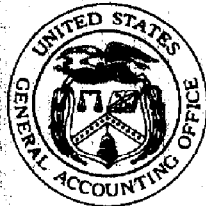


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HIGHWAY CONTRACTING

Disadvantaged Business Program Meets Contract Goal, but Refinements Are Needed





United States
General Accounting Office
Washington, D.C. 20548

**Resources, Community, and
Economic Development Division**

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August 17, 1994

The Honorable Max S. Baucus
Chairman
The Honorable John H. Chafee
Ranking Minority Member
Committee on Environment and Public Works
United States Senate

The Honorable Norman Y. Mineta
Chairman
The Honorable Bud Shuster
Ranking Minority Member
Committee on Public
Works and Transportation
House of Representatives

In response to section 1003 of the Intermodal Surface Transportation Efficiency Act of 1991, this report addresses the effectiveness of the Department of Transportation's Disadvantaged Business Enterprise Program for federal-aid highways in meeting its contracting and business development goals. The report contains a matter for congressional consideration aimed at reducing the duplication of supportive services for disadvantaged business enterprises. It also makes recommendations to the Secretary of Transportation to improve the agency's (1) guidance on follow-up actions when goals are not met and (2) evaluation of the program's progress.

This report was prepared under the direction of Kenneth M. Mead, Director, Transportation Issues, who may be reached on (202) 512-2834 if you or your staff have any questions. Major contributors to the report are listed in appendix V.

Keith O. Fultz
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Executive Summary

Purpose

The Department of Transportation's (DOT) Disadvantaged Business Enterprise (DBE) program is aimed at eliminating the effects of historical discrimination by assisting small businesses owned and controlled by socially and economically disadvantaged individuals. Under the DBE program administered by the Federal Highway Administration (FHWA), the states are required to set goals and award contracts so that not less than 10 percent of their federal-aid highway funds goes to firms in the program. FHWA also funds state-provided technical and business development assistance for DBE firms through its supportive services program.

Concerned about the success of the DBE program, the Congress required, in the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), that GAO review the program. GAO's objectives were, among others, to evaluate (1) whether the states were meeting their DBE participation goals and how effective FHWA's efforts were in ensuring that they did, (2) whether FHWA effectively provided technical and business development assistance through its supportive services program, and (3) whether "graduation" from the DBE program equates to business success. GAO reviewed nationwide information and evaluated DBE programs in six states.

Background

The Surface Transportation Assistance Act of 1982 required that the states spend at least 10 percent of their funds under the federal-aid highway program contracting with firms owned and controlled by socially and economically disadvantaged individuals, including African Americans, Hispanics, Native Americans, and other minorities. The Surface Transportation and Uniform Relocation Assistance Act of 1987 replaced the 1982 act and included women-owned businesses in the statutory definition of DBEs, allowing states to use contracts awarded to both minority- and women-owned businesses to meet their DBE goals. ISTEA continued the combined 10-percent goal established in the 1987 act for participation by minority-owned and nonminority-women-owned businesses.

Title 23 U.S.C. section 140(c) authorizes the Secretary of Transportation to conduct training programs to help disadvantaged businesses achieve the proficiency needed to compete on an equal basis for federal contracts. States are encouraged—but not required—to have a supportive services program, and federal funding is provided without a requirement that it be matched. In fiscal year 1993, FHWA disbursed about \$7 million for state-sponsored supportive services programs.

The DBE program is limited to small businesses. Generally, when a firm's average gross annual receipts over a 3-year period exceed \$15.37 million per year, the firm is no longer considered a small business; it thus "graduates" and may no longer participate in the DBE program. There is no legislative or administrative requirement concerning the length of time firms can participate, and DOT has not identified graduation as a goal or measurement of success of the DBE program.

Results in Brief

FHWA and the states have done a good job providing opportunities for disadvantaged businesses to compete for contracts in the federal-aid highway program. In fiscal years 1989 through 1993, the states met or exceeded their goals for DBE participation 93 percent of the time. While minority business enterprises receive the majority of DBE contract funds, in recent years the states have increasingly met their DBE goals by contracting with women-owned businesses. When the states missed their DBE participation goals, FHWA's response was neither timely nor effective, primarily because FHWA did not establish time frames for responding to and following up on the states' justifications. FHWA's actions came too late to prevent some states from missing their goals the following year.

Although FHWA has been largely successful in providing contracting opportunities to DBES, its supportive services program has been of limited effectiveness and provides services that duplicate those available through the Small Business Administration (SBA). While SBA has an extensive structure of business development centers and programs to assist small businesses, FHWA's supportive services were either unavailable or were unavailable for lengthy periods in three of the six states that GAO visited. The services, when provided, varied widely in scope and content; some state programs were very limited. In contrast, SBA's programs provided assistance in several key areas that FHWA's program did not. Given SBA's primary mission and more extensive structure of programs and personnel to help small businesses develop, FHWA's efforts would be better directed to identifying assistance available from SBA and helping DBES obtain that assistance.

In fiscal years 1988 through 1992, fewer than 1 percent of the DBE firms in the six states GAO visited "graduated" from the program. Graduation measures only a firm's gross revenues; by itself, this measure does not indicate a firm's expertise, success, growth, or ability to obtain contracts on the open market. Numerous factors contribute to the success of a small business, and GAO found that no consensus exists on the number of years

that a firm should participate in a program like the DBE program before becoming successful and self-sustaining. DOT has not used graduation or any other performance measure to evaluate the success of individual DBE firms or the success of the DBE program as a whole in helping small businesses develop.

Principal Findings

Most States Achieved Their Goals

Thirty-nine of the 52 state highway agencies met their percentage goals for DBE participation each year for fiscal years 1989 through 1993. In fiscal year 1993, 51 of 52 state highway agencies met their goals, with about 16 percent, or \$2.2 billion, of the nearly \$14 billion spent in the federal-aid highway program awarded in contracts to DBEs. Since the Congress changed the law in 1987 to include businesses owned by nonminority women in the statutory definition of DBEs, the percentage of DBE contract dollars awarded to women-owned firms has increased from 22 to 39 percent. When measured in constant fiscal year 1992 dollars, contract dollar awards to women-owned businesses increased by over 80 percent in fiscal years 1984 through 1992, while awards to minority-owned businesses declined by 33 percent.

In fiscal years 1989 through 1993, 13 states missed their goals a total of 19 times. Ten states missed their goals once, one missed its goal twice, one missed it three times, and one missed it four times. In 6 of these 19 instances, the state had set a goal higher than 10 percent; in 5 instances, the state achieved DBE participation greater than 10 percent but nevertheless missed its goal. When the states missed their goals, FHWA was slow in requiring and responding to the states' justifications. For example, when two states missed their goals in fiscal years 1990 and 1991, FHWA did not respond to the states' justification letters until about 8 months later. In each case, FHWA's response came too late to prevent the states from missing their goals the following year. FHWA officials attributed the delay in responding to higher priorities in the agency.

Effectiveness of FHWA's Supportive Services Program Is Limited

One state GAO visited had no FHWA-funded supportive services program, while another had no program for 17 months after the state delayed renewing a service provider's expired contract. Among the five states GAO visited where services were available at some point, the content of the

programs varied from state to state, and some programs were very limited. Moreover, although experts believe that marketing and the development of effective human resource and information management systems are important to business success, none of the five states' programs included training in these areas. In contrast, SBA programs such as the Management and Technical Assistance 7(j) Program and the Small Business Development Center (SBDC) program address these areas. SBA's programs are also more widely available. The SBDC program in Georgia, for example, has six offices in the Atlanta metropolitan area and 13 others in the state; in contrast, there is one FHWA-funded supportive services program consultant in downtown Atlanta.

GAO has reported in the past on problems with SBA's small business assistance programs. For example, SBA's 7(j) program lacks objective criteria for measuring the effectiveness of the services provided to customers. But SBA has begun taking steps to correct this problem, and SBA officials believe that the services already available could meet the training and development needs of DBE firms. To provide more effective services in its supportive services program, FHWA would need to devote time and resources to improve the content and availability of the program. Doing so seems an unwarranted expenditure of federal resources, as these services are already available to DBEs through SBA.

In commenting on a draft of this report, DOT said that the intent of the supportive services program is to focus on the unique technical skills that DBEs need to compete in the highway construction industry—training the Department believes is beyond the scope of SBA's programs. However, FHWA's supportive services regulation does not support DOT's comments; the regulation encourages the states to provide a range of services, including general business management assistance in record-keeping and other areas. Although DOT told us that it is encouraged by actions FHWA is taking in some states to provide classroom training for DBEs in technical skills unique to the highway construction industry, the training in those states is just one part of a broader assistance program, which includes general business management services.

“Graduation” in the DBE Program

In fiscal years 1988 through 1992, 44 firms “graduated” in the six states GAO visited, representing roughly between one-tenth and one-half of 1 percent of the firms certified as DBEs in any one fiscal year. Since graduation only measures a firm's gross revenues, it can be a misleading indicator of the success of a small business. GAO's review of academic and business

literature and discussions with DOT and state officials found that numerous factors contribute to such success. Even if net revenue is considered, revenue alone does not take into account other factors that could contribute to success, such as the development of effective accounting and inventory systems. Moreover, in reviewing experts' estimates of how many years a firm takes to become successful, GAO found no consensus on time requirements that could be used to measure a firm's success.

While DOT has used the attainment of contract goals to measure the success of efforts to provide DBES with contracting opportunities, it has not developed a performance measure for evaluating the success of individual DBE firms or the success of the DBE program in helping small businesses develop, another goal of the program.

Matter for Congressional Consideration

The Congress may wish to consider (1) terminating FHWA's current supportive services program because its effectiveness has been limited and because it duplicates SBA's programs and (2) limiting any future funding for business development assistance under the DBE program to services that address skills that are unique to the highway construction industry and do not duplicate services offered by SBA.

Recommendations to the Secretary of Transportation

GAO recommends that the Secretary

- direct the Administrator, FHWA, to improve procedures for instances in which states do not meet agreed DBE contracting goals by establishing time frames for FHWA to (1) respond to the states' justifications and (2) follow up on directed corrective actions and
- in consultation with the Administrator, SBA, develop performance measures to evaluate the progress of the DBE program in helping disadvantaged firms develop into self-sustaining businesses capable of competing for contracts on the open market.

Agency Comments and Our Evaluation

DOT and SBA both reviewed a draft of this report, and they generally agreed with the facts presented. Although DOT stated that it would consider both of GAO's recommendations, it questioned their benefit. DOT said that it has recently implemented an administrative deadline for the states to provide justification for missing their goals. The Department also suggested that SBA might be the appropriate agency to develop performance measures for business development activities. GAO continues to believe that establishing

time frames for FHWA to take action on the states' justifications would enhance FHWA's enforcement efforts. Furthermore, if FHWA continues to operate its business development program, FHWA-developed performance measures would improve this effort. SBA stated that it would welcome the opportunity to work with DOT to develop performance measures for the DBE program. DOT's and SBA's comments are reproduced in appendixes III and IV, respectively.

DOT disagreed with GAO's view on potentially terminating FHWA's supportive services program. While acknowledging that the program has not always provided the intended services, DOT said that a program separate from SBA's is needed to focus on the unique technical skills that DBEs need to compete in the highly specialized highway construction industry. DOT and FHWA provided information on programs in several states that the Department said may, after further experience, become the model for a mandatory, national supportive services program.

GAO continues to believe that the Congress should consider terminating FHWA's supportive services program. GAO has incorporated the information DOT and FHWA provided on the targeted classroom programs into this report. In addition, the matter for congressional consideration has been revised to reflect GAO's belief that any future funding for business development assistance under the DBE program should be limited to programs that do not duplicate SBA's programs and that are targeted to skills unique to the highway construction industry. Such a program would differ from the FHWA supportive services program that exists today.

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Abbreviations

DBE	Disadvantaged Business Enterprise
DOT	Department of Transportation
FHWA	Federal Highway Administration
GAO	General Accounting Office
ISTEA	Intermodal Surface Transportation Efficiency Act of 1991
SBA	Small Business Administration
SBDC	Small Business Development Center
SCORE	Service Corps of Retired Executives

Introduction

The Department of Transportation's (DOT) Disadvantaged Business Enterprise (DBE) Program for federal highways was created to provide opportunities to obtain highway construction contracts to small businesses owned and controlled by socially and economically disadvantaged individuals. In fiscal year 1993, \$2.2 billion of the nearly \$14 billion spent in the federal-aid highway program—about 16 percent—represented contracts awarded to DBEs. The DBE program for federal highways, part of a departmentwide DBE program, is administered by the Federal Highway Administration (FHWA) through the states. The states are required to spend not less than 10 percent of their federal-aid highway funds contracting with DBEs.¹

History of the DBE Program

In 1975, FHWA issued consolidated regulations for a DBE program to assist minorities in obtaining federal-aid highway contracts. DOT subsequently established a DBE program for its other modal administrations, such as the Federal Aviation Administration, and issued an implementing regulation for the Department in 1980. The regulation required states to set separate participation goals for minority-owned firms and women-owned firms.

The Surface Transportation Assistance Act of 1982 provided statutory authority for DOT's DBE program (of which FHWA's DBE program is a part) and established a goal of awarding a minimum of 10 percent of all federal-aid highway contract dollars to small businesses owned and controlled by socially and economically disadvantaged individuals. Although the act did not include DBEs owned by nonminority women in the 10-percent minimum goal, FHWA's regulation kept these enterprises in the program under a separate goal. The Surface Transportation and Uniform Relocation Assistance Act of 1987 replaced the 1982 act and included nonminority women-owned businesses in the statutory definition of DBEs, allowing states to use contracts with both minority- and women-owned businesses to meet their DBE goal. The Intermodal Surface Transportation Efficiency Act of 1991 continued the 1987 act's combined 10-percent goal for minority-owned and nonminority women-owned DBEs.

