDOT needs to develop disparity study guidelines to be used by states to determine how goals will be set.

USDOT should monitor states DBE awards and review ethnic and gender percentages.

USDOT should clarify and strengthen DBE program issues such as: Certification, Fronts, Good Faith Efforts, and Supportive Services.

States should break larger contracts into smaller contracts to allow DBE's an opportunity to do prime work.

USDOT should address mentor/protege program.

DEFINE/PROMOTE EQUITABLE DISTRIBUTION OF DBE AWARDS AMONG PARTICIPANTS

Convener

Will Terry Moore

Participants

Roger Bierbaum, Susan Alexander, Bob Bailey Cynthia Myers, Lisa MacPhee, Janice Ward, Gail Charles, Luther G. Godfrey, Grace Waters, David Benton, Robert Bradley, Mary Fernandes, W.F. Bowles, Herb Watson, Freddie Jones, Aldric Borders, Harold Dorell, Deborah Thompson, Caryn Johnson, Lou Dilillo, Celina Benavidez, Mario, Hamco, Efrem Casaret, Diane Sumpter, Woodrow James, John Gadsdon, Regina Manus, Don Moncrief, Laurence Jones, Horace Dickerson, Dennis Luhrs, Brenda Hall, John Gonzalez, Henry Droughter, Dave Roland, Michael Wilson, Richard Carter, Luz Hopewell

Discussion/Recommendations

ISSUES DISCUSSED: In Nevada from 1987-1993 WBEs participation in state transportation DBE awards went up 77%, while minority participation decreased by 27%; A New Jersey DOT review showed Asian and Hispanics firms received most of awards with no African American participation, New Jersey DOT then encouraged primes to use underutilized firms; some primes have been encouraging relatives to start-up firms with the intent of using same in subcontracting, offering them bond and credit assistance thereby limiting other DBE group participation; a Rhode Island DOT review indicates that large contracts were going to Hispanic firms and that primes use same DBE subcontractors again and again; separate goals will still leave out some DBE groups; DOT regulations prohibits directing primes to pick a subcontractor from any particular DBE group; DBE programs need to provide incentives to the private sector to encourage inclusion of all DBE groups; use court of public opinion, i.e. people picketing worksites, etc. to encourage primes to equitably distribute awards among DBE groups and to treat subcontractors fairly; use reduction of retainage dollars as an incentive for primes to equitably distribute awards among DBE groups; FHWA indicated that eight states have had significant shifts in DBE group shares with WBEs receiving greater

awards, four states show none or little WBE participation, and the cause was not identified; business supportive services should be targeted to assist the underutilized DBE groups; Georgia lacks statutory authority to implement goals; congressional intent for the DBE program was to make it gender and ethnic neutral but the participation base has been expanded to such an extent under the same 10 percent goal level that many believe that the entire program is being threatened; Congress changed intent of program to a social and economic disadvantaged focus but some new WBE participants believe that the state agencies are operating the program under the original minority focus; congress added women when facts showed WBEs in construction were underrepresented and disadvantaged; States should be given greater flexibility to meet DBE goal as they see fit; DOT should do a comparative analysis over five years to determine increase or decrease for DBEs and WBEs; equitable distribution of DBE awards among participating groups should be at local not just national level; DOT should look at DBE award trend by participating groups to see where figures are going; FHWA should count gross sales versus commitment in contracts; states should specify subcontracting goal as a set-aside then all DBEs and WBEs will be competing solely on price; not all WBEs have hidden relationships with primes; since 1984 overall DBE goals achievement have been 14% but recently went to 15%; 10% goal should be raised and a new way of counting DBE awards should be established, since with a 10% goal only 2% of dollars are actually going to DBEs due to material and equipment purchase, etc.; there should be a redefinition of how goals are credited; accounting should be changed to reflect when DBEs have actually participated in contract not when they received award; Texas, Maryland and Virginia track actual dollars paid, not just prime commitment to subcontractor; when prime contracts are revised the 10% goal commitment from prime should also be updated and followed through.

Recommendations:

1. U.S. DOT should perform a comparative analysis over five years to determine increase or decrease in DBE awards among participating groups and develop programs and policy to encourage an equitable distribution of awards among all DBE groups.
2. States should be given flexibility to meet their DBE goal as they see fit.
3. DBE regulations should permit states to implement programs as may be required to promote and ensure an equitable distribution of DBE awards among all participating groups. Such programs may include an

incentive payment to prime contractors such as, a reduction of retainage dollars, etc.

4. U.S. DOT should consider allowing states to specify DBE subcontracting goals as a set-aside, thus allowing all DBE groups to compete based solely on price of bid.

5. The national mandated DBE program goal should be raised above 10% level due to the inclusion of several additional DBE participants groups.

6. U.S. DOT should redefine how DBE goals are credited and change accounting to reflect when DBEs actually participate in contracts, not when award was made.

ON WHAT DO WE AGREE? (RE: THE DBE PROGRAM)

Convener

Ed Morris

Participants

W. Franklin Bowles, Beverly Hill, Elaine Martin, Anne Keenan, John W. Fink, Frank M. Powell, Earle Beale, Richard F. Carter, Connie Yew, Dave Pastore, Celina Benivides, Ron Derricks, Freddie Jones, Frank Topping, Robert Erwin, Kay H. Atwood, Roger Bierbaum, Raleen Reiher, Charles Hogan, Gary Brown, Thom Purdum, Robert Ames, Logan Dickerson, Michael Nee, Raleen Reiher, William Fung, Fran Gilson, Milessa Muskopf, James Allison, Mario Blanco, Richard F. Carter, Herb Watson, Horace Dickerson, Tom Pierce, Caryn Johnson, Barbara Christian, Jessie Haynes

Discussion/Recommendations

The session included certified DBEs (both MBEs and WBEs) prime contractors, two contractor association representatives, certified DBEs (both MBE and WBE), State highway and other agency personnel and several FHWA staffers. Participants proposed matters on which they felt there was agreement and the statements were recorded, discussed for purposes of clarification and consensus obtained.

The matters on which agreement of the participants was expressed were:

1. Problems exist in access to contracting opportunities which warrant a need for continued action (a program).
2. The current program needs to be modified to increase its effectiveness.
3. There are finite resources.

4. The DBE program has raised expectations which the highway industry may be hard-pressed to fulfill.

5. DBEs ought to be able to earn a reasonable profit within the constraints of the market.

6. Program criteria need to be clear and unambiguous.

7. There needs to be consistency in interpretation and application of program standards.

8. The purpose, intent, and measures of success of the program need to be clearly defined.

9. Legitimate opportunities for DBEs to compete need to be ensured.

10. Prime contractors ought not be gouged by their involvement in or support of the program.

11. Need for more consistent application of certification standards and oversight of the certification process to prevent abuse of the program.

