



October 30, 2013

U.S. Department of Transportation
1200 New Jersey Avenue, SE
West Building Ground Floor
Room W12-140
Washington, DC 20590-0001

RE: Docket No. OST-2012-0147

Dear Docket Clerk:

On behalf of the more than 1,500 member organizations of the American Public Transportation Association (APTA), and the collective 5,000 (individual, business and private agency) members of the Conference Of Minority Transportation Officials (COMTO), we write to provide additional comments on the Office of the Secretary's (OST) Disadvantaged Business Enterprise: Program Implementation Modifications Notice of Proposed Rulemaking (NPRM), published September 6, 2012, at 77 FR 54952 and September 18, 2013, at 78 FR 57336.

About APTA

APTA is a non-profit international trade association of more than 1,500 public and private member organizations, including public transit systems; high-speed intercity passenger rail agencies; planning, design, construction and finance firms; product and service providers; academic institutions; and state associations and departments of transportation. More than ninety percent of Americans who use public transportation are served by APTA member transit systems.

About COMTO

The mission of COMTO is to ensure a level playing field and maximum participation in the transportation industry for minority individuals, businesses, and communities of color through advocacy, information sharing, training, education, and professional development. COMTO has thirty-nine (39) chapters throughout the United States. Members include individuals, transportation agencies, academic institutions, industry non-profits and Historically Underutilized Businesses (HUBs). From highways and roads to mass transit systems; from subways to rail systems; and from port authorities to airports, COMTO members represent every facet of the transportation industry.

General Comment

APTA and COMTO reiterate our joint comments submitted December 24, 2012 and denoted in the docket as item DOT-OST-2012-0147-0117. As requested, we have canvassed our members to gather information on the costs and benefits of several aspects of the DBE program. We have found substantial differences among DBE experiences working with various state and local authorities,

making cost calculation difficult, at best. The consistent theme among DBE members is frustration with the duplicative nature of the certification system. Our previous comment...

We believe, however, that DOT can and should do more. The Department should establish and maintain a nationwide database of application forms. While this would fall far short of the ideal – centralized, 50 state certification conducted by DOT itself – it would go far in easing the burden on applicants and reviewers alike. We believe this database could even include a status/history section so a reviewer could see at a glance where else an application has been reviewed and the status of those applications. Reciprocity is absolutely vital to the DBE program and this database would provide a solid step in that direction, easing the burden on applicant firms while still guarding against fraud and abuse.

...was clearly supported by the responses of our DBE members.

Certification Forms

Of all the questions posed in the September 18, 2013 announcement reopening the comment period, our member overwhelmingly responded to the burden of the certification process. Despite the Department's guidance, individual certifying agencies continue to vary in their application and renewal processes, contributing to the wide variation in costs experienced by individual DBE firms.

- One firm, certified in 22 locations, has found it necessary to employ one full time employee to monitor and maintain the company's certifications.
- Another reports having made a tactical decision to contract its certification portfolio from more than 40 to 20 as a function of costs, experiencing an average cost of more than \$1200 per location to maintain those 20 certification.
- Another DBE member reports investing about 16 hours per year per certification and notes that is a low estimate that assumes the certifying authority will not seek additional or different information, or reject an initial submission for some other reason.
- One DBE member who deals exclusively with agencies rather than states reports investing approximately \$11,000 per year to maintain the companies certification with 40 potential client agencies, maintaining those certifications regardless of whether there is an active engagement with each agency.
- Another, a professional services firm, reports costs of \$500-800 per certification, per year, with 12 certifications either active or pending.
- Finally, noting that certification costs must be "on spec" to simply be eligible for work, a firm certified in 32 locations reports new certifications cost approximately \$1,250 each and 'no-change' submittals cost approximately \$650 each.

While, taken individually, these costs appear modest, the duplicative nature of multiple certifications quickly add up. A DBE firm striving to expand its business must invest thousands of dollars simply to compete. Whether certified in 22, 32, or 40 locations, there is no guarantee of business in any of them, further compounding the investment necessary to secure a single contract or subcontract. We urge the Department to act quickly to relieve this burden on DBE firms by consolidating the reporting requirements as we have outlined above.

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We appreciate the opportunity to assist the Department in solving these important issues and would be happy to provide any additional information necessary to complete this process. For additional information, please contact James LaRusch, APTA's chief counsel and vice president corporate affairs, at (202) 496-4808 or jlarsch@apta.com or Julie Cunningham, COMTO President/CEO at (202) 857-8064 or jcunningham@comto.org.

Sincerely yours,



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