Program Objectives

The objectives of the DBE program are to ensure that DBEs have the maximum opportunity to participate in federal-aid highway contracts and to help these enterprises develop into self-sufficient firms capable of competing for work in the open market. To meet these objectives, states

¹As used in this report, the term "states" refers to the 52 state highway agencies or departments of transportation in the 50 states, the District of Columbia, and Puerto Rico.

are required to set an overall annual goal for the DBE program, as well as individual goals on specific contracts. Overall goals are based upon the projected number and types of contracts to be awarded, the number and types of DBES likely to be available, past DBE participation, and other factors. Specific contract goals are set on the basis of the availability of DBES.

States have generally obtained DBES' participation through subcontracts let by prime contractors. The prime contractors are expected to meet the state's goal by subcontracting with DBES. According to industry and state officials, DBES tend to concentrate in specialty areas that are not capital intensive, such as landscaping, traffic control, and construction and repair of fencing and guardrails.

In addition to providing contracting opportunities, the states provide DBES with technical and business management assistance. DOT's DBE regulation encourages the states to help DBES overcome barriers, such as the inability to obtain bonding and financing, and to provide them with technical assistance through a supportive services program. To this end, the Congress authorized FHWA to spend up to \$10 million per year on supportive services, and appropriated between \$6 million and \$9.6 million annually during fiscal years 1989 through 1992.

Program Administration

FHWA administers the DBE program through its headquarters Civil Rights and Construction and Maintenance offices, 9 regional offices, and 52 division offices—in each state, the District of Columbia, and Puerto Rico. FHWA headquarters offices jointly develop and recommend program policies, instructions, and procedures; monitor the activities of the agency's field offices and the states; and provide technical guidance. Regional and division offices oversee program operations, including reviewing and approving the states' annual DBE program plans, conducting periodic monitoring and evaluation reviews, and providing technical guidance and advice. Regional and division offices are jointly responsible for verifying the states' administration of the program. The regional offices are responsible for developing promotional activities, establishing and implementing policy, and reviewing and monitoring the program, including determining whether the states are meeting their annual goals. The division offices are responsible for ensuring that the states administer their programs according to DOT's regulations, providing day-to-day oversight of the states' contract administration, and monitoring the achievement of individual project goals.

The states are to administer DBE programs by determining and certifying that program applicants meet the eligibility criteria, reassessing annually the eligibility of certified businesses, and publishing annually lists of the certified firms. In addition, the states must establish, obtain FHWA approval of, and meet overall annual goals for program participation; establish goals for DBE participation in individual contracts; and monitor contractors' compliance with program requirements. Subject to the availability of funds, the states must also establish, monitor, and evaluate programs to provide supportive services to DBES.

With regard to DBE participation, each state is required to set a minimum goal for awarding contract dollars for federally assisted highway work to DBES. The goal must be (1) approved by FHWA and (2) a minimum of 10 percent, unless a state seeks a waiver from FHWA for a lower percentage. The states are to achieve their annual goal by setting individual DBE goals for specific contracts let within the state. To be awarded a contract, a prime contractor generally must commit to obtaining participation by DBE subcontractors equal to the contract's DBE goal, or be a DBE itself.

Program Costs and Benefits

FHWA's administrative cost of implementing the DBE program has not been large when compared with the administrative costs of the total federal-aid highway program. For example, in fiscal year 1992, FHWA incurred approximately \$1 million in costs—for administrative salaries, training, and travel—to provide over \$1.8 billion in contract dollars to DBES. This amount is small compared with the approximately \$200 million FHWA spent during the same fiscal year to provide about \$13 billion to contractors through the federal-aid highway program.

In terms of additional contract costs, one 1986 study commissioned by FHWA estimated that the DBE program increased total federal-aid highway construction costs by less than 1 percent.² In addition, the American Road and Transportation Builders Association—a trade association of transportation construction contractors—conducted a survey of its membership in 1993 about the DBE program; our analysis of their report

²Dr. Robert Jerrett, III, Marianne Beauregard, et al., An Assessment of Program Impacts of the Disadvantaged Business Enterprise (DBE) Requirement in the Federal-Aid Highway Construction Program, FHWA contract number DTFH61-85-C-00074 (Cambridge, Mass: Abt Associates, Inc., Mar. 1986).

also showed that DBE participation increased construction costs by less than 1 percent.³

From the perspective of macroeconomic analysis, one cannot demonstrate that a program like FHWA's results in an additional total increase in economic activity. The benefits of the program are derived from the distribution of federal-aid dollars through the program in a way that creates greater racial and gender diversity within the highway construction industry.

Objectives, Scope, and Methodology

In response to concerns about whether the DBE program for federal highways was meeting its objectives, the Congress, in section 1003 of the Intermodal Surface Transportation Efficiency Act of 1991 (ISTEA), asked GAO to conduct a study of the program and to address a number of specific questions. Appendix I contains the text of this section of the act. As agreed with the offices of the act's principal sponsor and the cognizant authorizing committees, our review focused on three questions:

- Do the states meet their DBE participation goals, and how effectively does FHWA's oversight and enforcement ensure that they do?
- Does FHWA effectively provide technical and business development assistance through its supportive services program to help small disadvantaged businesses develop into self-sustaining companies?
- To what extent does "graduation" from the program measure the success of DBE firms and the DBE program?

In addition, in response to specific questions in ISTEA, we examined the various ways in which the states meet their DBE goals, including contracts awarded to minority-owned and women-owned businesses. We also reviewed issues related to the process the states use to certify disadvantaged firms for inclusion in the DBE program. These issues included the need for procedures to verify the performance and financial capabilities of DBEs and opportunities for greater uniformity and reciprocity in the states' certification processes.

To address the issues in this report, we reviewed in detail programs in six states—California, Colorado, Connecticut, Georgia, Michigan, and Wyoming. We selected these states for geographical and programmatic diversity: These states cover five of FHWA's nine regions and represent a

³The association sent surveys to 1,483 of its members and received 290 responses. Of the respondents, 42 were DBEs and 234 were non-DBEs.

range of smaller and larger DBE programs. In each state, we reviewed records and interviewed cognizant state and FHWA officials. We also conducted work at FHWA headquarters in Washington, D.C., where we obtained available nationwide data.

We also gathered information from the American Road and Transportation Builders, the Minority Business Enterprise Legal Defense and Education Fund, the National Association of Minority Contractors, the American Subcontractors Association, the Associated General Contractors, the National Women's Business Enterprise Association, the Women Construction Owners and Executives, and highway construction contractors. These groups included DBES, former DBES, and non-DBES.

To determine if the administration of the DBE program ensures that goal requirements are met, we analyzed information from the states' quarterly reports for fiscal years 1989 through 1993 submitted to FHWA. In the cases in which goals were not attained, we obtained the states' formal justifications and discussed the enforcement actions taken with FHWA personnel.

To assess whether FHWA's supportive services program helps disadvantaged businesses develop into self-sustaining companies, we reviewed federal program guidance, the content of the supportive services programs in the six states, and program assessments by both FHWA and the states. We discussed our observations with federal and state officials, supportive services consultants, and DBES.

In addition, we conducted an evaluation synthesis of academic and industry literature on factors that contribute to the success of small businesses. We compared these factors to FHWA's supportive services regulations and programs in the six states. We also contacted officials from the Small Business Administration (SBA) in Washington and SBA's Small Business Development Centers in the six states we visited, where we compared the content of this program with the content of FHWA's supportive services program. Furthermore, we discussed the elements of success for small businesses with industry group officials and FHWA and state officials. We also reviewed comments on this subject in an industry group survey and in DOT's December 9, 1992, Notice of Proposed Rulemaking, issued to revise the implementing regulations for the DBE program.

Chapter 1
Introduction

We performed our work from June 1992 to March 1994 in accordance with generally accepted government auditing standards.

Most States Meet Goals, but FHWA Does Not Ensure Timely Correction of Problems

Over the past 5 years, the states have done a good job of meeting the requirements of the DBE program in terms of contract goals. In fiscal years 1989 through 1993, the states met their DBE participation goals 93 percent of the time. However, FHWA needs to improve its oversight of the states' attainment of goals. When the states did not meet their goals for DBE participation, FHWA's response was neither timely nor effective in ensuring that deviations were properly justified and that timely corrective action was taken. This occurred in part because FHWA did not establish time frames for its field offices to respond to the states' justifications or to review corrective actions.

The states meet their DBE goal requirements in a variety of ways. For example, over the last several years, the states have increasingly met these goals with contracts to women-owned businesses. The states also met their goals by using mainly in-state DBE firms; any out-of-state DBE firms were mostly from bordering states. Also, the firms that the states contracted with tended to be concentrated in certain specialty areas, such as landscaping and traffic control.

Most States Achieved Their Goals

Each year, the states that receive federal-aid highway funds are required to establish a DBE participation goal, reflected as a percentage of all funds that the state will spend in federal-aid highway contracts during the fiscal year. This goal is subject to FHWA's approval and must not be less than 10 percent, unless FHWA approves a lower percentage. Since fiscal year 1989, no state has requested or established a goal of less than 10 percent, and some have set higher goals. For example, in fiscal year 1993, 12 of the 52 state highway agencies established goals above 10 percent.

In fiscal years 1989 through 1993, 39 of the 52 state highway agencies met their goals in each of the 5 years. On the other hand, 13 states missed their goals a total of 19 times. In fiscal year 1993, 51 of the 52 state highway agencies met their goals. Table 2.1 summarizes the states' achievement of goals in fiscal years 1989 through 1993.

Chapter 2
Most States Meet Goals, but FHWA Does
Not Ensure Timely Correction of Problems

Table 2.1: States' Achievement of DBE Goals, Fiscal Years 1989-93

Fiscal year	Instances in which states achieved their goals		Instances in which states did not achieve their goals	
	Number	Percentage	Number	Percentage
1989	50	96	2	4
1990	48	92	4	8
1991	46	88	6	12
1992	46	88	6	12
1993	51	98	1	2
Total	241	93	19	7

Source: GAO's analysis of FHWA's data.

Among the 13 states that missed their goals, 10 missed their goal once, California missed its goal twice, Hawaii missed its goal three times, and North Dakota missed its goal four times. As table 2.2 shows, in 6 of the 19 instances in which the states missed their goals, the state had set a goal higher than 10 percent. In five of those cases, the states achieved DBE participation greater than 10 percent, but nevertheless missed their goal.

Table 2.2: Percentages Achieved by States That Missed Their DBE Goals, Fiscal Years 1989-93

State	Goal	Percentage achieved by fiscal year				
		1989	1990	1991	1992	1993
Calif.	20	17.9		19.5		
Hawaii ^a	18		6.3	14.7		
	10				7.3	
Iowa	10			9.3		
La.	10		8.7			
Mich. ^b	15				13.0	
	13.5					
Minn.	10			9.3		
N.Dak.	10	8.0	6.6	9.3	6.5	
Nebr.	10				9.6	
R.I.	10				9.1	
S.C.	10			9.8		
S.Dak.	10		9.4			
Wash.	16				12.9	
W.Va.	10					9.7

Note: Data are shown only for years in which the states missed their goals.

Chapter 2
Most States Meet Goals, but FHWA Does
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^aHawaii's goal was 18 percent in fiscal years 1989 through 1991 and 10 percent in fiscal years 1992 and 1993.

^bMichigan's goal was 15 percent in fiscal years 1989 through 1992 and 13.5 percent in fiscal year 1993.

Source: GAO's analysis of FHWA's data.

Appendix II shows the goals set and achieved by each state from fiscal year 1989 through 1993.

When Problems Occur, FHWA Does Not Ensure Timely Correction

Although the states met their goals over 90 percent of the time in the last 5 years, when problems occur, FHWA has not been timely or effective in ensuring that deviations from the goals are properly justified and that corrective action is taken. Under 49 C.F.R. section 23.68, if a state highway agency fails to meet its approved goal for DBE participation, it is afforded an opportunity to explain to the FHWA Administrator why the goal could not be achieved and why not meeting the goal was beyond its control. Under FHWA's guidance, the state is to submit this justification to FHWA's field office in time to arrive at the agency's Washington headquarters by December 1, or 2 months after the end of the fiscal year. If the FHWA Administrator determines that the state's explanation does not justify the failure to meet the approved goal, the Administrator may direct the state to take appropriate remedial action—for example, the Administrator may require additional efforts to recruit DBEs. Failure on the part of a state to take the prescribed remedial action can result in a withholding of federal-aid highway funds for selected projects, withholding of approval for future projects, or other such action that the FHWA Administrator deems appropriate. While FHWA has periodically required remedial action, it has never withheld federal funds from a state for failure to take such action.

The DBE program manual instructs the FHWA division offices in each state to monitor the states' and the prime contractors' efforts and procedures to achieve DBE contracting goals. While this guidance includes a deadline for the states to submit their justifications, it does not contain recommended time frames for FHWA to respond. In some cases, FHWA has been slow in requiring the states to justify missed goals, in responding to the states' justifications, and in monitoring prescribed corrective actions to ensure that problems were properly resolved.

For example, California established a 20-percent DBE participation goal in 1989 and missed that goal. However, the state did not submit the required justification to FHWA, and FHWA did not follow up with the state to obtain this justification. FHWA officials were unable to explain why this occurred. Two other states that missed their fiscal year 1991 goals also did not submit the required justifications.