12. Identify and address program abuses; and, when necessary, apply available sanctions.

13. Need for effective training in business management for DBEs.

14. Mandatory orientation as a part of certification and prequalification processes.

15. The effect of the current program, in some cases, has been the opposite of the programs ostensible objectives.

16. **Strong support was expressed for a pilot involving a NONDISCRIMINATORY, ECONOMICALLY SEGMENTED, COMPETITIVE, SET-ASIDE approach. Adoption of the recommendation would involve firms with similar contracting experience and capabilities bidding against each other as primes. They will be able to learn about and possibly succeed in the bidding process, building a capital reserve which can be reinvested in successful firms and be used to qualify them for bonding for larger jobs. Some firms will lose out in the bidding process and can either use the experience to learn how to "sharpen their pencils" to increase their chances in subsequently bids, or consider the experience in making career change decisions. But, the process will be fair, since the low, responsive, responsible bidder would win the contracts. As successful experience is gained at one level, participants can "graduate" to a higher level (in terms of the dollar value of contracts for which they compete).**

EFFECTIVE USE OF CURRENT RESOURCES TO ENHANCE DBE SUCCESS AND PROFITS

Convener

Edward Powe

Participants

Ed Powe, Frank Powell, Henry Draughter, John Milligan, Ron Derricks

Discussion/Recommendations

Discussion:

- Currently an overlap of programs.
- Different agencies with similar programs.
- Resources misdirected — cover the same issues again and again without progress. Gives White primes ammunition against programs.
- Little or no accountability for resources expended in DBE program.
- No report card for service providers.
- Currently using shotgun approach — trying to be all things to all people.
- Not all DBEs belong in the program. Some would be much better off with 9 to 5 jobs.
- Some DBEs comfortable with niche and do not desire to move to a higher level under any circumstances.

Recommendations:

- Review of all programs affecting DBEs for duplication, outcomes, need, and accountability. Time is money! Eliminate duplication and eliminate any program that does not address a real need and that does not have measurable outcomes and built-in accountability for the program provider.
- Adopt a rifle approach in place of the shotgun approach now in existence. We cannot be all things to all people.
- Limitations of resources force us to consider applicant specific programs. Utilize the majority of available resources to work with those DBEs who are "CAPABLE" and "WILLING" to move to the next higher level; ultimately culminating into self sufficiency and prime contractorship. At the same time a base level of service has to be made available for the DBE population as a whole.
- Research and evaluate an entrepreneurial assessment center process designed for the DBE program. This process would aid in the identification of DBEs with the greatest likelihood and the greatest desire to move into the ranks of prime contracting.
- Target a select number of DBEs whose profile indicates a very good possibility for success and implement an intense, indepth, ongoing, program of assistance designed to cover all facets of becoming a prime contractor. This would include banking, bonding,

capitalization, human resources, risk taking, negotiations, marketing, problem solving, legal aspects and other required entrepreneurial skills. Allow for a 24 month hand holding period. At the end of that period, evaluate progress, make decision for level of continued assistance or cancellation from program.

- Provide an advocate for DBEs. Someone outside and independent of the system who is familiar with the inherent problems of the system and whose sole responsibility is to safeguard the rights of the DBEs.

- Utilize a linking system that would allow FHWA Divisions, State DOTs, HBCUs, Supportive Service contractors to have immediate access to successes and failures of programs across the nation; pilot programs in effect and potential outcomes; local success stories; key contacts etc...

FAIRNESS WITHIN THE LAW THROUGH ENFORCEABLE CONTRACT SPECS

Convener

Kay Rollison

Participants

Mario Blanco Utah DOT, Lesia H. Batiste LADOT, Brenda Weltzer HCR Region 8 Denver, Bob Briant, Jr. UTCA/NJ, Gennaro Liguori Slattery Assoc., Larry Patterson L.E. Patterson Const., Leroy Jamison PENNDOT, Lisa Wormington AZDOT, Lou DiLillo NYDOT, Jesse L. Haynes WVADOT, Gail Charles NJDOT, Frank Powell FM Powell Inc., Tom Smith FHWA PENN, Robert Ames AlaskaDOT, Woodrow James, Jr. SCSU-SBDC, Fran Gilson LADOT

Discussion/Recommendations

Intent of existing DBE Program - three volunteers were sequestered to provide their understanding of the Program's intent:

- To allow existing businesses to participate in federal contracting;
- To prepare companies that have been historically underutilized to get their piece of the federal contracting pie;
- To correct past wrongs by ensuring 10% of the federal contracting opportunities to minority/women

owned entities and to help/assist in their development and competence;

There was general agreement that the intent of the Program needed to be fully understood from the TOP down; that symposium participants differed greatly in their understanding of the Program's intent. It was equally clear that without agreement in intent, there could be little agreement of contractor obligations, little uniformity in contract specifications between States/Regions.

This led to some discussion on flow of authority over the Program among the various States. Some DBE Offices have authority over contract specs and the enforcement of those specs; some serve in an advisory capacity only; some are politically sensitive with the change in State DOT administration; some appear to be autonomous, except for Congressional influence. It appears that direct authority over policy, specs, and contract enforcement in the field has the fewest problems with compliance. (This authority includes the ability and willingness to prosecute contractors for fraud and hold up work in progress as a means to enforce contract requirements.

With respect to the contract specifications themselves, the enforcement authority led to a discussion of incentives/sanctions. NJ, and WVA have incentives for contractors to utilize 1st time DBEs within the overall project goal. There was some discussion on the legality of differentiating between DBEs in this way. NJ felt comfortable that their AG's office had considered this and that it was defensible. Alaska has a financial incentive to encourage contractors to exceed the contract goal. All the participant states had sanctions for not meeting their commitments at time of award.

There was a blanket statement by a contractor representative that the specs needed to be clear, quantitative, and uniformly enforced without subjectivity wherever possible. The discussion on Good Faith Efforts revealed that some states require DBE commitment at time of bid, others prior to award. The Northeast contractor reps insisted that time was needed after bid opening; Utah DOT indicated their Program worked well with their contractors providing the DBE commitment at time of bid opening. The issue was bid shopping.

Under GFE, there was discussion on the attempt to quantify the term "non-competitive bid." Alaska DOT has defined non-competitive as a bid greater than 10% of that of a non-DBE subcontractor. The other states discussed this possibility; their previous discussions included an attempt to compare the DBEs bid with the cost to the prime - this seemed unfair. Although the

10% figure was questioned, this method seemed better than no figure at all according to the contractor reps present.