When Hawaii missed its fiscal year 1990 goal, FHWA did not respond to the state's justification letter until nearly 8 months later, 1 month before the end of fiscal year 1991. When North Dakota missed its fiscal year 1990 goal, FHWA's response came 9 months later. In the case of both Hawaii and North Dakota, FHWA's action came too late to prevent the states from missing their goals the following year. According to an FHWA official, the delay in responding to the states' justifications occurred because FHWA had other, higher priorities.

In cases in which FHWA obtained and responded to the states' justifications, it has sometimes not effectively monitored the status of the required corrective actions. For example, when North Dakota missed its fiscal year 1989 goal, the state told FHWA that the prime contractors did not use DBE subcontractors because the work could be done at less cost by the prime contractors or by using other, non-DBE, subcontractors—a practice permitted under the North Dakota highway agency's regulations. According to regional officials, although FHWA accepted North Dakota's justification, it found the state's regulations to be inconsistent with the intent of the DBE program and directed the state to change its provisions. Although the state revised its provisions, it did not change its practices. However, FHWA did not discover this until it performed a follow-up visit to North Dakota in 1992. FHWA officials told us that the state has since changed its practices in response to FHWA's direction and that it met its DBE goal in fiscal year 1993.

When Hawaii missed its fiscal year 1990 goal, the state told FHWA that one tunnel project accounted for 87 percent of the total federal-aid highway contract awards in Hawaii for that year and that few DBEs in Hawaii could do the specialized work required. While FHWA accepted Hawaii's justification, it instructed the state to take whatever actions were needed—including reducing the size of contracts and increasing subcontracting opportunities—to ensure maximum DBE participation on the tunnel project and other federal-aid highway projects in Hawaii. FHWA also required the state to submit quarterly status reports. However, Hawaii did not take the directed corrective actions and did not submit the

quarterly progress reports. Again, FHWA did not respond to the state's failure to take corrective actions until late 1992, when it visited the state after Hawaii had missed its fiscal year 1991 and 1992 goals. According to DOT, FHWA has since worked closely with the state, and in fiscal year 1993, Hawaii met its DBE goal.

How States Meet Their Goals

In ISTEA, the Congress asked us to examine the impact of the states' attainment of goals on the groups classified as disadvantaged, the frequency of contracting with out-of-state DBES, and the effect of DBE goals on the highway construction industry. In response, we found that among the ways states meet DBE goal requirements is by contracting with (1) women-owned businesses in increasing numbers, (2) mainly in-state as opposed to out-of-state firms, and (3) firms concentrated in certain specialty areas, such as landscaping, traffic control, and fencing and guardrail.

Participation by Women Has Grown

Minority business enterprises receive the majority of DBE contract funds. However, in recent years the states have increasingly met their DBE goals by contracting with women-owned businesses.

Each change in the law since FHWA's original 1980 DBE regulation has been followed by a change in the division of total DBE contract dollars going to minority- and women-owned businesses. The Surface Transportation Assistance Act of 1982 established the minimum statutory DBE participation goal of 10 percent, but it did not include women-owned businesses in the statutory definition of DBE, nor could a state count contracts with women-owned businesses toward its DBE goal. Instead, the states were encouraged to contract with women-owned firms under a voluntary DBE program goal and to report such contracts to FHWA. Following the enactment of the 1982 law, the percentage of DBE dollar awards to women-owned businesses dropped from 36 percent in fiscal year 1982 to 19 percent in fiscal year 1984, while the percentage of DBE dollar awards to minority businesses increased from 64 to 81 percent.

The division of contracts between minority- and women-owned firms remained relatively unchanged until passage of the Surface Transportation and Uniform Relocation Assistance Act of 1987. This act changed the law to include women-owned businesses in the statutory definition of DBES and to allow the states to use contracts with both minority- and women-owned businesses to meet their DBE goal. In fiscal year 1988, the percentage of DBE

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contract dollars going to women-owned businesses increased from 22 to 29 percent, while the percentage of DBE contract dollars going to minority-owned businesses declined from 78 to 71 percent. In each succeeding year, the proportion of DBE contracts awarded to women-owned businesses increased, and the proportion of DBE contracts awarded to minority-owned businesses decreased. In fiscal year 1992, minority-owned businesses received 61 percent of DBE contract dollars, while women-owned businesses received 39 percent. Table 2.3 shows the proportion of DBE contract dollars awarded to minority- and women-owned businesses in fiscal years 1982 through 1992.

Table 2.3: Distribution of DBE Contract Awards to Minority- and Women-Owned Businesses, Fiscal Years 1982-92

Fiscal year	Percentage of contract dollars awarded to DBEs that went to ^a	
	Minority-owned businesses	Women-owned businesses
1982	64	36
1983	74	26
1984	81	19
1985	83	17
1986	80	20
1987	78	22
1988	71	29
1989	68	32
1990	65	35
1991	63	37
1992	61	39

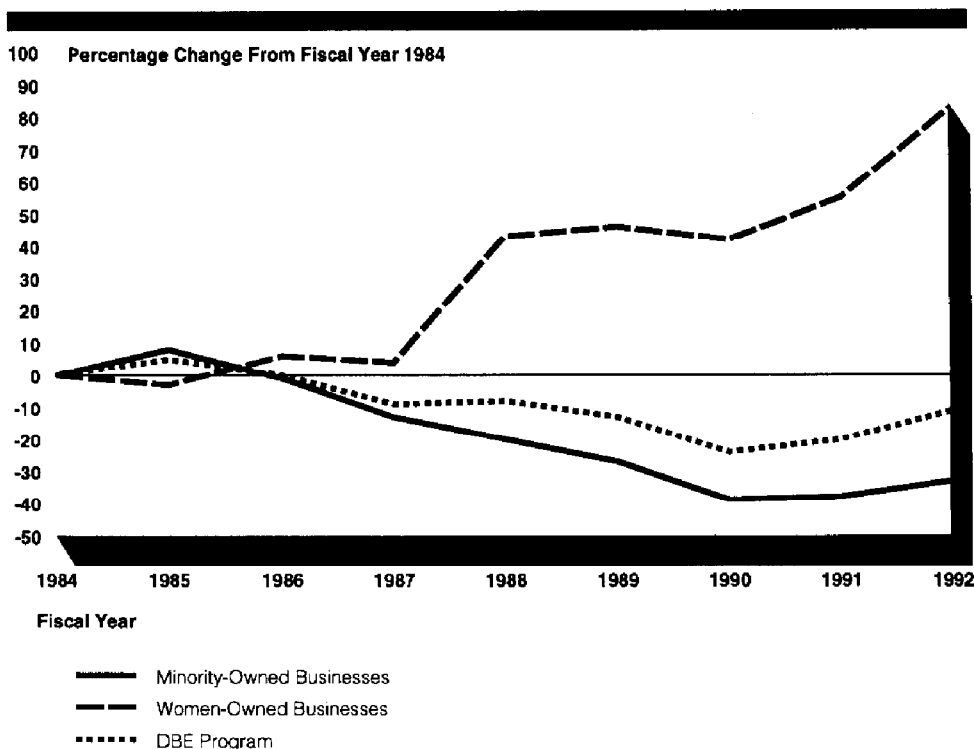
^aFHWA's data are not entirely consistent because the states have historically not been consistent in how they counted minority women business owners. In a 1990 FHWA survey, 21 of the 51 state highway agencies that responded said that they counted minority women business owners as women, while 30 counted them as minorities. This inconsistency should not demonstrably affect these data. ISTEA required FHWA to separately account for minority and nonminority women-owned businesses, and in fiscal year 1993, minority-owned women businesses accounted for less than 1 percent of the total contract dollars that went to DBEs.

Source: GAO's analysis of FHWA's data.

As measured in constant fiscal year 1992 dollars, the amount of money going to the DBE program has declined slightly since fiscal year 1984. In total, DBE contract dollars totaled \$2.1 billion in fiscal year 1984 and \$1.9 billion in fiscal year 1992, in constant fiscal year 1992 dollars. However, as figure 2.1 shows, contract dollar awards to women-owned businesses increased by over 80 percent during that period, from \$394 million to

\$722 million, in constant fiscal year 1992 dollars, while contract dollar awards to minority-owned businesses declined 33 percent, from \$1.7 billion to \$1.1 billion.

Figure 2.1: Percentage Change in Contract Dollar Awards to Minority- and Women-Owned Businesses Since Fiscal Year 1984, in Constant Fiscal Year 1992 Dollars



Note: Dollars are converted to constant FY 1992 dollars.

Most DBE Contracts Are With In-State Firms

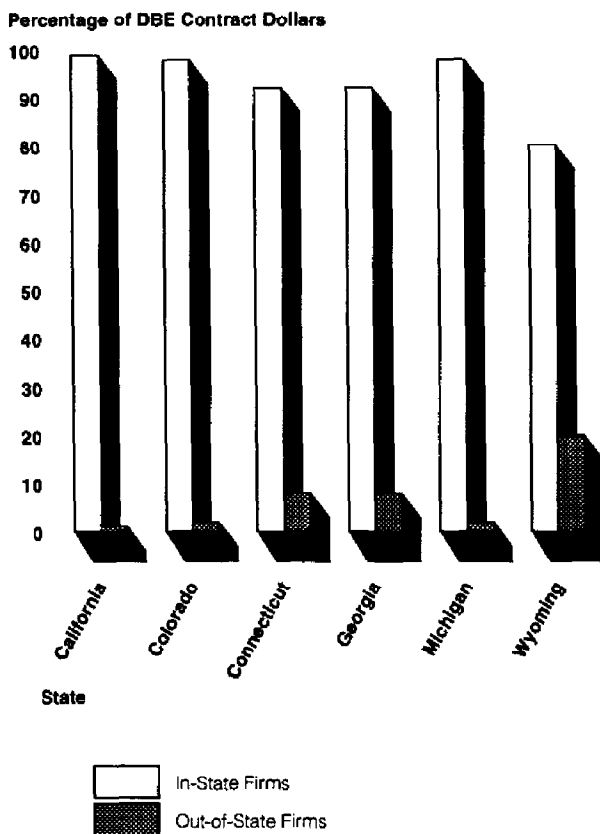
In the six states we visited, in-state DBE firms received 80 percent or more of the DBE contract dollars awarded by the state highway agencies in fiscal year 1992. This percentage ranged from a high of over 99 percent in California to a low of 80 percent in Wyoming.

We found that in many cases in which the states did contract with out-of-state firms, the contracts were with firms from bordering states. For example, the firms receiving the majority of Wyoming's out-of-state contracts were from Billings, Montana, about 50 miles from the Wyoming border. Eleven of the 12 DBE contracts awarded to out-of-state firms in Michigan went to firms based in Wisconsin for work performed in

Michigan's Upper Peninsula. The Upper Peninsula borders Wisconsin, but that border is over 400 miles from Lansing, Michigan's capital, and over 500 miles from Detroit, its largest city. According to state officials, the prime contractors use out-of-state DBE firms because they have established regular working relationships with them. In addition, FHWA regulations prohibit discrimination in the selection of firms for federal-aid highway contracts based on their state of origin.

Figure 2.2 shows the percentage of contracts and related dollar values awarded to out-of-state DBEs in fiscal year 1992 by each of the six states we visited.

Figure 2.2: States' DBE Contract Dollar Awards to In-State and Out-Of-State Firms, Fiscal Year 1992



Source: GAO's analysis of states' data.

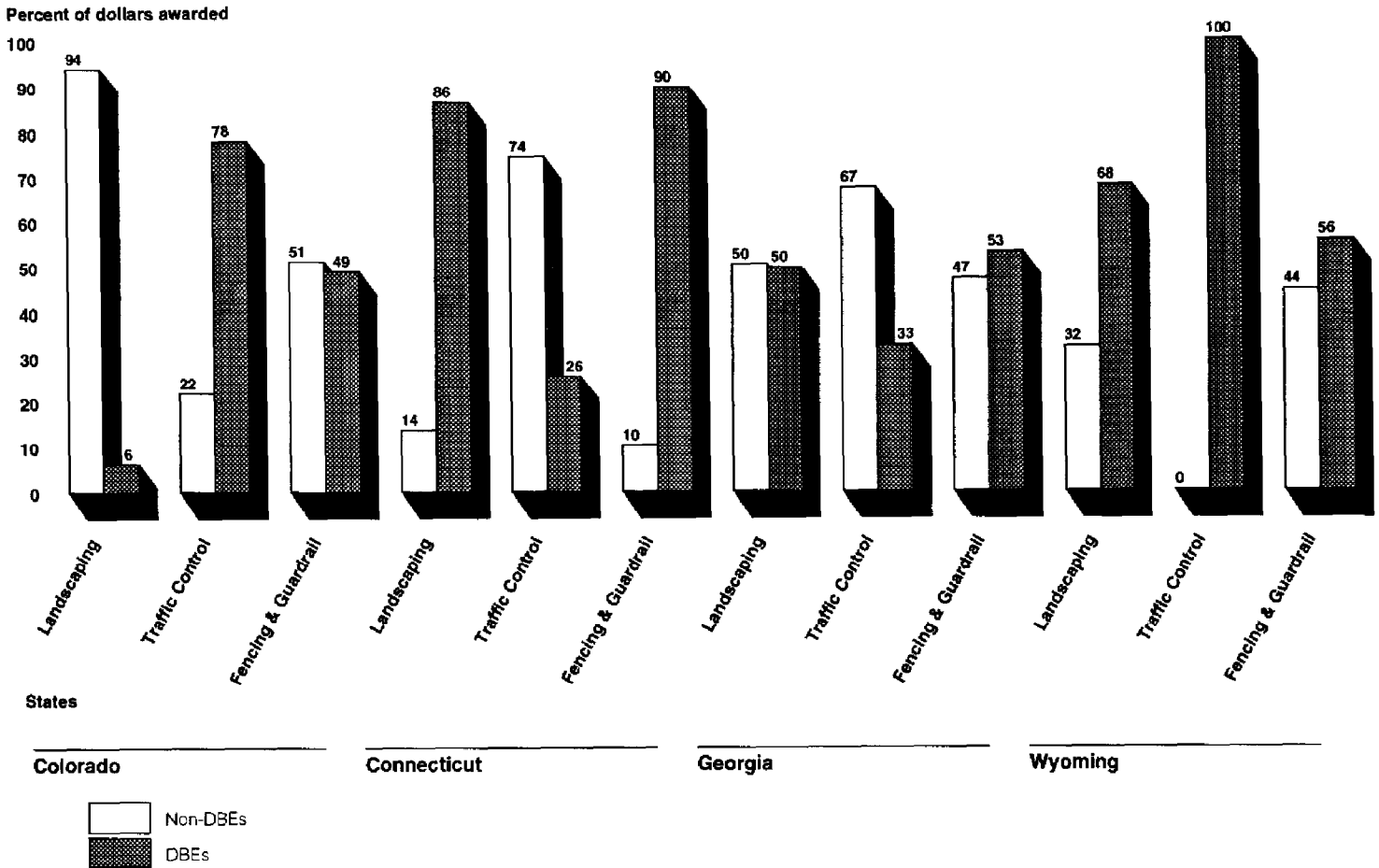
DBEs Concentrate in Specialty Areas

In the states we visited, DBE firms tended to concentrate in specialty areas that are not capital intensive, such as landscaping, traffic control, and fencing and guardrail construction. In the four states that were able to provide information, we found that DBEs received contracts in excess of 10 percent—sometimes well in excess of 10 percent—of the federal-aid contract dollars awarded for this type of work in fiscal year 1992.

For example, with one exception, DBEs received 26 percent or more of the contract dollars awarded in each of these three areas in all four states. In each state, DBEs received 49 percent or more of the contract dollars awarded in at least two of the three areas. DBEs received 86 percent of the landscaping and 90 percent of the fencing and guardrail contract dollars in one state and 100 percent of the traffic control contract dollars in another. Figure 2.3 shows the contract awards for work in these specialty areas in the four states.

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Figure 2.3: Specialty Contract Dollar Awards to DBEs and Non-DBEs in Four States, Fiscal Year 1992



Source: GAO's analysis of states' data.

As figure 2.3 shows, non-DBEs also received significant portions of the landscaping, traffic control, and fencing and guardrail contracts in the states. Even with DBE concentration, non-DBEs received a majority of contract dollars in at least one area in three of the four states.

Conclusions

FHWA and the states have done a good job providing opportunities for disadvantaged businesses to compete for contracts in the federal-aid highway program. Providing these opportunities is among the highest priority of DOT's DBE program.

However, when the states' efforts to provide DBE participation opportunities fell short, FHWA's oversight and enforcement actions have, on occasion, been neither timely nor effective. Because the states' overall record in meeting DBE goals has been good, FHWA has not assigned high priority to quickly resolving problems when goals were not met. As a result, the problems continued in some cases, and the states missed their goals in subsequent years. This has contributed to reduced opportunities for DBE firms to compete for federal-aid highway contracts as required by law.

New oversight procedures do not appear warranted. FHWA's guidance already provides a deadline for the states to submit justifications, and federal regulations contain comprehensive procedures for FHWA to review and approve the states' goal submissions, to deal with exceptions on a case-by-case basis, to obtain corrective action when needed, and to apply sanctions when corrective actions are deemed ineffective. But the effectiveness of these procedures would be enhanced if they contained explicit time frames for FHWA to act on the states' justifications and to review and monitor progress when corrective actions are directed. An articulated sequence of timed monitoring actions would provide both state and FHWA managers with the means to expeditiously resolve problems in achieving goals when they occur.

Recommendation to the Secretary of Transportation

We recommend that the Secretary direct the Administrator, FHWA, to issue additional guidance to the states and to FHWA field offices on procedures for following up when the states do not meet agreed DBE contracting goals. In particular, this guidance should contain explicit time frames for FHWA to (1) respond to the states' justifications and (2) follow up on directed corrective actions.

Agency Comments and Our Evaluation

In commenting on a draft of this report, DOT said it was pleased that we recognized FHWA's and the states' achievements in providing opportunities for DBEs to participate in the federal-aid highway program. However, DOT believed that our discussion of these accomplishments was unduly negative in places and could better recognize the program's

accomplishments. DOT stated that it would consider our recommendation, although it thought that enforcement time frames might not offer significant benefits or comport with the President's initiative to eliminate excessive regulation. DOT stated that FHWA's current oversight approach of cooperation rather than confrontation with the states was sufficient to maintain compliance with the program's requirements. We agree that DOT and the states have done a good job of providing opportunities for disadvantaged businesses to compete for contracts in the federal-aid highway program. We have examined and in some cases revised the language in our draft report to ensure that this conclusion is clearly conveyed. However, as we report, problems have occurred in cases in which the states did not meet their goals. We agree with DOT that a cooperative rather than confrontational approach to oversight is best. We believe our recommendation could improve FHWA's enforcement record with modest additional effort, without confrontation, and without the need for additional or excessive regulations.

DOT commented that the significance of our analysis on women-owned and minority-owned business participation in the program was not clear since both groups have been considered DBES since passage of the Surface Transportation and Uniform Relocation Assistance Act of 1987. DOT suggested that we delete all references to women-owned and minority-owned businesses from the report. We agree that women-owned business and minority-owned business are both DBES. The Congress directed us, in ISTEA, to provide information on the impact of DBE goals on the groups classified as disadvantaged (see app. I). FHWA requires the states to report annually on the number of DBE contracts and dollars committed to firms owned and controlled by minorities, by nonminority women, and by minority women. We used these data to present our analysis.

Appendix III contains the full text of DOT's comments.

Effectiveness of FHWA's DBE Business Development Training Efforts Is Limited

In addition to providing DBEs with the opportunity to develop by awarding highway construction contracts, FHWA also provides DBEs with business development training and assistance through its supportive services program. However, the effectiveness of this program has been limited. Services were either not available or were unavailable during recent periods in three of the six states that we visited. When services were provided, they varied widely in content and sometimes did not cover key areas of concern such as human resource management, marketing, and information management. The states we visited did not objectively evaluate the success of their supportive services programs, and FHWA's oversight was limited. As a result, FHWA and the states were not able to demonstrate whether the services being provided were contributing to the success and self-sufficiency of the DBEs being served.

FHWA's supportive services program duplicates but is less comprehensive than services provided through the Small Business Administration (SBA). Although not specifically targeted to highway construction firms, SBA's assistance is more widely available than the program FHWA sponsors and provides assistance in several areas that FHWA's program does not. To provide more effective services, FHWA would need to devote time and resources to improving the content and availability of its supportive services program. Doing so seems an unwarranted expenditure of federal resources, as these services are already available to DBEs through SBA. DOT stated that it is considering developing a more focused supportive services program concentrating on the technical skills specific to highway construction.

Many Factors Influence Business Success

According to business development experts, success in business is generally defined by such attributes as revenues, sales, profitability, and growth. While no formula exists for developing a successful business, business development experts in industry, academia, and private and public programs say that factors that influence success include (1) the state of the economy, (2) the availability of business opportunities, and (3) a firm's experience, expertise, and access to capital.

Government budget and fiscal policies designed to promote economic growth can create a climate conducive to success for small disadvantaged businesses. Furthermore, the government enhances business opportunities for disadvantaged businesses through programs such as DOT's DBE program and SBA's section 8(a) program—under which SBA enters into contracts with other federal agencies and subcontracts work to disadvantaged firms

certified to participate in the program. Both programs seek to foster the development of disadvantaged business by providing government contracting opportunities. DOT and several SBA programs also attempt to maximize a firm's experience, expertise, and access to capital through business development and technical assistance. According to our review of leading academic and business literature, the factors that can maximize a firm's experience and expertise include

- access to financial markets, such as lines of credit and bonding;
- well-developed financial management and accounting systems;
- effective information management;
- effective administrative management, including strong human resource management and effective inventory controls;
- core business management, such as marketing knowledge and strategies that create demand for services and products, technical abilities, and general business management; and
- a business plan that addresses short- and long-term goals and organizes, plans, and adapts to changes when the economy is unhealthy.

FHWA's Business Development Training Program

Title 23 U.S.C. section 140(c) authorizes the Secretary of Transportation to conduct training and assistance programs so disadvantaged businesses may achieve proficiency to compete for federal contracts. FHWA is the only DOT agency that offers a formal supportive services program to DBES—the Department's DBE programs for aviation and transit do not have formal supportive services programs. FHWA disbursed about \$7 million to the states for supportive services in fiscal year 1993.

The states that receive federal highway money are encouraged, but not required, to have supportive services programs. FHWA provides funds for such programs, but the states are not required to match these funds. Under FHWA's supportive services regulation, the states have wide latitude in designing their programs. For example, the states may use the supportive services funds to establish an in-house business development program or to contract for one. They are, however, prohibited from using supportive services program funds to pay for training of state employees. FHWA's supportive services regulation encourages the states to provide a range of services, including

- services related to the certification of DBES to increase participation and to ensure that only bona fide disadvantaged businesses are certified;

- estimating, bidding, and technical assistance services to assist DBES in achieving proficiency in the technical skills required in the highway construction field;
- 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 that contribute to the long-term development, increased opportunities, and eventual self-sufficiency of DBES.

FHWA further directs the states to develop a detailed work statement delineating the objectives, content, and accomplishments of the services provided, subject to FHWA's approval. The states are expected to monitor their supportive services program to ensure that they enhance the opportunities for DBES to participate in the federal-aid highway program and contribute to the growth and eventual self-sufficiency of firms. Furthermore, the states or their contractors are required to submit quarterly reports containing sufficient narrative information to allow FHWA to evaluate both progress and problems in the services being provided.

Supportive Services Program Is Limited

Our examination of the supportive services programs in six states revealed that, while some of the programs provide some useful services, the overall effectiveness of FHWA's program is limited. We found that (1) services were not available or were unavailable for lengthy periods in three of the six states we visited; (2) services, when provided, varied widely in content and sometimes did not cover key areas of concern; (3) the states did not have procedures for evaluating whether or to what extent the supportive services being offered were contributing to the growth and eventual self-sufficiency of the DBES being served; and (4) FHWA's oversight of the supportive services programs was limited.

Supportive services were not available or were unavailable for lengthy periods in three of the six states we visited. One state, Connecticut, did not have a supportive services program that provided business development training and assistance directly to DBES. Connecticut officials said that they did not have such a program because of severe budget constraints. But Connecticut did receive supportive services funding, which it used to pay state employees involved in certifying firms for the DBE program. The FHWA Assistant Division Administrator who oversees Connecticut allowed this

practice based on his interpretation of FHWA's supportive services regulations.¹

Georgia did not have a supportive services program during a recent 17-month period. In March 1992, the state's contract with a supportive services consultant expired; the state did not execute a new contract until August 1993. In fiscal year 1992, Colorado did not have a supportive services program that provided business development training and assistance directly to DBES. During this period, Colorado's department of transportation continued to issue a periodic newsletter to DBES apprising them of state contracting opportunities and training offered by state and private agencies. Colorado executed a supportive services contract for technical and business assistance to DBES in fiscal year 1993.

Where services were available, the content varied between states and sometimes did not cover some important areas. For example, although experts believe that marketing and developing effective human resource and information management systems is important to business success, these areas are not included in FHWA's regulation as important areas of training. Moreover, none of the five states' programs included training in these areas. FHWA's regulation does stress the importance of developing a firm's business management and financial accounting capabilities; however, one of the five states that had a supportive services program provided no training in establishing and maintaining financial accounting systems. Two of the five states provided no training in developing a strategic business plan.

None of the states we visited had developed or used objective criteria for evaluating whether or to what extent the services were helping DBES develop and move toward self-sufficiency. The progress reports we reviewed generally described the assistance given and the numbers of firms and individuals served, but did not contain sufficient information to evaluate whether or to what extent the services provided were contributing to the growth and eventual self-sufficiency of the DBES being served. While both FHWA and state officials generally believed that the assistance was beneficial to the DBES, the officials could not demonstrate the extent to which the supportive services were helping DBES develop.

FHWA field offices did not have formal procedures in place for monitoring and evaluating the states' supportive services programs. In some states,

¹We asked DOT, when it was reviewing a draft of this report, to comment on Connecticut's use of supportive services funds. According to a DOT official, the Department was reviewing this question and the review was not completed in time for a response to be included in this report.

FHWA's monitoring was generally limited to reviewing the states' progress reports; in other states, FHWA conducted site visits—including reviews of clients' files and/or extensive interviews with service providers. However, these assessments did not evaluate whether the services being provided were contributing to the development and eventual self-sufficiency of the DBES.

FHWA's Supportive Services Are Less Comprehensive Than Services Already Available Through SBA

The training and assistance provided through SBA's business development programs are more comprehensive and more widely available than those in FHWA's supportive services program. SBA's business development assistance is available through such programs as the Management and Technical Assistance 7(j) Program, the Small Business Development Center Program (SBDC), and the Service Corps of Retired Executives Program (SCORE). These programs provide services similar to those outlined in FHWA's regulation:

- The 7(j) program provides management and technical assistance to eligible small business clients. These services include, among others, record-keeping and financial accounting assistance; production, engineering, and technical advice; marketing analyses; and specialized management training.
- The SBDC works with small business owners to provide counseling, training, and research assistance in areas such as marketing, production, organization, and engineering and technical studies.
- SCORE is a volunteer program in which retired business executives share management and technical expertise with current and prospective owners and managers of small businesses.