There was discussion on specifications defining commercially useful function. The participant states appear satisfied with their existing specs in this area. It appears that the state DOT DBE offices are going to be responsible for verifying the type of credit for products supplied by DBE suppliers on a product by product basis.

REQUIRE DBE PRIMES TO MEET CONTRACT DBE GOAL

Convener

Floyd E. Romero

Participants

Errol W.S. Johnson, James E. Wilkinson, Sumith P. Hapuarachy

Discussion/Recommendations

YES

1. Use only if you have DB primes.
2. This is tied to graduation.
3. For counting DBE participation to federal government, 100% of the contract, less amount subbed to other DBE's.
4. DBE's are required to help other DBE's.
5. DBE's are in same playing field as non-DBE's.
6. DBE's implement more of the intent of regulations.

NO

1. This requirement eliminates the assistance of DBE program to DBE.
2. Doing so will discourage DBE's from becoming primes because they are required to meet DBE goal.
3. Doing this will affect small DBE primes by not giving them the edge or advantage of bidding and using lowest price.
4. DBE becoming a prime shows growth, but not a successful contractor yet; so don't require DBE to bid on equal basis with a non-DBE prime.
5. Discourages joint ventures because the non-DBE is required to comply with requirements twice.

THE ADVERSE IMPACT THE DBE PROGRAM HAS HAD ON NON-DBE SPECIALTY CONTRACTS

Convener

William Shorb

Participants

Karen Laney, Anne Keenan, Bob Keister, Craig Noll, Ted Clements, Laurence Jones, Lisa McPhee, Mary Mayer, Tyrone Press, Don Tidwell, Barbara Christian, Cheryl Englehart, Robert Brown, Michael Nee

Discussion/Recommendations

Graduation — DBEs enter the specialty trades, they grow in size and capability but they never graduate.

Should we consider a non-DBE specialty contracting goal?

How do we encourage prime contractors to subcontract non-specialty items?

If we allowed general contractors to subcontract more than 50% of a job as is done in commercial construction, we could open up more DBE opportunities.

On paving jobs, the only item to give away often times is the guide rail. Should the goals on these jobs be adjusted to encourage DBE participation in other items?

Incentive programs — can greater credit be allowed to the prime contractor for subcontracting non-specialty items?

Is \$15 million a reasonable standard for maximum DBE size in the specialty trades?

Joint Ventures — this system has been used effectively. Credit to be granted 100% where the DBE has 51% or more ownership, and pro-rata credit for 50% or less ownership.

This problem was an unintended consequence, but should we worry about this at all in the "Global View" of affirmative action?

SIZE STANDARD — DBE CREDIT

Convener

Oscar Trevino

Participants

Judy Stinnett-McRyan Hauling, Terri Chaney-McRyan Hauling, Henry Droughter-Arkansas DOT, Jackie

Gorman-TEEX, Efrem Casarez-Texas DOT, Cynthia Myers-Indiana DOT, Charles Hogan-Virginia DOT, Robert A. Brown-Pennsylvania DOT, Gerardo Franco-FHWA, LaJuana Glaze-FHWA

Discussion/Recommendations

Who stated or decided that subcontractor/supplier wanted to become a general contractor, and so established an upper limit (glass ceiling) for expulsion from the program?

Due to "Standard Industry Practice" materials are presently being purchased through the DBE's with Joint Checks which is inflating the actual Gross Revenue of the DBE. And therefore pushing the DBE to the upper limit with this inflated revenue. Thereby causing the DBE to either downsize to stay under the limit (Yo-Yo) or be expelled from the program without a viable market for their service - and possibly reentry at a later date.

Recommendations

Use any of the three below individually or in a group.

Size standard should be determined based on net receipts not gross. This information can be ascertained from an audited financial statement which by this time the DBE should be required to have for other reasons (banking, bonding, etc.).

Utilize proper crediting of materials that are being passed through subcontractors along with the proper setting of goals due to changes in material credits previously allowed.

Raise the average gross revenue standard presently being used to account for materials being passed through.

THE INCLUSION OF AND INPUT BY DBEs IN POLICY-MAKING AND REVIEW

Convener

Oscar Trevino

Participants

Judy Stinnett, Patricia Reiman, Geoff Clarke, Pamela Deppe, Regina McManus, Kay H. Atwood, Brenda Hall, Roger Welsch, Sharon Arnold

Discussion/Recommendations

Input from those that the program was established to assist is crucial in the development of, and review of existing and proposed rules and any efforts to change existing rules.

At the present time there is input from DOT and some prime contractors only, and they are the ones making the decision or influencing the outcome of policies that directly effect DBE's.

Due to the start up nature of many DBE's they do not get involved in minority organizations, therefore do not have input or involvement. They stay on the outside looking in and do not realize how these policies are created.

Recommendations

DOT's should establish an industry group with broad based representation to provide input to the administrators of the program. This group should include, but not be limited to the following:

- AA
- AGC
- Supplier
- Banker/Bonding Agent
- DBE (Individual - not representing any association)
 - Hispanic
 - African American
 - Woman
 - Any other major group of minorities in the area.
- Insurance Agent
- DOT
- FHWA

The individuals should be chosen by the DOT based on their involvement in the program, knowledge of existing conditions and desire to participate.

This group is not to convene just for a gripe session, but to give input on the anticipated effects of proposed rules, existing regulations and to keep the DOT apprised of what is actually happening in field operations.

Caltrans presently has a Business Conduit which may be a good model for this recommendation.

The intent is to establish dialogue between all of the players in the construction projects along with allowing a forum for input from start up firms.

HOW TO ENSURE THE SURVIVAL OF THE PROGRAM, WHERE DO WE GO FROM HERE?

Convener

Grace Waters

Participants

Other convenors: Bob Bailey, Cynthia Meyers
Karen Lanley, Anne Keenan, Joe Brooks, William Fung,
Errol Johnson, Freddie Jones, Lesia H. Batiste, Robert
Brown, Patricia Ruman, Frank Powell, John Finck,
Janice Ward, Mary Fernandes, Beverly Hill, Lisa
MacPhee, Herb Watson, Barbara Christian, Brenda
Welter, Gerardo Franco, Luz Hopewell, Will Terry
Moore, Diane Sumpter

Discussion/Recommendations

ISSUES RAISED: Consider Supreme Court decision and congressional mood on affirmative action; think of options and make plans to promote the continuation of the program; some may raise the issue if new firms aren't receiving contracts, why continue the program; let's see where we stand with the new Congress and consider will there be a program in the year 2000, develop strategies; let's share ideas to promote success stories because program opponents only highlight the negative stories; this is a fruitful environment for opponents so we need to develop strategies to help program continue; let's develop a network for states having successful programs to share their ideas; we are not reassured we have control over what might happen to the DBE program, thus we could be developing that may be for naught; we need to develop a plan on who to attack, what kind of strategy to employ and should we have several different strategies; let's admit current program is not doing what it should; DBE supporters should come together and unify against program opponents; some program supporters are apathetic and needs inspiration; program has been designed to fail; primes and state DOTs have employed discriminatory practices to limit and discourage DBEs growth and participation; DBE program supporters should communicate their concerns and views to the proper federal law and policy making officials; get workers involved in communicating their views on the program; how can we join together to promote the continuation of the program; government does not take into account what support groups say about the program; US/DOT silent on ADARAND case; eliminate the term DBE.