These SBA programs provide more training and technical assistance essential to helping small businesses develop than FHWA's supportive services program. For example, SBDC assistance is designed to provide services in a number of areas not covered by FHWA's program, such as marketing, cash flow management, personnel administration skills, and incorporating technological innovations into work processes. The SBDC and SCORE programs, in addition to providing training similar to that of the 7(j) program, also provide one-on-one counseling and individualized services tailored to the needs of the local community and clients. Our 1989 report on SBDCs found that a majority of clients were satisfied with the

assistance they received, would use the centers again if needed, and would recommend them to others.²

The funding level and resources available to SBA give it the ability to provide more extensive program coverage and benefits than FHWA's supportive services can offer. For example, the SCORE program has about 14,000 retired business executives who volunteer their time at more than 700 locations throughout the United States. In fiscal year 1992, SBA provided \$60.5 million of the roughly \$134 million budget for the SBDC program; in comparison, FHWA provided \$7 million to the states for supportive services. The SBDC program is far more accessible to small businesses, with 975 centers and subcenters around the United States; the FHWA program has one or two offices per state. Georgia, for example, has 6 SBDC offices in the Atlanta metropolitan area and 13 others in the state, compared with one consultant's office in downtown Atlanta for the FHWA-funded supportive services program.

The SBDC program also includes a designated staff of business development experts to oversee the program and ensure that centers provide the appropriate type of assistance. This staff is required to perform frequent monitoring visits as well as formal on-site reviews of each center at least once every 2 years. In contrast, FHWA personnel overseeing the DBE program are primarily highway engineers or civil rights officers. In many cases, the officials assigned to review the states' DBE activities did so as an ancillary duty. The personnel descriptions we reviewed for FHWA officials assigned to oversee DBE supportive services did not mention responsibilities for business development oversight or require specific knowledge or expertise in this area.

SBA officials associated with the SBDC, SCORE and 7(j) programs told us that the services they provide can meet the needs of the firms in FHWA's DBE program. These officials stated that the advantage of seeking SBA's assistance is that the network of programs and personnel allows the agency to tailor assistance toward the program or mix of programs best suited to the needs of the applicant firms, recognizing that, for example, a new firm has very different needs than an established one. Furthermore, SCORE and SBDC stated that about 40 percent of their client firms are women-owned businesses, while about 15 percent are minority-owned firms. Neither SBA nor DOT had information on how many DBE firms already

²Small Business: Development Centers Meet Counseling Needs of Most Clients (GAO/RCED 90-38BR, Nov. 22, 1989).

receive SBA assistance; however, in one state the SBDC is the highway agency's supportive services contractor.

SBA programs have not been without their problems. For example, during SBA's fiscal year 1993 appropriations hearings, congressional concerns were raised about potential fraud and a lack of SBA oversight of the SBDC program. We reported in September 1993 that the effectiveness of the 7(j) program was in doubt because SBA lacked objective criteria for evaluating the services provided to its customers.³ SBA managers relied primarily on reports describing the content of the assistance provided, not unlike the reports we reviewed on FHWA's supportive services programs. SBA has begun taking steps to correct problems in its programs. For example, in November 1992, SBA headquarters directed its 10 regional offices to provide monthly information on the types of 7(j) assistance being provided, and in July 1993, SBA entered into a contract to develop performance criteria for assessing the effectiveness of assistance under the 7(j) program.

DOT Is Studying Supportive Services Programs in Several States

In commenting on a draft of this report, DOT said that the intent of the supportive services program is to focus on the unique technical skills that DBES need to compete in the highly specialized highway construction industry, such as estimating costs, calculating quantities of construction materials, and reading construction plans. DOT told us that while the supportive services program has not always provided the intended services, the Department is encouraged by actions FHWA is taking in the southeastern United States in developing classroom training for DBES.

According to DOT and FHWA, DBES attend classroom sessions each year at area universities in several states. According to information provided by FHWA, the curricula for these sessions vary between states and include topics such as plan reading, cost estimation, bidding strategies and procedures, and project scheduling and planning. Two states include bid simulations, in which participants prepare a bid proposal and a mock contract award is made. These programs also include general business management and accounting training, as well as instruction in the laws governing contracts, labor relations, equal opportunity, payroll, and sexual harassment.

³Small Business: Problems Continue With SBA's Minority Business Development Program (GAO/RCED-93-146, Sept. 17, 1993).

In August 1993, FHWA awarded a contract to Kentucky State University to develop a curriculum for a uniform classroom program in FHWA's southeast region. The intent is to harmonize the curriculum between the states that currently offer the program and to expand it to the states that do not. This contract was funded with supportive services program funds. According to DOT, these programs may, after further experience, be used as a national model. In addition, DOT is considering including a provision in the revised DBE regulation that would allow FHWA to mandate this program on a state-by-state basis.

Conclusions

FHWA's supportive services program is limited in its effectiveness in helping DBES achieve proficiency in competing for federal highway construction contracts. In addition, it duplicates but is less comprehensive than the services already offered by SBA. Although DOT said that the intent of the supportive services program is to focus on the unique technical skills that DBES need to compete in the highway construction industry, the program FHWA has in place today does not have this focus. The states have wide latitude in designing programs, and FHWA's supportive services regulation encourages them to provide a range of services, including general business management services, that are similar to SBA's programs. Furthermore, SBA's business development programs are more comprehensive and more widely available than FHWA's supportive service program.

To provide more effective services, FHWA would need to ensure that services are available to firms in every state, that these services cover key areas of concern, and that the programs are properly evaluated. But the time, effort, and money needed to accomplish these ends would compete for scarce resources with other priorities within FHWA and DOT. Given that the outcome of such an effort might be to attain a level of availability and content of supportive services comparable to services already available to DBES through SBA, we believe that such an effort would be an unwarranted and duplicative expenditure of federal resources.

SBA's primary mission is the development of small businesses. To accomplish that mission, SBA has an extensive nationwide structure of programs, centers, and people. Although SBA has problems, it is better equipped by design to provide the technical assistance and training needed to help develop disadvantaged businesses than FHWA is. Coordination with SBA would help FHWA determine what areas, if any, SBA assistance does not cover. This information could then be incorporated into FHWA's ongoing development of a more focused technical assistance program. If FHWA

determines that a more focused, leaner technical assistance program for DBEs is warranted, it may want to request funding from the Congress. But we see no need to continue a supportive services program that provides services similar to SBA's and does not meet the developmental needs of firms in the DBE program.

Matter for Congressional Consideration

Because FHWA's supportive services program has been limited in effectiveness and duplicative of SBA's program, the Congress may wish to consider terminating the program and limiting any future funding for business development assistance under the DBE program to services that address unique highway construction skill needs and do not duplicate services offered by SBA.

Agency Comments and Our Evaluation

In commenting on a draft of this report, DOT stated that—while it is sensitive to the goal of reducing duplication between FHWA's and SBA's programs—it disagreed with our matter for congressional consideration on terminating FHWA's supportive services program. While acknowledging that the program has not always provided the intended services, DOT stated that because the intent of the supportive services program is to focus on the unique technical skills that DBEs need to compete in the highly specialized highway construction industry, certain services are beyond the scope of SBA's business development training and assistance programs. DOT and FHWA provided information on programs in several southeastern states that DOT said may, after further experience, become the model for a national supportive services program. DOT said that it is considering regulatory revisions to mandate such a program on a state-by-state basis. The full text of DOT's comments is reproduced in appendix III.

After carefully reviewing DOT's position, we continue to believe that the Congress should consider terminating FHWA's existing supportive services program. We have incorporated the information DOT and FHWA provided about the classroom programs in the southeast into the report and have revised our matter for congressional consideration to recognize that DOT is considering modeling a national, mandatory program on these programs sometime in the future. We continue to have two concerns about the Department's position. First, we are not convinced that the technical skills required to estimate costs, order materials, and undertake other activities are wholly unique and specific to the highway construction industry. While certain technical skills are no doubt unique, DOT has not yet coordinated with SBA to determine which SBA programs would and which would not

meet the needs of DBE firms. Second, while DOT said that supportive services are "intended to be focused" on the specific technical skills unique to the highway construction industry, this does not describe the program FHWA has in place today. In its comments, DOT envisions a leaner, more focused, and substantially different supportive services program. We believe that after DOT works with SBA, it will be in a better position to assess what areas, if any, SBA programs do not cover and to incorporate that knowledge into a more focused and targeted program.

In its comments, SBA did not directly address our matter for congressional consideration on the supportive services program. SBA did note, however, that it has long administered management and technical assistance programs for socially and economically disadvantaged small businesses owners. SBA's comments are reproduced in appendix IV.

Certification in and Graduation From the DBE Program

To participate in the DBE program, a firm must be certified by the state it wants to do business in. With guidance from FHWA and DOT, each state is expected to examine whether applicant firms are small businesses owned and controlled by disadvantaged individuals. The states generally do not assess whether a firm has the financial or performance capabilities to do highway construction or related work. Insufficient evidence exists to suggest that changes to the DBE certification process are needed to require applicant firms to demonstrate performance and financial capabilities before being certified.

While each state has its own certification process, some states have entered into agreements with other states to use the same application forms or to generally accept each other's certifications. More widespread use of such agreements has been suggested to reduce time and paperwork burdens on small businesses applying for the DBE program and on the states reviewing such applications. However, the effectiveness of greater reciprocity in the states' certification processes will be diminished until the problems in the quality and consistency of federal eligibility guidance described in our September 1992 report are resolved.¹

FHWA's guidelines state that a DBE firm must be annually recertified by the state. Provided the firm is recertified, there is no limit on the amount of time it may remain in the program. By definition, a DBE firm "graduates" when its average gross revenues over a 3-year period exceed the ceiling established by law for small business assistance. If its revenues later fall below the ceiling, it may reapply for the program. Few DBEs graduate from the program; however, graduation only measures a firm's average gross revenues and is not a reliable indication of the success of either individual DBE firms or the DBE program as a whole. DOT has not used graduation, or established any other mechanism, to measure the success of the DBE program in developing small businesses capable of obtaining contracts on the open market.

Performance and Financial Capabilities

Most states do not require DBEs to demonstrate specific job-related performance and financial capabilities before entering the program. Historically, determining the performance and financial capability of subcontractors has been the prime contractor's responsibility and, as such, an inherent risk in undertaking a highway construction contract. Typically, if a subcontractor could not complete its work, the prime

¹Highway Contracting: Disadvantaged Business Eligibility Guidance and Oversight Are Ineffective (GAO/RCED-92-148, Sept. 1, 1992).

contractor either found another subcontractor or completed the work itself. When using a DBE subcontractor, however, a prime contractor—which has DBE goals contained in its contract with the state—must usually try to secure another DBE subcontractor rather than completing the unfinished work itself.

Two of the six states we visited required DBEs to demonstrate specific job-related performance and financial capabilities before entering the program. Connecticut and Michigan required DBEs to demonstrate that they had qualified personnel, ample work experience, and sufficient financial resources to complete work in particular specialty areas. These states listed disadvantaged firms in their DBE directories by those specialty areas—such as landscaping and traffic control—that the state had determined the firm was capable of performing in.

Federal laws and regulations are currently silent on the states' responsibility in assessing DBE performance and financial capabilities. However, the preamble to DOT's proposed DBE regulation says that if the states prequalify DBEs for performance and financial capabilities, then they must similarly assess all contractors doing business in the state. Officials in both Connecticut and Michigan told us that they expect to be challenged on their certification procedures if and when DOT's new regulation becomes effective.

Our discussions with FHWA, state, and industry officials in the six states that we visited provided a variety of views on whether the states should require DBEs to meet performance and financial capability criteria before receiving DOT contracts. DBEs that we interviewed also took both sides of the issue. On the one hand, it was argued that requiring a firm to meet a prequalification requirement would provide a means of assessing the firm's financial status and its ability to perform work in particular areas. State and industry officials in one state believed that this would prevent DBEs from taking on too much work and getting overextended, thus minimizing the risk that they could not perform all the work contracted for. Furthermore, it was argued that requiring DBEs to meet performance and financial requirements would allow prime contractors to obtain higher levels of bonding, thereby reducing the risk to the prime contractor and to the project as a whole.

On the other hand, officials argued that requiring DBEs to meet performance and financial capability criteria would place an inequitable and undue burden on them, since they would have to prepare additional

paperwork and incur additional costs not being required of other subcontractors. Numerous officials contended that performance problems with DBEs are no more common than performance problems with other subcontractors and that an additional certification process for performance and financial capability is not necessary. Finally, it was argued that performance and financial capability requirements ultimately do not provide assurance that a contractor can and will complete a contract.

Performance and financial capability requirements similar to Michigan's and Connecticut's will probably not be permitted under DOT's proposed new regulation; thus, either permitting or requiring the states to set criteria might require action by the Congress or DOT. In our discussions with FHWA and state officials in the six states that we visited, we found no evidence that performance problems with DBEs are any more common or severe than performance problems with other, non-DBE subcontractors.

Uniform Certification and Reciprocity

Until steps are taken to improve the quality and consistency of federal guidance on DBE eligibility, the value of increased reciprocity among the states' DBE certification processes is questionable. The states use two different types of coordinated certification arrangements. Uniform certification occurs when the states use the same application form and require the same information from applicants.² Reciprocity occurs when the states accept each other's eligibility certifications. Since many DBEs seek certification in more than one state, the goal of both uniform certification and reciprocity is to reduce the administrative burden and paperwork for both DBEs and the states. At the time of our review, states in two of FHWA's nine regions had uniform certification agreements, while states in two regions had a modified reciprocity agreement, in which the states used their own discretion in honoring other states' certifications. No state had both types of agreement.