Recommendations

1. Program supporters need to lobby and they need resources to do it.

a. Who should lobby?

Get organizations on the national level to identify someone who will work with other organization representatives to lobby federal officials on the need for the programs' continuation

b. What issues should they lobby?

Identify and promote programs that work to counter the bad publicity about the program; dispel myths about the program; speak about civil rights issues in the broadest terms; have them promote the recommendations from the Joshua Smith report, while the climate in which the report was developed has changed, the issues have not; let the legislators know that DBEs pay taxes, contribute to the economic livelihood of the nation and they employ people, everybody benefits from the continuation of programs to promote and ensure their continuation; use existing documents that are valid and lobby them; the economic pie for transportation programs should be fairly distributed; eliminate misconceptions that this is a welfare program.

c. How should they lobby.

Generate grassroots letter writing campaign, get employees of DBEs and program supporters to write their representatives, each participant write their federal representative.

DBE'S GRADUATION VS. SURVIVAL

Convener

Herb Watson

Participants

Elaine Martin, Valerie J. Payne, Charles M. Price, Roger Chapman, Geoff Clarke, Helen Zimmer, Ted Clements, Craig Noll, Bob Keister, Efrem Casarez, Leroy Jamison, Tom Jasien, John W. Gadson, Laurence Jones, Oscar Trevino, Dan Moncreif, III

Discussion/Recommendations

Ways to Get There:

1. Mentor/Protege/Partnering. "Win-Win"
2. Graduation

A. Time — When ready to go it alone

B. \$ — Still consideration based on type of business

3. Set-asides for "HUB"

Initially a fairly large percentage of those attending believed that there should be a time you left the program.

General Discussion of Graduation. How Various Individuals Perceived Graduation.

1. There should be no graduation until the program is stopped.

2. Gross receipts over a period of time should determine time to move on.

3. A gross receipts limit or a gross receipts limit with a fairly high net worth limit combination.

4. Time — Discussions of 10 to 20 to 40 years.

5. Job goals filled by certified DBE's. State goals filled by certified and graduated DBE's.

6. Every contractor, organization and state entity work to make the program so successful that the program is no longer needed.

No consensus on how graduation should be accomplished, or if it should be required was arrived at.

HOW CAN PROMPT PAYMENT TO SUBCONTRACTORS BE ENSURED?

Convener

Janice L. Wedell

Participants

Aida Santiago-Grown, Sam Prestipino, Barbara Christian, W. Franklin Bowles, Mike Madrid, Thom Purdum, Caryn Johnson, Errol W.S. Johnson, Lisa H. MacPhee, Sumith P. Hapuarachy.

Discussion/Recommendations

Discussion: Issues surrounding payment problems were first addressed.*

- When final payment is held by State until Prime completes project and state finalizes the project this can create undue financial burden for some DBE's, especially on large projects.

- When retainage is held on work completed at the beginning of a large project (eg., clearing & grubbing) can create undue financial burden for DBE businesses.

- Amount of monthly payment retainage varies from state to state with some still holding as much as 10%

- Materials storage expense is not reimbursed in some states.

- Minor problems resulting from miscommunication often cause unneeded payment delay. An example cited concerned a materials approval which lacked one sheet of information before the DOT would process payment. No one informed DBE and payment was delayed over this small item.

- Prime contractors on occasion delay, or even lose paperwork and/or report items, creating payment delay.

* It should be noted that most of these problems are problems confronted by most, if not all, subcontractors — not just DBEs.

Recommendations

- One major observation by group was that the development of good lines of communication between primes, subs, & state officials is the best overall way to avoid payment problems. "Partnering" programs was offered as one good way to develop communication and building cooperative teams. Partnering is practiced in some State DOTs currently. The procedure requires all groups (the State DOT, primes, all subcontractors, related utility companies, related state agencies, local groups or residents close to project) connected to a project take part in a one to three day meeting discussing all phases of the project with aversion of potential problems being the ultimate goal. Problem solving processes (items like payment can be covered in these facilitation meetings) are decided upon prior to the outset of the project. In the states where "partnering" is practiced, it has been successful in reducing conflicts and delays of all types, including those related to payment. One conclusion, then, is that States should be encouraged to initiate a "partnering" program.

- For projects not large enough to require a partnering format, an initial Prime/DBE meeting should be required by and attended by state DOT.

- All states should be encouraged to adopt "Prompt Payment Legislation". In those states which currently have this type of legislation, payment problems have been reduced significantly.

- Estimates and project information should be made available "on-line" by the states. Subs could then monitor estimates and payments to the Primes. This

would also help eliminate some communication problems insuring more thorough dissemination of information.

- Related to the above recommendation for "on-line" information, "on-line" form submittal should be offered by state DOTs to help eliminate lost paperwork and expedite payment process.

- Retainage on certain bid items (eg. non-standard items, rental work, extra work items) should be eliminated.

- A portion of retainage should be released at completion of project since finals on projects can often take months, even years.

- States should be encouraged to adopt acceptance of payment for storage of needed materials.

- If subcontractor holds concerns regarding paperwork flow through prime contractor, recommended that DBE submit paperwork directly to applicable state DOT inspector or official in addition to the typical process adhered to in most states of submitting through primes.

PROGRAM CONCENTRATION ON SUBS RATHER THAN PRIMES. SHOULD IT SHIFT?

Convener

James Wilkinson

Participants

Cynthia Meyers, Horacio Lopez, Cleveland Kelly, Harold Aikens, Diane Sumpter, Cynthia Cooper, Dana Sade, Leroy Jamison, Angela Hawkes, Bob Bailey, Frank Powell

Discussion/recommendations

1. 49CFR does not direct the approach to subcontractors or prime contractors. This decision is left to the state/local agencies.

2. State/local agencies should not take the "easy road" by looking only at subcontracting to meet the goals.

3. Barriers that need to be overcome for full access to the public bidding arena (which by nature is non-discriminatory, ie low bid wins):

- a. Bonding/Financing.
- b. Capital (equipment/cash flow etc.)
- c. Project size and scope.
- d. Access to markets.
- e. Education/Technical Assistance.

4. Agencies need to positively lay down the law.

5. Consider specific set-asides (but don't rely on totally)

6. Have different levels of supportive services. Don't waste resources on successful well heeled DBE's. Don't waste resources on firms with no chance of success. Concentrate on the middle group.

7. All primes must meet same conditions, ie DBE prime must still meet DBE goals.

8. Encourage joint venture primes among DBE's.

9. Consider Mentor/Protege programs.

10. Graduate successful DBE's.

CONTRACTING POLICIES AND PRACTICES THAT IMPEDE DBE PARTICIPATION

Convener

Lisa Wormington

Participants

Charles Klemstine, Joann Payne, Lou DiLillo, Gina McManus

Discussion/Recommendations

1. Bid shopping
2. Bonding requirements and levels for prime contracting
3. Insurance requirements
4. Subcontracting bonds
5. Retention
6. Prompt pay
7. Timely processing of change orders, claims, force accounts
8. Restrictions on obtaining loans/start up capital
9. The way subcontracts are written
10. Restrictions on borrowing equipment and employees
11. Restrictions on second tier subcontracting
12. DBE work scrutinized or inspected differently
13. Lack of advocacy for DBEs in state highway agencies

FUTURE DIRECTIONS FOR DBE PROFITABILITY

Convener

Charles Wright

Participants

John Milligan, Jim Cossingham, Jim Allison, Harold Aikens, Frank Topping, Efrem Casarez

Discussion/Recommendations

Goals:

Must answer to questions:

A. Where do you want minority business to be in the year 2005?

B. How can we measure the goals and objectives?

- Include the whole, i.e., all aspects should be there
- Holistic approach to profitability, i.e., supportive services, monitoring systems, e.g, establish mainstream goals oriented programs at all levels
- utilize checklist or other overall methods to determine the economic agenda

Action Items:

- Learn from past experiences
- Learn to become self sufficient
- Learn why people (business) fail
- Make successful measurability tool
- Establish difference and goals successful program

Recommendations:

- Establish level of competency (standards) of those working with these programs
 - Tracking segments of the business population, i.e., clients, individuals, etc.
 - Establish necessary data gathering efforts to decide worth of program
 - Develop a system where DBE's can assimilate to the mainstream for equal access to the full range of the construction industry, i.e., DBE 99% for government vs. others: 10% for government.
 - Establish the philosophy for the 5 A's, e.g., attitude, accountability, etc.
 - Establish guideline for those who are new to the program(s)
 - Assessment of data that is available, i.e., national, state and district

DBE LOBBYING (FY 95)

Convener

Charles Wright, PhD

Participants

Denise Bailey, Charles Hogan, Carolyn Jordan, D. Benton, Charles Wright, C. Benavidez, Don Tidwell, Jan Wedell, Angela Hawkins, F. Linelle Clark, Joann Payne, Tyrone Press

Discussion/Recommendations

MISSION: Create positive DBE lobbying efforts.

GOALS: Raise (increase) DBE/MBE Legislation (Goals) issue of separate goals

PERCEPTION OF THE LAW NEEDS TO BE IMPROVED

- Develop Information Network (all levels)
- Develop Mechanism for DBE Legislative efforts
- Educate through a Strategic Plan for Legislators
- Establish accurate DBE statistical data (all levels)
- Develop and Market a POSITIVE DBE Concept

\$\$\$\$\$ DBE = Win.. Win... Win... Win... situation(for everyone)

Increase DBE Business Development & Economic Development

DBE IS A POSITIVE PROGRAM
DBE/MBE must UNITE.....
SAVE the DBE program TOGETHER

ESTABLISH A TREATY TO SAVE THE PROGRAM (EVERYONE) Finance the effort...
Establish what the DBE Benefits are to everyone

ACTION PLAN/RECOMMENDATIONS:

1. Educate Legislators
 - a. Define benefits of DBE program (community)
 - b. Establish Marketing Plan
 - c. Organize the DBE community (Natl/St/Local)
 - d. DBE must meet regularly with Legislators
 - e. GRASS ROOT CAMPAIGN Established/Maintained
 - f. Identify Community Alliances
2. Develop TREATY (Agreement between with all Alliances)
 - a. Summarize all the issues and concerns

- b. Identify & use an Umbrella Action Group
 - c. Identify DBE community Leaders
 - d. Develop DBE Consortium
- 3) Identify DBE Benefits i.e. crime, competition, jobs training, global partnerships, cost-effectiveness,
- a. Market the benefits of the DBE
 - b. Research
- 4) Establish Statistical DATA Support
- a. Research Data (historical/existing/future)
 - b. Use of testimonials
 - c. Maintain the DATA & market it...
(Demonstrating NEED)

APPENDIX B: PARTICIPANTS LIST

Richard Abalos
Applied Business Concepts
5312 N. 12th Street #302
Phoenix, AZ 85014-2331

Paul A. Adams
Oklahoma DOT
200 Northeast 21st St.
Oklahoma City, OK 73105

Frederick Aikens
North Carolina DOT
P.O. Box 25201
Raleigh, NC 27611-5201

L. Harold Aikens, Jr.
U.S. DOT, Program Serv. Div.
400 7th Street, S.W.
Room 4230
Washington, DC 20590

Susan E. Alexander
Oklahoma DOT
200 N.E. 21st, Rm. C-3
Oklahoma City, OK 73105

James C. Allison, Jr.
ZHA Incorporated
Landmark Center Two
225 E. Robinson St. #660
Orlando, FL 32801

Robert Ames
State of Alaska DOT
2200 E. 42nd Ave
PO Box 196900
Anchorage, AK 99519-6900

Sharon Arnold
SSACC, Inc.
1505 N. Division St.
P.O. Box 357
Pontiac, IL 61764

Kay H. Atwood
Atwood Fence Co, Inc.
P.O. Box 565
Kosciusko, MS 39090

Wilbert Baccus
U.S. DOT
400 7th Street, SW
Room 4230
Washington, DC 20590

Denise M. Bailey
Pennsylvania DOT
Bus. Support Serv. Cntr.
125 N. 8th St., 4th Fl
Philadelphia, PA 19106

James R. Bailey
FHWA
6301 Rockhill Road
P.O. Box 419715
Kansas City, MO 64141

William H. Bailey
New Ventures, Inc.
716 S. 6th Street
Las Vegas, NV 89101

Teresa A. Banks
DOT/FHWA/Region 8/HCR
555 Zang Street, Rm. 400
Lakewood, CO 80228