In ISTEA, the Congress asked us to examine whether the certification process should be uniform and permit state-to-state reciprocity. Since 1988, state agencies have received thousands of new DBE applications each year. For each application, the states must determine whether the applicant meets the eligibility standards contained in federal law and

²In its proposed DBE regulation, DOT also uses the term "uniform certification" to refer to a coordinated intradepartmental certification process. For example, under such a system, FHWA would accept DBEs certified by airport or transit authorities under the Federal Aviation Administration's and the Federal Transit Administration's DBE programs, respectively. This report does not address that issue.

regulations. To interpret and apply these standards, the states rely on more specific and detailed eligibility guidance provided by FHWA and DOT.

The states do not apply this eligibility guidance in the same way. As we reported in September 1992, DOT and FHWA have issued eligibility guidance to the states that is confusing and sometimes conflicting.³ As a result, interpretations of key eligibility criteria vary among the states. For example, our report found that DOT had issued conflicting guidance on the criteria a disadvantaged owner must meet to demonstrate that he or she controls a firm. Certification officials in two states told us that, according to their interpretation of that guidance, disadvantaged owners could not rely on the expertise of nondisadvantaged employees to manage a firm's critical operations. However officials in six other states said that owners could rely on such employees. Officials in one state used both interpretations. We recommended that DOT develop a uniform order or instruction delineating federal eligibility policy and designate a lead office for developing, updating, and coordinating the dissemination of policy and implementing guidance.

DOT recognized the problems with the federal eligibility guidance and, in response to our September 1992 report, stated it would take several steps to improve its consistency and quality. These steps included providing more explicit eligibility guidance as part of the Department's revised DBE regulation and establishing an intradepartmental DBE council to review and clear all guidance to the states. As of February 1994, DOT had not issued its revised regulation, and the proposed DBE council was not in place. Until these steps are taken, the value of increased uniform certification and reciprocity among the states—while a laudable goal—will be diminished.

Graduation Does Not Equate to Success

Although few firms graduate from the DBE program, graduation is not a good measure of either the success of individual DBE firms or of the DBE program as a whole. The DBE program has no limit on the time firms may remain in the program, and DOT has not used graduation as a measure of the program's success. DOT has used the attainment of contract goals to measure the success of the DBE program in meeting its goal of providing contracting opportunities to disadvantaged firms. However, it has not developed an alternative performance measure for evaluating the success of individual DBE firms or the success of the DBE program as a whole in helping small businesses develop, another goal of the program.

³Highway Contracting: Disadvantaged Business Eligibility Guidance and Oversight Are Ineffective (GAO/RCED-92-148, Sept. 1, 1992).

When a firm's average gross annual receipts over a 3-year period exceed \$15.37 million per year, it is no longer classified by law as a small business for the purpose of government assistance and is thus no longer eligible to participate in the DBE program. Some firms have lower thresholds because the revenues they receive for their work are lower. For example, in the DBE program architectural and engineering firms (used in the planning and design phases of highway construction projects) are limited to \$2.5 million in average gross revenues over a 3-year period. If the average gross annual receipts of a DBE firm that has graduated subsequently fall below its applicable limit, the firm may reapply for DBE certification.

Graduation Is Not a Good Measure of Success

The term "graduation," as used in the DBE program, is a misnomer. In common parlance, graduation conveys successful movement from one stage of experience, proficiency, or prestige to a higher level. In the DBE program, graduation conveys movement only in the size of the firm. Viewing graduation in the traditional sense of the term implies that DBE firms have moved beyond the developmental environment of the DBE program to a new level of success and self-sufficiency. Therefore, a link would exist between the time spent in the program, revenue growth, and the eventual success and self-sufficiency of a disadvantaged business. We found several problems with this view:

- Growth in a firm's gross receipts may not necessarily equate to success. For example, a firm could see growth in its revenues overtaken by growth in its liabilities or debt. A DBE firm could also enter the program with average gross revenues already near the limit and graduate with only a modest increase in business.
- Business, industry, and academic literature we reviewed and experts we consulted said that neither a firm's revenues nor the time the firm has spent in a government assistance program like FHWA's DBE program is indicative of its overall business success or of its ability to be successful over the long term.
- Graduation only measures a firm's average gross revenues and does not take into account other financial and management factors that contribute to the success of a business, such as access to capital, the firm's expertise, appropriate investment in human resources, and the development of effective financial and information management systems.
- There may not be a causal relationship between participation in the DBE program and a firm's subsequent growth. For example, one graduated firm we examined never sought or received highway construction contracts while certified in the DBE program. The firm obtained DBE status so that it

could compete for Department of Defense contracts. Another DBE firm graduated because it merged with another firm.

Few Firms Graduate

In ISTEA, the Congress asked us to determine the extent to which firms graduate from the DBE program, how many graduated DBE firms had been in the program for 3 years or more, whether the graduation of any DBES could have been accelerated, and the extent to which DBE firms continued to receive highway construction contracts after leaving the program.

From fiscal years 1988 through 1992, fewer than 1 percent of DBE firms graduated from the DBE program in the six states that we visited. Most had been in the program 3 years or more. Participation in the DBE program is fluid—each year hundreds of new firms are certified, and many are not granted recertification. Our examination of FHWA's survey data on certification for the six states showed substantial changes in the certified firms each year. In each year, the number of graduated firms represented roughly between one-tenth and one-half of 1 percent of the firms that were certified during that fiscal year. Table 4.1 shows the number of firms that had graduated in each fiscal year.

Table 4.1: DBE Graduates in the Six States, Fiscal Years 1988-92

Fiscal year	Total number of certified DBEs	Total number of graduates
1988	2,282	5
1989	3,385	4
1990	2,799	9
1991	3,698	9
1992	4,717	17

In total, 44 firms graduated; 34 firms had been in the program at least 3 years, and 10 had been in the program less than 3 years. A substantial number of the DBES that graduated should have graduated earlier. Thirty of the firms—two-thirds of the graduates—could have graduated 1 to 4 years sooner than they did. State officials attributed these discrepancies to reciprocity agreements and misapplication of size limits. For example, some firms were certified because they had been certified in another state. However, financial information was slow to come from the other states, and state officials said that the firms that should have graduated subsequently did, when information became available. Also, officials in one state said that size limits were applied incorrectly when state analysts

used outdated standards. These officials said this problem occurred because FHWA had not apprised them of regulatory changes to those limits.

In fiscal year 1992, 2,270 DBE firms in the six states had been in the program for at least 3 years and had not graduated. We reviewed 10 randomly selected files in each state and found that one firm that should have graduated did not.

DBE graduates in the states we visited continued to receive contracts from the states for highway construction work after they graduated. Among the 44 graduates, at least 20 received contracts from the state while they were in the program.⁴ Fourteen firms continued to receive contracts after they had graduated.

FHWA has been required to report the number of firms that have graduated—that is, exceeded the size standards—since fiscal year 1988. However, we found these data to be generally unreliable in the six states that we visited. State officials told us that the data on the number of graduates were constructed largely from memory, and our review of state DBE records revealed significant discrepancies between reported and confirmed number of graduates. As a result, we based the information on graduates presented in this report on our review of records in the six states visited.

DBE Program Has No Performance Measures for Success

The DBE program has no limit on the time a firm can remain in the program, and DOT has not articulated graduation as either a goal of the DBE program or as a measurement of its success. DOT has used the attainment of contract goals to measure the success of the DBE program in meeting its goal of providing contracting opportunities to disadvantaged firms. However, it has not developed an alternative performance measure for evaluating the success of individual DBE firms or the success of the DBE program as a whole in helping small businesses develop, another goal of the program.

Recognizing that the DBE program has no graduation requirements or time limits for participation, the Congress asked us in ISTEA to examine the number of years that disadvantaged businesses take to become successful and the number of years that they should appropriately be included in the DBE program. Our examination of academic and industry literature and our

⁴It should not be assumed that the other 24 certified DBE firms did not receive contracts. DBEs are sometimes certified in more than one state, and some of these 24 firms received contracts from other states while in the program.

discussions with state and federal officials found no consensus on these questions. Most representatives from industry groups, states, and DBE and non-DBE highway contractors responded that a small business takes 5 to 15 years to become successful. DOT received similar estimates in the comments that it received on its proposed DBE regulation. Many people noted that the first 5 years of a business's existence are the most critical to survival; one academic expert noted that most businesses that fail do so in the first 3 years. We did not find quantifiable data that showed a difference in the time it takes to become successful between disadvantaged and nondisadvantaged small businesses.

We also found no consensus in academic and industry literature on the role and benefit of governmental assistance programs like FHWA's DBE program. Consequently, a "right" amount of time for disadvantaged firms to participate in a developmental program such as the DBE program does not appear to be readily definable.

Conclusions

DOT's position is that the states will be prohibited from formally determining whether DBES possess the performance and financial capabilities to do highway construction work unless such a determination is made for all contractors and subcontractors. We believe that DOT's position is appropriate. State prequalification requirements tend to shift the burden of determining a subcontractor's capability from the prime contractor to the state. We found no demonstrated need to shift that burden as a matter of national policy. Most federal, state, and contractor officials we spoke to asserted that DBES' performance was no better or worse on federal-aid highway projects than subcontractors' performance overall.

Greater uniformity and reciprocity in the states' certification processes could reduce paperwork and mitigate the administrative burden on both the states and the firms. This is a laudable goal. But without clear federal guidance, the problem of inconsistent application by the states of DBE eligibility criteria noted in our earlier report would only be compounded. We believe that greater use of reciprocal agreements between the states is possible, but not until DOT revises its DBE eligibility criteria and enacts the corrections outlined in our September 1992 report.

While assisting the development of disadvantaged firms is an important goal of the DBE program, no reliable performance measures exist for measuring whether the program is meeting that goal. Some have tended to

use graduation to measure success because it is one of the few quantifiable indicators of movement available in the DBE program. Just as DOT uses the attainment of contract goals to measure the success of efforts to provide DBES with contracting opportunities, performance measures that evaluate the progress of efforts to help DBE firms develop could assist DOT and the Congress in assessing whether the DBE program is meeting its goal of assisting disadvantaged business in their development. Such measures could be constructed in conjunction with SBA and, while difficult to create, could include a firm's financial health—considering not only average gross revenues but also liabilities. Another measure could be an assessment of how well a firm has accomplished the types of activities that contribute to the success of a business, such as gaining access to financial markets, developing a business plan, and creating effective financial, inventory, and accounting systems. Nevertheless, even if a quantifiable means of assessing the accomplishments of the DBE program is created, different firms will take different periods of time to develop. Therefore, a time limit on participation in the DBE program would likely be nothing more than an arbitrary selection of the number of years a firm is allowed to participate in the program.

Recommendation to the Secretary of Transportation

We recommend that the Secretary of Transportation, in consultation with the Administrator, SBA, develop performance measures for evaluating the progress of the DBE program in helping disadvantaged firms develop into self-sustaining businesses capable of competing for contracts on the open market.

Agency Comments and Our Evaluation

In commenting on our draft report, DOT stated that while it would consider adopting our recommendation, it might be more appropriate for SBA to develop performance measures. DOT pointed out that performance measures already exist for assessing whether the DBE program meets its congressional mandate of expending no less than 10 percent of federal-aid highway funds with DBES. We agree that providing DBES with contracting opportunities is an important goal of the program. But DOT has also articulated that helping DBE firms develop is a program goal. In its comments, DOT stated that one purpose of its business development activities is to assist DBE firms in moving beyond the low-capital, low-technology fields that have traditionally been the areas of largest DBE participation. To our knowledge, DOT has not previously articulated this as a desired outcome of the program. We believe it is important for DOT to

clearly identify both the business development goals of the DBE program and the factors that could be used to measure its success.

DOT took issue with our use of the term "graduation" in this chapter. While DOT stated that it recognized that the Congress used the term in ISTEA (see app. D), it also said that graduation does not exist in the DBE program. According to DOT, exceeding the size standards causes a firm to become ineligible, much like a firm's acquisition by a nondisadvantaged individual would cause it to become ineligible. We agree that DOT does not use "graduation" as a measurement tool in the DBE program and believe that our report gives proper perspective to the confusion surrounding the term and to the limitations of its use. However, we would note that since fiscal year 1988, FHWA has required the states, as part of their annual reports on DBE certifications, to report the number of firms that have "graduated." In its instructions to the states, FHWA said that this "refers to firms which have left the program because they have exceeded the size standard."

SBA, in its comments, stated that it would welcome the opportunity to work with DOT to explore ways to accurately measure the success of the DBE program in helping disadvantaged firms develop into self-sustaining businesses. DOT's and SBA's comments are reproduced in appendixes III and IV, respectively.

Section in the Intermodal Surface Transportation Efficiency Act of 1991 Mandating GAO's Study

The following is the text of the section in the Intermodal Surface Transportation Efficiency Act of 1991 mandating GAO's study. Page numbers refer to the pages in this report where the information requested is presented.

Title I, Section 1003, (b), (5):

(5) Study.

(A) In General. The Comptroller General shall conduct a study of the disadvantaged business enterprise program of the Federal Highway Administration (hereinafter in the paragraph referred to as the "program").

(B) Contents. The Study under this paragraph shall include the following:

(i) Graduation. A determination of

(I) the percentage of disadvantaged business enterprises which have enrolled in the program and graduated after a period of 3 years;

(II) the number of disadvantaged business enterprises which have enrolled in the program and not graduated after a period of 3 years;

(III) whether or not the graduation date of any of the disadvantaged business enterprises described in subclause (II) should have been accelerated;

(See pp. 43 and 44.)