Lesia H. Batiste
Louisiana Dept of Trans & Devl
PO Box 94245
Baton Rouge, LA 70804-9245

Earle Beale
Maryland State Highway Admin
PO Box 717
Baltimore, MD 21203-0717

Celina Benavidez
Colorado DOT
4201 East Arkansas
Room 262
Denver, CO 80222

David Benton
U.S. DOT
Offc. of Small & DBU
400 7th St. SW, Rm 9414
Washington, DC 20590

Roger Bierbaum
Iowa DOT
800 Lincolnway
Ames, IA 50010

Jo A. Blackstone
FHWA
10 S. Howard St.
Baltimore, MD 21201

Mario Blanco
Utah DOT
4501 South 2700 West
Salt Lake City, UT 84119

Linda Bloodsworth
Maryland State Highway Admin
PO Box 717
Baltimore, MD 21203-0717

Aldric N. Borders
Florida DOT
Minority Programs Office
605 Suwannee St.
Tallahassee, FL 32399-0450

W. Franklin Bowles
Maryland Transp. Authority
303 Authority Drive
Baltimore, MD 21222

Robert L. Bradley
Georgia DOT
2 Capitol Square, SW
Room 262
Atlanta, GA 30334

Karen K. Brehm
Maryland State Hwy Admin
5111 Buckeystown Pike
Frederick, MD 21701

Robert A. Briant
UTCA
P.O. Box 769
Lakewood, NJ 08701

Delano J. Brooks
Gilbane Building Company
7 Jackson Walkway
Providence, RI 02940

Gary Brown
Maryland State Highway Admin
PO Box 717
Baltimore, MD 21203-0717

Robert A. Brown, Sr.
PA DOT, Bureau of EO
Room 109, T&S Bldg.
Harrisburg, PA 17120

Samuel A. Carradine, Jr.
Nat'l Assoc. of Minority Contr
1333 F Street, NW
Suite 500
Washington, DC 20004

Richard F. Carter
MO Highway & Transp. Dept.
P.O. Box 270
Jefferson City, MO 65102

Caroline Carver
 ATSSA
 5770 Jeff Davis Hwy.
 Fredericksburg, VA 22407

Efrem Casarez
 Texas DOT
 125 E. 11th Street
 Austin, TX 78701

Terri Chaney
 McRyan Hauling, Inc.
 P.O. Box 1679
 Roanoke, TX 76262

Roger S. Chapman
 Blakeslee Arpaia Chapman, Inc.
 200 North Branford Road
 Branford, CT 06405

Gail Charles
 New Jersey DOT
 Div. of Civil Rts.
 1035 Parkway Ave, CN-600
 Trenton, NJ 08625

Barbara J. Christian
 Maryland State Highway Admin
 PO Box 717
 Baltimore, MD 21203-0717

Linelle Clark
 Texas DOT
 Business Opp. Progrms Ofc
 125 E. 11th Street
 Austin, TX 78701

Geoffrey W. Clarke
 New Enterprise Stone & Lime Co
 P.O. Box 77
 New Enterprise, PA 16664

Ted Clements
 Protection Services, Inc.
 635 Lucknow Road
 Harrisburg, PA 17110

Cynthia Cooper
 Connecticut DOT
 2800 Berlin Turnpike
 Newington, CT 06111

James H. Cossingham
 Jayco Enterprises, Inc.
 VT Agency of Transp.
 P.O. Box 278
 White River Jct., VT 05001

John B. Covert
 Maryland DOT
 PO Box 8755
 Elm Road
 BWI Airport, MD 21240

Tyrone Dash
 Washington State DOT
 Transportation Bldg.
 Olympia, WA 98504

Pamela S. Deppe
 P.S. Deppe Construction, Inc.
 329 Williams
 Chatham, IL 62629

Ron J. Derricks
 Kentucky Transp. Cabinet
 251 E. High Street
 Frankfort, KY 40601

Louis P. Di Lillo
 New York State DOT - EOO
 Bldg 4 - G16
 1220 Washington Ave.
 Albany, NY 12232

Horace Dickerson
Virginia DOT
1401 E. Broad Street
Richmond, VA 23219

W. Logan Dickerson
W.P. Dickerson & Son, Inc.
PO Box 160
Youngwood, PA 15697

Harold Dorell
FHWA, Region 9
Office of Civil Rights
201 Mission St., #2100
San Francisco, CA 94105

Henry Droughter
Arkansas Hwy & Trans. Dept.
P.O. Box 2261
Little Rock, AR 72203

Cheryl Englehart
The Hoosier Company, Inc.
PO Box 681064
Indianapolis, IN 46268

Carol Ewing
Curbs, Etc., Inc.
1655 South DuPont Hwy.
Smyrna, DE 19977

Mary A. Fernandes
Commonwealth of Massachusetts
Exec Ofc of Trans & Cnstr
10 Park Plaza, Rm 3170
Boston, MA 02116

Evelyn Fierro
FHWA
400 7th Street, SW
Washington, DC 20590

John G. Finck
Green Mountain Consultant Gr.
287 Pembroke Street
Pembroke, NH 03275

Charles E. Ford
Michigan DOT
425 W. Ottawa St.
Lansing, MI 78909

Helen Foster
Albany State College
504 College Drive
Albany, GA 31705

Gerardo Franco
U.S. DOT/OSDBU
400 7th St., Rm. 9410
Washington, DC 20590

Francis B. Francois
AASHTO
444 N. Capitol St., NW
Suite 249
Washington, DC 20001

Janice Frazier
Jay, Gregory & Associates, Inc
400 Renaissance Center
Suite 2260
Detroit, MI 48243

William K. Fung
FHWA
P.O. Box 568
Montpelier, VT 05601

John W. Gadson, Sr.
South Carolina State College
School of Business
Small Business Devel. Ctr
Orangeburg, SC 29117

Frances B. Gilson
Louisiana Dept of Trans & Devl
PO Box 94245
Baton Rouge, LA 70804-9245

LaJuana C. Glaze
FHWA-Texas Division
300 East 8th Street
Room 826
Austin, TX 78701

Luther Gerald Godfrey
FHWA
Leo W. O'Brien Fed. Bldg.
Albany, NY 12207-2398

John D. Gonzalez
JDG Associates, Inc.
P.O. Box 690444
San Antonio, TX 78269-0444

Jackie L. Gorman
Texas Engrg. Extension Service
Small Bus. & HUB Training
510 S. Congress, Ste. 310
Austin, TX 78704-1737