(IV) since the program has no graduation time requirements, how many years would appear reasonable for disadvantaged business enterprises to participate in the program;

(V) the length of time the average small nondisadvantaged business enterprise takes to be successful in the highway construction field as compared to the average disadvantaged business enterprise; and

(See pp. 44 and 45.)

(VI) to what degree are disadvantaged business enterprises awarded contracts once they are no longer participating in the disadvantaged business program.

(See pp. 43 and 44.)

(ii) **Out-of-State Contracting.** A determination of which State transportation programs meet the requirement of the program for 10 percent participation by disadvantaged business enterprises by contracting with contractors located in another State and a determination to what degree prime contractors use out-of-state disadvantaged business enterprises even when disadvantaged business enterprises exist within the State to meet the 10 percent participation goal and reasons why this occurs.

(See pp. 22 and 23.)

(iii) **Program Adjustments.** A determination concerning whether or not adjustments in the program could be made with respect to Federal and State participation in training programs and with respect to meeting capital needs and bonding requirements.

(iv) **Success Rate.** Recommendations concerning whether or not adjustments described in clause (III) would continue to encourage minority participation in the program and improve the success rate of the disadvantaged business enterprises.

(See pp. 28-37.)

(v) **Performance and Financial Capabilities.** Recommendations for additions and revisions to criteria used to determine the performance and financial capabilities of disadvantaged business enterprises enrolled in the program.

(See pp. 38-40.)

(vi) **Enforcement Mechanisms.** A determination of whether the current enforcement mechanisms are sufficient to ensure compliance with the disadvantaged business enterprise participation requirements.

(See pp. 18-20.)

(vii) **Additional Costs.** A determination of additional costs incurred by the Federal Highway Administration in meeting the requirement of the program for 10 percent participation by disadvantaged business enterprises as well as a determination of benefits of the program.

(See pp. 12 and 13.)

(viii) Effect on Industry. A determination of how the program is being implemented by the construction industry and the effects of the program on all segments of the industry.

(See pp. 24 and 25.)

(ix) Certification. An analysis of the certification process for Federal-aid highway and transit programs, including a determination as to whether the process should be uniform and permit State-to-State reciprocity and how certification criteria and procedures are being implemented by the States.

(See pp. 40 and 41.)

(x) Goals. A determination of how the Federal goal is being implemented by the States, including the waiver process, and the impact of the goal on those individuals presumed to be socially and economically disadvantaged.

(See pp. 16-18 and 20-22.)

(C) Report. Not later than 12 months after the date of the enactment of this Act, the Comptroller General shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives a report on the results of the study conducted under this paragraph.

States' DBE Goals and Goal Achievements, Fiscal Years 1989-93

State	Fiscal year 1989		
	Goal	Actual	Diff.
Alaska	12	15.2	
Ala.	10	10.8	
Ark.	10	11.2	
Ariz.	10	12.2	
Calif.	20	17.9	-2.1
Colo.	10	14.7	
Conn.	10	12.5	
D.C.	37	68.9	
Del.	10	18.4	
Fla.	10	15.5	
Ga.	10	10.6	
Hawaii	18	24.0	
Iowa	10	11.8	
Idaho	10	27.2	
Ill.	10	13.1	
Ind.	10	11.9	
Kans.	10	10.1	
Ky.	10	14.6	
La.	10	10.9	
Mass.	11	14.5	
Md.	13	14.4	
Maine	10	10.6	
Mich.	15	16.4	
Minn.	10	10.2	
Mo.	10	15.7	
Miss.	10	13.6	
Mont.	10	11.7	
N.C.	10	10.9	
N.Dak.	10	8.0	-2.0
Nebr.	10	11.4	
N.H.	10	11.2	
N.J.	10	15.0	
N.Mex.	11	20.8	
Nev.	10	15.4	
N.Y.	17	17.9	
Ohio	10	20.9	
Okla.	10	27.1	

**Appendix II
States' DBE Goals and Goal Achievements,
Fiscal Years 1989-93**

Fiscal year 1990			Fiscal year 1991			Fiscal year 1992			Fiscal year 1993		
Goal	Actual	Diff.	Goal	Actual	Diff.	Goal	Actual	Diff.	Goal	Actual	Diff.
12	14.3		12	14.4		12	15.1		10	16.1	
10	13.7		10	10.6		10	21.5		10	13.9	
10	11.2		10	10.5		10	13.2		10	11.4	
10	11.6		10	13.7		10	12.2		10	10.3	
20	20.3		20	19.5	-0.5	20	20.3		20	22.8	
10	11.1		10	12.3		10	14.5		10	14.9	
10	11.2		10	11		10	17.7		11	17.3	
37	42.0		37	48.7		37	69.9		10	21.0	
10	12.6		10	11.3		10	14.0		10	15.2	
10	15.3		10	12.7		10	14.6		10	15.1	
10	11.2		10	11.8		10	12.0		10	11.4	
18	6.3	-11.7	18	14.7	-3.3	10	7.3	-2.7	10	25.4	
10	11.0		10	9.3	-0.7	10	10.2		10	10.7	
10	11.5		10	16.7		10	13.6		10	11.3	
10	11.2		10	13.6		10	11.7		10	12.7	
10	13.5		10	13.3		10	12.3		10	14.2	
10	11.1		10	12.5		10	10.9		10	11.8	
10	11.6		11	14.4		11	13.6		11.5	12.5	
10	8.7	-1.3	10	10.0		10	13.4		10	14.8	
11	16.8		11	14.6		11	12.0		11	11.6	
13	13.4		13	14.9		10	13.8		13	14.6	
10	12.9		10	12.4		10	10.5		10	10.1	
15	16.3		15	18.1		15	13.0	-2.0	13.5	15.3	
10	10.7		10	9.3	-0.7	10	11.1		10	11.9	
10	12.1		10	11.1		10	12.8		10	12.6	
10	14.2		10	16.8		10	12.5		10	14.0	
10	17.9		10	14.5		10	18.0		10	17.9	
10	10.0		10	11.2		10	11.1		10	12.1	
10	6.6	-3.4	10	9.3	-0.7	10	6.5	-3.5	10	11.9	
10	10.0		10	10.5		10	9.6	-0.4	10	11.7	
10	17.8		10	12.7		10	11.6		10	19.4	
10	12.7		10	15.4		10	16.5		10	12.1	
11	12.3		11	15.6		11	15.9		11	17.8	
10	36.4		10	28.7		10	11.1		10	11.3	
17	17.9		17	19.2		17	19.9		14	18.4	
10	12.8		10	15.8		10	15.4		10	10.5	
10	20.7		10	22.6		10	18.6		10	18.8	

(continued)

**Appendix II
States' DBE Goals and Goal Achievements,
Fiscal Years 1989-93**

State	Fiscal year 1989		Diff.
	Goal	Actual	
Oreg.	12	12.8	
Pa.	10	13.4	
P.R.	40	45.6	
R.I.	10	14.2	
S.C.	10	14.2	
S.Dak.	10	10.6	
Tenn.	10	14.2	
Tex.	10	11.7	
Utah	10	11.9	
Va.	12	13.6	
Vt.	13	18.3	
Wash.	16	17.3	
Wisc.	10	13.9	
W.Va.	10	11.5	
Wyo.	10	11.2	

**Appendix II
States' DBE Goals and Goal Achievements,
Fiscal Years 1989-93**

Fiscal year 1990			Fiscal year 1991			Fiscal year 1992			Fiscal year 1993		
Goal	Actual	Diff.	Goal	Actual	Diff.	Goal	Actual	Diff.	Goal	Actual	Diff.
12	13.3		12	14.0		12	13.4		12	12.9	
10	11.6		10	11.7		10	13.1		10	14.5	
40	49.4		30	58.1		30	94.9		60	113.2	
10	15.1		10	11.4		10	9.1	-0.9	10	13.6	
10	11.4		10	9.8	-0.2	10	10.6		10	11.5	
10	9.4	-0.6	10	11.1		10	11.7		10	11	
10	10.0		10	11.6		10	10.6		10	10.4	
10	12.8		10	12.6		10	12.8		10	38.3	
10	15.1		10	11.7		10	12.2		10	12.5	
12	15.7		12	16.1		12	15.9		12	16.1	
13	26.2		10	18.8		10	16.8		10	17.9	
16	21.6		16	20.3		16	12.9	-3.1	16	17.3	
10	13.3		10	12.4		10	10.8		10	10.8	
10	11.8		10	11.5		10	12.1		10	9.7	-0.3
10	11.1		10	12.2		10	11.5		10	11.9	

Note: Differences are shown only when the goals were not attained.

Source: GAO's analysis of FHWA's data.

Comments From the Department of Transportation

Note: GAO comments supplementing those in the report text appear at the end of this appendix.



U.S. Department of
Transportation

Assistant Secretary
for Administration

400 Seventh St. S.W.
Washington, D.C. 20590

May 27, 1994

Mr. Kenneth Mead
Director, Transportation Issues
U.S. General Accounting Office
441 G Street, N.W.
Washington, D.C. 20548

Dear Mr. Mead:

Enclosed are two copies of the Department of Transportation's comments concerning the U.S. General Accounting Office draft report titled, "Highway Contracting: Improvements Needed in DOT's Disadvantaged Business Enterprise Program," RCED-94-168.

Thank you for the opportunity to review this report. If you have any questions concerning our reply, please contact Martin Gertel on 366-5145.

Sincerely,

for Paul Wilson
Jon H. Seymour
Enclosures

DEPARTMENT OF TRANSPORTATION (DOT) REPLY

TO

GENERAL ACCOUNTING OFFICE (GAO) DRAFT REPORT

ON

"Highway Contracting:

Improvements Needed in DOT's

Disadvantaged Business Enterprise Program"

RCED-94-168

SUMMARY OF GAO FINDINGS AND RECOMMENDATIONS

The GAO draft report concluded that the Federal Highway Administration (FHWA) and the states were very successful in running effective Disadvantaged Business Enterprise (DBE) programs that enabled DBEs to participate in Federal highway construction expenditures throughout the country. Overall, the GAO draft report concluded that FHWA and the states have done a good job of providing opportunities for DBEs to compete for contracts in the Federal-aid highway program. In fiscal year 1993, \$2.2 billion or about 16 percent of the nearly \$14 billion spent in the Federal-aid highway program represented contracts awarded to DBEs. Nonetheless, the GAO draft report maintains that the program could be further fine-tuned by implementing required milestones for FHWA and state actions and creating additional measurements of the program's success.

The draft report recommends that the Secretary of Transportation direct the FHWA Administrator to take the following actions.

- (1) Issue additional guidance to states and to FHWA field offices on procedures for following up when states do not meet agreed DBE contracting goals. In particular this guidance should contain timeframes for (a) states to submit justifications, (b) FHWA to respond to states' justifications, and (c) FHWA to follow up on directed corrective actions.
- (2) Work in consultation with the Small Business Administration (SBA) Administrator to develop performance measures for evaluating the progress of the DBE program in developing disadvantaged firms into self sustaining businesses capable of competing for contracts on the open market.

DEPARTMENT OF TRANSPORTATION POSITION

The Department is pleased that the GAO draft report recognized FHWA's and the states' achievements in providing opportunities for DBEs to participate in Federal-aid highway program contracts. In fiscal year (FY) 1993 more than \$3.6 billion in the Department's funds were awarded to DBEs with \$2.2 billion of that in the highways area alone. While we continue to pursue opportunities to fine-tune the DBE program, it has been extremely effective in ensuring that DBEs participate in the activities funded by the Department. The revised final rule governing the Department's operation of the DBE program, expected to be issued in the summer of 1994, will further contribute to the program's effectiveness and uniformity in implementation. Overall, we maintain that the GAO draft report could better recognize the program's significant accomplishments in terms of expanded opportunities it has provided for DBEs, nearly universal compliance with DBE requirements on the part of states, and record of consistently improving operation.

The Vast Majority of States Achieve Their DBE Goals

Consistently, since the inception of the DBE program, the preponderance of states have met or exceeded their DBE goals. Most recently, in FY 1993 only 1 of the 52 state highway departments missed full achievement of its DBE goal, and this state missed its goal by only 3 percent. The remaining 51 highway departments achieved or surpassed their goals by as much as 280 percent. Overall, the national average was 16.1 percent of highway contracting dollars going to DBEs, surpassing the statutory standard of not less than 10 percent. We maintain that these achievements are the results of a highly successful program. While we agree that additional fine-tuning is always possible, overall the program has consistently and effectively achieved its goals.

While the Department expects all states to achieve the goals they set, the GAO report could clarify, especially in the Results In Brief section, that in the past a significant proportion of the states that did not meet their goal had set goals in excess of 10 percent. For example, the report indicates that in 1989, California did not meet its DBE goal; however, the state had established a goal of 20 percent and managed to achieve DBE participation in highway contracting amounting to 18 percent of its highway funds. In addition, we maintain that the summary statistics presented in the draft report's Results In Brief convey an unduly negative and confusing perspective of the program. In any given year no more than 6 states have missed their goals, and most recently only 1 state missed its goal. In addition, it could be noted that only 2 states have missed their goals in successive years. In those 2 cases where compliance was not achieved, FHWA has taken extensive action to work with the states to ensure that they meet subsequent goals. In some cases, regional administrators and the FHWA Director of Civil Rights have been personally involved in working with states to develop a plan to achieve compliance.

See comment 1.

See comment 2.

See comment 3.