Sandra E. Greenwell
Kansas DOT
915 Harrison Docking Bldg
Topeka, KS 66612

Daryl Gregory
Jay, Gregory & Associates, Inc
400 Renaissance Center
Suite 2260
Detroit, MI 48243

Brenda Hall
Maryland State Highway Admin
PO Box 717
Baltimore, MD 21203-0717

Sumith P. Hapuarachy
SMH Construction Co., Inc.
P.O. Box 1912
Beckley, WV 25802-1912

Peggy Harris
P&D Metals & Refrigeration, Inc
PO Box 590314
Orlando, FL 32859-0314

Angela B. Hawkins
Maryland State Highway Admin
PO Box 717
Baltimore, MD 21203-0717

Jesse L. Haynes
West Virginia DOT, Hwy. Div
1900 Kanawaha Blvd., East
Bldg. 5, Room A-925
Charleston, WV 25305

Frederick D. Hejl
Transportation Res. Board
2101 Constitution Ave. NW
Washington, DC 20418

Beverly Hill
Maryland Transp. Authority
303 Authority Drive
Baltimore, MD 21222

Charles W. Hogan, Jr.
Virginia Dept of Min. Bus. Ent
200-202 N. 9th St.
11th Floor
Richmond, VA 23219

Luz A. Hopewell
U.S. DOT
Ofc. of Small & DBU
400 7th Street, Rm. 9414
Washington, DC 20590

Beatrice M. Hudson
Oregon DOT
112 Transportation Bldg.
Salem, OR 97310

Carol C. James
Ohio Contractors Association
Human Resources and Educ.
1313 Dublin Road
Columbus, OH 43216

Woodrow James, Jr.
South Carolina State Univ
300 College Street, NE
Campus Box 7176
Orangeburg, SC 29117

Leroy Jamison
PA DOT, Bureau of EO
Room 109, T&S Bldg.
Harrisburg, PA 17120

Bill T. Jaramillo
New Mexico Hwy & Transp. Dept.
Affirmative Action Prog.
P.O. Box 1149
Santa Fe, NM 87504-1149

Thomas J. Jasien
Assoc. Gen. Cntrctrs of Amer.
1957 E Street, NW
Washington, DC 20006-5199

Caryn Johnson
Washington State DOT
DBE Support Serv. Center
6770 E. Marginal Way S.
Seattle, WA 98108

Errol Johnson
Florida Indust'l Electric, Inc
811 Wilma St.
Longwood, FL 32750

Eugene S. Johnson
Wisconsin DOT
P.O. Box 7916
Madison, WI 53707-7916

Betty J. Jones
D & BJ's Services
112 Eagle Street
Utica, NY 13501

Freddie L. Jones
Virginia DOT
1401 E. Broad St.
Richmond, VA 23219

Laurence C. Jones
Massachusetts Hwy Dept-CA/TP
185 Kneeland St.
03-7X-02
Boston, MA 02110

Carolyn L. Jordan
Urban Construction/Midwest Con
4647 W. Huron Street
Chicago, IL 60644

Joseph R. Julian
James Julian, Inc.
405 S. DuPont Road
P.O. Box 2538
Wilmington, DE 19805

Anne Keenan
Applied Business Concepts, Inc
5312 N. 12th Street
Suite 302
Phoenix, AZ 85014

Bob Keister
Protection Services, Inc.
635 Lucknow Road
Harrisburg, PA 17110

Cleveland Kelly
WIC Enterprises, Inc.
P.O. Box 527
Temple Hills, MD 20748

Deloris Kelly
WIC Enterprises, Inc.
P.O. Box 527
Temple Hills, MD 20748

Beverly A. King
King & Wright Consulting, Inc.
100 Corporate Pointe
Suite 360
Culver City, CA 90230

Charles Klemstine
FHWA
400 7th St, SW
HCR-20
Washington, DC 20590

Phillip Kydd
Rhode Island DOT
2 Capitol Hill
Room 109
Providence, RI 02903

Karen A. Laney
FHWA-Maryland Division
The Rotunda, Suite 220
711 West 40th Street
Baltimore, MD 21211-2187

Robert Latham
Maryland Hwy Contractors Assoc
2408 Peppermill Drive, #F
Glen Burnie, MD 21061

Renata Leckzas
Maryland State Highway Admin
PO Box 717
Baltimore, MD 21203-0717

Gennaro Liguori
Slattery Associates/UTCA
40 Vanderhoof Ave.
Rockaway, NJ 07866

Scott Livingston
Rifkin Livingston & Silver
575 S. Charles St.
Baltimore, MD 21201

Aubrey E. Long
Bethune-Cookman College
Division of Business
640 Mary McLeod Bethune B
Daytona Beach, FL 32115

Horacio Lopez
New Ventures, Inc.
716 S. 6th Street
Las Vegas, NV 89101

Dennis B. Luhrs
Federal Highway Administration
P.O. Box 536
Frankfort, KY 40602

Lisa H. MacPhee
U.S. DOT/OST/General Counsel
400 7th Street, SW
Washington, DC 20590

Mike Madrid
The Mike Madrid Company
4801 US Highway 52 West
West Lafayette, IN 47906

Leon Malczewski
Virginia DOT
1401 E. Broad St.
Richmond, VA 23219

Theresa L. Manago
Federal Highway Administration
1720 Peachtree Road, N.W.
Suite 200
Atlanta, GA 30267

Elaine Martin
Alexander-Martin, Inc.
302 S. 700 East
Jerome, ID 83338

Regina D. McManus
The WBE Line Inc.
4253 Montgomery Road
Ellicott City, MD 21043

Cynthia L. Meyer
Earth Transport Company
8135 Bracken Creet
Suite A
San Antonio, TX 78266

John Milligan
John Milligan, CPA
125 N. 8th Street
4th Floor
Philadelphia, PA 19106

Dan Moncrief, III
McDaniel's Const. Corp., Inc.
901 Oak Street
Columbus, OH 43205

Will Terry Moore
Assoc. Dir., U.S. DOT/OSDBU
400 7th St., Rm. 9414
Washington, DC 20590

Edward W. Morris, Jr.
FHWA, Office of Civil Rights
400 7th Street, S.W.
HCR-1
Washington, DC 20590

Melissa Muskopf
Access Control Co., Inc.
Ill. Assoc. Women Contrac
101 5th Avenue
Moline, IL 61265

Cynthia L. Myers
Indiana DOT
100 N. Senate Ave. N855
Indianapolis, IN 46204

Michael S. Nee
Const. Assn of Western PA
1201 Banksville Road
Pittsburgh, PA 15226