Appendix III
Comments From the Department of
Transportation

For the most part, FHWA has taken a cooperative approach in working with these states to assist them in achieving their goals rather than threatening adverse implications if goal achievement is not attained. This cooperative approach is appropriate since in most cases there were occurrences beyond the state's control that impeded its ability to meet its DBE goal. However, FHWA will take whatever appropriate actions are necessary to ensure compliance. The Department recognizes that a key ingredient of effective programs is meaningful and adequate oversight, a situation that we maintain is in place with FHWA's management of its portion of the program. The FHWA's oversight has been sufficient to achieve and maintain nearly total compliance with the program's requirements.

Highway Specific Supportive Services are Necessary

While we are sensitive to the GAO draft report's intention to avoid duplication of services between the FHWA's DBE supportive services and the small business support services provided by the SBA, FHWA's supportive services are intended to meet the unique technical needs of DBEs in the transportation industry. Highway construction activities can be highly technical and specialized compared to many small businesses. DBEs have told us that assistance is needed for reading construction plans, meeting technical specifications, participating in the bidding process, formulating cost estimates, and calculating quantities of construction materials. It is these technical areas which are beyond the scope of SBA's small business assistance where FHWA's supportive services are intended to be focused. While we encourage DBEs to contact and work with the SBA to obtain assistance and information on any of the business areas common to all businesses, such as accounting and human resource management, it would not be appropriate to expect SBA to provide the technical support necessary for DBEs to participate in the technical aspects of highway construction. This assistance is becoming increasingly important as we try to assist DBEs in moving beyond many of the low capital, low technology aspects of highway contracts.

We realize that FHWA's DBE supportive services have not always provided the intended level of service, and we are working to improve these services through a number of avenues. In a number of southeast states that were not visited by GAO,¹ FHWA has received favorable feedback regarding its work with the Entrepreneurial Development Institute to refine support services. After further experience, these programs may be used as a national model. In addition, we anticipate that the revised final DBE regulation will have provisions for a business development program. This program would be specifically designed to assist DBEs in moving out of the fields that have traditionally been the areas of the largest DBE participation. The final rule may

¹Alabama, Kentucky, Tennessee, North Carolina, and Florida.

See comment 4.

See comment 5.

See comment 6.

contain provisions that would allow FHWA to mandate such a program on a state-by-state basis depending on the nature of DBE participation in the state's highway program.

The Department's DBE Program is Focused on Participation

The primary purpose of the FHWA's portion of the Department's DBE program is to ensure that DBEs, pursuant to the statutory focus, have an opportunity to participate in federally assisted highway contracts. While we are aware that the statutory language directing GAO to prepare the report uses the term "graduation," it is a misnomer in the context of the Department's DBE program. There is no such thing as "graduation" in this program, rather it contains statutorily mandated size criteria for eligibility. The eligibility criteria require a DBE to meet the SBA small business standards of 13 CFR Part 121 and have 3 year average annual gross receipts that do not exceed \$15.37 million. A firm that exceeds these criteria does not "graduate," it simply becomes ineligible, in the same way that a DBE firm that is acquired by non-disadvantaged individuals becomes ineligible. A firm that loses DBE eligibility for exceeding the size criteria can reenter the program if it becomes smaller and again meets the criteria. For these reasons, the comment in the GAO draft report that "graduation" in the Department's program is unrelated to the business success of DBE firms does not apply in this instance. "Graduation" does not exist in the program. Further, there is not necessarily a direct relationship between a firm's ineligibility for the DBE program and its viability as an independent business.

See comment 7.

RESPONSE TO GAO DRAFT REPORT RECOMMENDATIONS

Recommendation: Issue additional guidance to states and to FHWA field offices on procedures for following up when states do not meet agreed DBE contracting goals. In particular this guidance should contain time frames for (a) states to submit justifications, (b) FHWA to respond to states' justifications, and (c) FHWA to follow up on directed corrective actions.

Response: Concur-in-part. The FHWA has already implemented an administrative requirement for states to provide their justifications for not meeting their established goals in the DBE program by December 1 of each year. Since the vast majority of states routinely meet their goals, the recommended guidance would impact a small number of states and FHWA field offices. As described above, in FY 1993, 51 of 52 state highway administrations met their DBE goal with one state missing its goal by only 3 percent. As a result, expanding FHWA guidance may not offer a significant benefit or comport with the President's initiative on streamlining government and eliminating excessive regulation. The FHWA will consider the potential benefits to be achieved by implementing this additional guidance and will take appropriate action.

See comment 8.

**Appendix III
Comments From the Department of
Transportation**

Recommendation: Work in consultation with the SBA Administrator to develop performance measures for evaluating the progress of the DBE program in developing disadvantaged firms into self sustaining businesses capable of competing for contracts on the open market.

Response: Concur-in-part. The FHWA has developed a measure of performance for the DBE program regarding the program's overall achievement of the congressional mandate to provide a meaningful opportunity for DBEs to participate in DOT-related contracts. This measure has shown that since the program's inception, it has consistently surpassed established goals of no less than 10 percent of the funds authorized for the Federal-aid highway program being expended with DBEs. Most recently for FY 1993 on a nationwide basis, 16 percent of the total Federal-aid highway contract funds expended were with DBEs. While it may be more appropriate for the SBA, the Department will consider whether developing additional measures for evaluating the DBE program's ability to produce self-sustaining businesses would be useful.

See comment 9.

Attachment I

GENERAL AND TECHNICAL COMMENTS

The Department offers the following comments regarding the GAO's report.

1. **Page 2.** The FHWA would like to emphasize that the DBE program is goal oriented and not a quota system. A state's goal may be 10 percent, above 10 percent, or below 10 percent. If the goal is below 10 percent, it must be accompanied by written justification.

2. **Page 12, Paragraph 1, Sentence 4.** In order to be consistent with the legislation, suggest "at least" be replaced with "not less than."

3. **Page 12, Paragraph 3, Sentence 1.** Replace FHWA with DOT. The DBE program includes the Federal Transit Administration, the Federal Aviation Administration as well as other parts of the Department. Throughout the report, it could be made clear that FHWA participates in the Department's overall DBE program.

4. **Page 27.** While the chart depicting the percentage of DBE contract awards to minority and women-owned businesses is accurate, it does not convey the whole picture including the growth which has occurred in the DBE Program. The chart would be more representative of the growth in the program if it included dollar amounts awarded to DBEs. The chart could also note that women-owned businesses were not included in the DBE program until the middle of FY-1987. Finally, the high percentage gains in participation by women-owned firms are attributable in large part to the lower levels of goals and achievements that existed for such firms before the 1987 amendments to the statute.

5. **Pages 25-28.** The terms Women's Business Enterprise (WBE) and Minority Business Enterprise (MBE) are used throughout the report. However, as of April 2, 1987, both were incorporated into the statutory definition of DBEs. We suggest that references to WBEs and MBEs be deleted from the draft report. In light of this, the significance of the draft report's extensive analysis of relative participation by minority and women-owned businesses is not clear, since both are considered DBEs by statute.

6. **Page 37.** As a point of clarification, states are not required to establish a DBE supportive services program. However, if a state does establish such a program, the Department agrees that it needs to be monitored and evaluated.

Now on p. 10.
See comment 10.

Now on p. 21.
See comment 11.

Now on pp. 20-22.
See comment 12

Now on p. 29.
See comment 13.

I-1

The following are GAO's comments on the Department of Transportation's letter (DOT) dated May 27, 1994.

1. We agree that most of the states meet the statutory participation goals of the DBE program and that FHWA and the states have done a good job of providing opportunities for disadvantaged businesses to compete for contracts in the federal-aid highway program. We have examined and in some cases revised the language in our draft report to ensure that this conclusion is clearly conveyed.
2. Our draft and final reports reflect the instances in which the states that missed their goals had established (and sometimes attained) goals in excess of 10 percent. However, it is important to note that a state's DBE goal is not 10 percent; rather, it is whatever the state and FHWA agree upon. As DOT points out in its "General and Technical Comments," a state's DBE goal can be 10 percent, more than 10 percent, or even less than 10 percent, with FHWA's approval. Often, goals exceeding 10 percent are established and approved because the higher percentage is warranted on the basis of the state's DBE population. When this occurs, these goals must be met.
3. For the two cases DOT discusses, we have revised the final report to reflect the fact that the Hawaii and North Dakota achieved their goals in fiscal year 1993. (See also comment 1.)
4. We continue to believe that FHWA was slow in requiring states to justify why they had missed goals, in responding to the states' justifications, and in monitoring prescribed corrective actions to ensure that problems were properly resolved in a number of cases in which the states missed their goals. We believe that additional action is needed to prevent such problems from recurring, and we believe that our recommendation is consistent with FHWA's approach of cooperative oversight.
5. We have incorporated the information that DOT and FHWA provided on the classroom programs in the southeast into our final report and have revised our matter for congressional consideration to recognize the fact that DOT is considering a national, mandatory program modeled on these programs. We continue to have two concerns about the Department's position. First, we are not convinced that the technical skills required to estimate costs, order materials, and undertake other activities are wholly unique and specific to the highway construction industry. While certain technical skills are no doubt unique, DOT has not yet coordinated with SBA to determine which SBA programs would and which would not meet the

needs of DBE firms. Second, while DOT says that the supportive services are "intended to be focused" on the specific technical skills unique to the highway construction industry, the program FHWA has in place today does not reflect that focus. States have wide latitude in designing programs, and FHWA's regulation on supportive services encourages them to provide a range of services, including general management assistance for record keeping and accounting, certification assistance, and other assistance. DOT's comments envision a more targeted and focused supportive services program than the one that is in place today. We believe that after DOT works with SBA, it will be in a better position to assess what areas, if any, SBA programs do not cover and to incorporate that knowledge into a more focused and targeted program. At that time, it may wish to propose funding to the Congress for such a program.

6. According to information that FHWA provided after we received these comments, the states with an Entrepreneurial Development Program are North Carolina, South Carolina, Kentucky, and Tennessee. We requested the work statements that supportive services providers are required to submit annually to FHWA. According to the statements for Kentucky, North Carolina, South Carolina, and Tennessee, the Entrepreneurial Development Program was one part of a larger and broader supportive services program that also provided general business management assistance.

7. Our report points out that the term "graduation" is a misnomer, and we believe that our report gives proper perspective to the confusion surrounding the term and to the limitations of its use in measuring business success. We recognize that DOT does not view graduation as a measure of success, and we have added language to the Executive Summary to clearly convey this. As to whether graduation exists in the DBE program, we note that since fiscal year 1988, FHWA has required the states to report on the number of firms that have "graduated" as part of the states' required annual reports on their DBE certifications. In its instructions to the states, FHWA says that this "refers to firms which have left the program because they have exceeded the size standard."

8. We modified the language of the report to reflect the existing requirement for the states to report by December 1. However, we remain concerned that the corrective action process is significantly slowed by instances in which FHWA did not require or respond quickly to the states' justifications. We believe our recommendation could improve FHWA's

enforcement record with modest additional effort, without confrontation, and without the need for additional or excessive regulations.

9. While providing contracting opportunities is an important goal of the DBE program, DOT has also articulated the development of disadvantaged businesses as a program goal. Therefore, we support DOT's consideration of performance measures for evaluating the progress of the DBES' development. We believe this activity would be beneficial if undertaken in concert with SBA officials who are undertaking similar projects to develop performance measures for existing SBA programs.

10. We have made changes to the final report to conform with DOT's suggested technical corrections.

11. We believe that the information DOT cites is adequately presented in the body of the report and would confuse the issue if repeated in the chart. Our analysis of contract activity in constant dollars was made to eliminate any distortions created by changes in funding levels. As the report states, when the effects of inflation are removed, constant dollar funding for the DBE program was actually less in fiscal year 1992 than it was in fiscal year 1984. The report also fully recognizes the fact that legislative changes made in 1987 were followed by large increases in the proportion of contracts going to women-owned businesses.

12. We agree that women-owned businesses and minority-owned businesses are both DBES. The Congress directed us, in ISTEA, to provide information on the impact of DBE goals on the groups classified as disadvantaged (see app. I). FHWA requires the states to report annually on the number of DBE contracts and dollars committed to firms owned and controlled by minorities, by nonminority women, and by minority women. We used these data to present our analysis.

13. We have added language to the final report to convey that state participation in supportive services programs is not mandatory.

Comments From the Small Business Administration



U.S. SMALL BUSINESS ADMINISTRATION
WASHINGTON, D.C. 20416

OFFICE OF THE ADMINISTRATOR
JUN 15 1994

Mr. Kenneth M. Mead
Director, Transportation Issues
General Accounting Office
441 G Street, N.W.
Washington, DC 20548

Dear Mr. Mead:

This responds to your April 21, 1994 letter transmitting the General Accounting Office's (GAO) draft report entitled **Highway Contracting: Improvements Needed in DOT's Disadvantaged Business Enterprise Program (GAO/RCED-94 - 168)** and requesting the Small Business Administration's (SBA) comments.

As you know, the SBA has long administered successful management and technical assistance programs to socially and economically disadvantaged owners of small businesses. It is indeed good to know that our efforts are well recognized as the GAO's report indicates. With respect to the recommendation in the draft report that the Secretary of Transportation consult with the SBA to "develop performance measures for evaluating the progress of the DBE program.....", I would welcome the opportunity to work with the Secretary to explore ways to accurately measure the success of the Disadvantaged Business Enterprise program in attaining its goal of developing disadvantaged firms into self-sustaining businesses.

Thank you for the opportunity to offer our comments. If you have any questions or require any further assistance in this regard, please contact John Lagos or Rod Lewis on 202/205-6440.

Sincerely,

A handwritten signature in black ink, appearing to read "Erskine B. Bowles".

Erskine B. Bowles
Administrator

Major Contributors to This Report

Resources,
Community, and
Economic
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