Craig S. Noll
Protection Services, Inc.
635 Lucknow Road
Harrisburg, PA 17110

Harrison Owen
H. H. Owen & Company
7808 River Falls Drive
Potomac, MD 20854

Larry E. Patterson
L.E. Patterson Construction Co
2034 North Fifth Street
P.O. Box 5269
Harrisburg, PA 17110-0269

Joann Payne
Payne, Shea and Associate
622 N. Tazewell
Arlington, VA 22203

Valerie J. Payne
Pennsylvania Tnpk Commission
P.O. Box 67676
Harrisburg, PA 17106

Thomas K. Pierce
 Vermont Agency of Transp.
 133 State Street
 Montpelier, VT 05633-5001

James L. Posey
 WorkHorse Construction
 PO Box 3561
 Portland, OR 97208

Edward L. Powe
 Kentucky State University
 415 Hathaway Hall
 Frankfort, KY 40601

Frank M. Powell, III
 F. M. Powell Inc.
 P.O. Box 41042
 Jacksonville, FL 32203

Tyrone Darryl Press
 Wash. Met. Area Transit Auth.
 600 5th Street, NW
 Washington, DC 20001

Sam Prestipino
 Montana DOT, Civil Rights
 P.O. Box 201001
 2701 Prospect Ave.
 Helena, MT 59620-1001

Charles Price
 Ohio DOT
 25 South Front Street
 Room 708
 Columbus, OH 43215

Thomas A. Purdum
 Maryland State Highway Admin
 707 N. Calvert St.
 Baltimore, MD 21202

Michael P Rath
 Fort Defiance Construction
 P.O. Box 609
 Defiance, OH 43512

Glenn R. Reed
 FHWA
 400 7th St, SW
 HCR-10
 Washington, DC 20590

Raleen A. Reiher
 Thomas A. Mekis & Sons, Inc.
 1595 Rt. 422 East
 Fenelton, PA 16034

Patricia Reiman
 Ill. Assoc. of Women Contracto
 P.O. Box 9
 Campbell Hill, IL 62916

Kay Rollison
 State of Alaska DOT
 2200 E. 42nd Avenue
 PO Box 196900
 Anchorage, AK 99519-6900

Floyd Romero
 New Mexico Hwy & Trans. Dept.
 PO Box 1149
 Santa Fe, NM 87504-1149

Dave Rostad
 North Dakota DOT
 608 East Boulevard Ave.
 Bismarck, ND 58505-0700

Karen Russo
 Maryland State Highway Admin
 PO Box 717
 Baltimore, MD 21203-0717

Dana Sade
 U.S. DOT
 400 7th Street, SW
 Washington, DC 20590

Tom L. Stingley
 Mississippi DOT
 PO Box 1850
 Jackson, MS 39215-1850

Aida M. Santiago-Brown
 D & BJ's Services
 112 Eagle Street
 Utica, NY 13501

Judy Stinnett
 McRyan Hauling Inc.
 P.O. Box 1679
 Roanoke, TX 76262

William J. Shorb
 L.S. Lee, Inc.
 P.O. Box 1547
 152 South Sumner St.
 York, PA 17405

Charles S. Stinson
 Federal Highway Administration
 1720 Peachtree Road, N.W.
 Suite 200
 Atlanta, GA 30267

Rodney E. Slater
 FHWA
 400 7th Street, S.W.
 Washington, DC 20590

Diane E. Sumpter
 DESA, Inc.
 P.O. Box 7262
 2230-A Talor Street
 Columbia, SC 29202

Gary R. Smith
 Penn State University
 Dept. of Civil Engrg
 212 Sackett Building
 University Park, PA 16802

Deborah K. Thompson
 Florida A&M University
 Sm. Business Devel. Ctr
 1157 E. Tennessee St.
 Tallahassee, FL 32308

Glenn B. Smith
 FHWA
 Office of Civil Rights
 6301 Rockhill Rd.
 Kansas City, MO 64141

Donald W. Tidwell
 Finishes, Inc.
 875 N. 21st Street
 Columbus, OH 43219

Thomas J. Smith
 FHWA
 228 Walnut Street
 Harrisburg, PA 17108

Frank Topping
 Alabama DOT/Bureau Human Res.
 1409 Coliseum Blvd.
 Montgomery, AL 36130-3050

Kent Starwalt
 ARTBA-Contractors Div.
 The ARTBA Building
 1010 Massachusetts Ave.NW
 Washington, DC 20001

T. Oscar Trevino, Jr.
 J.L. Steel, Inc.
 PO Box 821541
 Fort Worth, TX 76182-1541

Virginia Tsu
Idaho DOT
P.O. Box 7129
Boise, ID 83707-1129

Thomas D. Wallace
Kiewit Construction Group, Inc
Minority Bus. Affairs
1000 Kiewit Plaza
Omaha, NE 68131

Janice Ward
Rhode Island DOT
2 Capitol Hill
Room 251
Providence, RI 02903

Grace P. Waters
U.S. DOT/Small & Disadv. Busi.
400 7th Street, SW
Room 9414
Washington, DC 20590

Herbert B. Watson, Sr.
Pennsylvania Tnpk Commission
P.O. Box 67676
Harrisburg, PA 17106

Janice L. Wedell
Pennsylvania DOT/DBE Supp. Svc
1106 Ohio River Blvd
Suite 605
Sewickley, PA 15143

Roger G. Welsch
AGC of Texas
Hwy, Heavy Util. & Indus.
P.O. Box 2185
Austin, TX 78768

Brenda J. Weltzer
DOT/FHWA/Region 8/HCR
555 Zang Street, Rm. 400
Lakewood, CO 80228

James E. Wilkinson
Baker Heavy & Highway
One North Shore Center
Pittsburgh, PA 15212

Michael J. Wilson
FHWA
400 7th St, SW
HCR-20
Washington, DC 20590

G. Craig Wingfield
Virginia DOT
1401 E. Broad St.
Richmond, VA 23219

Eric Wise
Jackson Person & Assoc., Inc.
66 Monroe Avenue
Suite 104
Memphis, TN 38103

Lisa Wormington
Arizona DOT
206 S. 17th Avenue, #154A
Phoenix, AZ 85007-3213

Charles A. Wright
Florida A&M University
P.O. Box 164
Tallahassee, FL 32307

Robert S. Wright
FHWA - C&M Div. (HNG-22)
400 7th Street, SW
Washington, DC 20590

Connie Yew
FHWA
KOIN Center, Suite 600
222 SW Columbia St.
Portland, OR 97201

Helen Zimmer
Pennsylvania DOT/DBE Supp. Svc
1106 Ohio River Blvd.
Suite 605
Sewickley, PA 15143

