



4910-9X

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

[Docket No. DOT-OST-2015-0255]

Request for Comments

AGENCY: Office of the Secretary, U.S. Department of Transportation

ACTION: Notice and Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et. seq.*), this notice announces that the U.S. Department of Transportation (DOT) will forward the Information Collection Request (ICR) abstracted below to the Office of Management and Budget (OMB) for clearance. The ICR describes the nature of the information collection and its expected cost and burden hours. The Federal Register Notice, with a 60-day comment period soliciting comments on the questionnaire, was published on December 30, 2015, [FR Vol. 80, No. 250, page 81671]. One comment was received.

DATES: Comments on this notice must be received by **[INSERT 30 DAYS AFTER PUBLICATION IN THE FEDERAL REGISTER]**

ADDRESSES: Interested persons are invited to submit comments regarding this proposal to the DOT/OST Desk Officer, Office of Information and Regulatory Affairs, Office of Management and Budget, Docket Library, Room 10102, 725 17th Street, N.W., Washington, DC 20503, or by email to oir_submission@omb.eop.gov.

FOR FURTHER INFORMATION CONTACT: Sam Brooks, Equal Opportunity Specialist (S-33), Departmental Office of Civil Rights, Office of the Secretary, U.S. Department of Transportation, 1200 New Jersey Avenue, SE, Washington, D.C. 20590, 202-366-7145.

SUPPLEMENTARY INFORMATION:

Form Title(s): Voluntary Web-Based Questionnaire of Airport Concession

Disadvantaged Business Enterprises and Disadvantaged Business Enterprise Firms

Form Number: None

OMB Control Number: None

Abstract: The DOT's Operating Administrations distribute substantial funds each year to finance construction projects initiated by state and local governments, public transit and airport agencies. The DOT has the important responsibility of ensuring that firms competing for DOT-assisted contracts for these projects are not disadvantaged by unlawful discrimination. The DOT's most important tool for meeting this requirement has been its Disadvantaged Business Enterprise (DBE) program, which originally began in 1980 as a minority/women's business enterprise program established by regulation under the authority of Title VI of the Civil Rights Act of 1964 and other nondiscrimination statutes that apply to DOT financial assistance programs. The DBE program was reauthorized by Congress several times since its inception; most recently in the "Fixing America's Surface Transportation Act" or the "FAST-ACT," (P.L. 114-94, December 4, 2015), See more at: <https://www.transportation.gov/civil-rights/disadvantaged-business-enterprise#sthash.67nZv63S.dpuf>, which funded surface transportation programs for highways, highway safety, and transit. Section 1101(b) of the

Act describes Congress's findings regarding the continued need for the DBE program due to the discrimination and related barriers that pose significant obstacles for minority and women-owned businesses seeking federally-assisted surface transportation work. The DBE program focuses primarily on construction and professional services contracts, while the airport concession disadvantaged business enterprise (ACDBE) program focuses on lease and supplier agreements for food, beverage, retail, and car rental services. Congress raised concerns that discrimination and related barriers continue to pose obstacles to disadvantaged firms seeking to do business at U.S. airports. The information requested will assist DOT in measuring whether both programs are achieving the objectives to create a level playing field on which ACDBEs/DBEs can compete fairly and assist in the development of ACDBE/DBE firms to compete successfully in the marketplace.

The single comment that was received by DOT during the 60-day comment period was provided by a trade association and had four components. The association (1) asked DOT to use the data collection measure to address the issue of out-of-date DBE directories; (2) observed that prime contractors need better information on the types of construction work DBEs are able to perform; (3) requested that the questionnaire "query DBE firms on the issue of training;" and (4) asked DOT to evaluate the responses regarding perceived barriers or challenges from the perspective of all parties. After careful consideration, DOT makes due note of all four components. Only items (1) and (3) appear to request changes to proposed questions. However, as these items are not strictly germane to the stated purpose (measuring the objective of creating a level playing

field) of the questionnaire, the Department respectfully declines to alter the content of the questions.

The questionnaire will be for the use of ACDBE and DBE certified firms, so that they can provide information regarding the nature of their business and bidding history, and perceived barriers/challenges that may have prevented them from receiving a contract or successfully competing in DOT's ACDBE/DBE program. A link to the questionnaire will be made available by DOT's Departmental Office of Civil Rights for use by the Department's state and local recipients, which can in turn post this link on their own websites. The information collected will be used to assist DOT in measuring whether the ACDBE/DBE program is achieving its objectives. The DOT estimates that it takes an individual approximately 10 minutes to complete the questionnaire.

Type of Request: New information collection.

Affected Public: Airport Concession Disadvantaged Business Enterprises and Disadvantaged Business Enterprises certified under the authority of 49 C.F.R. Parts 23 and 26.

Total Annual Estimated Burden: 628 hours

Frequency of Collection: An individual's completion of the questionnaire is solely voluntary.

Comments are Invited on: Any aspect of this information collection, including (a) whether the proposed collection of information is necessary for the proper performance of DOT's ACDBE/DBE program; (b) the accuracy of the estimated burden; (c) ways for the Department to enhance the quality, utility and clarity of the information collection; and (d) ways that the burden could be minimized without reducing the quality

of the collected information. Comments should be sent to the address in the preamble. All responses to this notice will be summarized and included in the request for Office of Management and Budget approval. All comments will also become a matter of public record.

Issued in Washington, D.C. on March 23, 2016.

Habib Azarsina
OST Privacy and PRA Officer
U.S. Department of Transportation

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OMB CONTROL NUMBER: 21XX-XXXX
EXPIRATION DATE: mm/dd/yyyy

Paperwork Reduction Act Burden Statement

A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a currently valid OMB Control Number. The OMB Control Number for this information collection is 21XX-XXXX. Public reporting for this collection of information is estimated to be approximately 10 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing and reviewing the collection of information.

All responses to this collection of information are voluntary. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Office of the Secretary of Transportation, Washington, D.C. 20590.

Question **Firm name**
Answer Firm name

Question **Home State**
Answer [Drop Down]

Question **How many years has your firm been in existence?**
Answer [less than 1 year]
 [1-3 years]
 [3 or more years]

Question **How long has your firm been certified as an ACDBE/DBE?**
Answer [years/months]

Question **On what basis did you rely in submitting your ACDBE/DBE certification application?**
Answer [Black Americans]
 [Hispanic Americans]
 [Asian-Pacific Americans]
 [Subcontinent Asian Americans]
 [Non-minority women]
 [Non-minority economically disadvantaged male]

Question **How would you describe your firm's primary line of business?**
Answer [Trucking]
 [Engineering]
 [Heavy construction]
 [Environmental remediation]
 [Electrical contractor]
 [Supplier of bulk materials]
 [Other / text field]

Question **Did you become ACDBE/DBE certified in order to bid on a contract let by a transportation agency?**
Answer [YES/NO]

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- Question** **If not, did you ever bid on a transportation contract?**
Answer [YES/NO]
- Question** **How many total contracts have you bid on in the last 2 years that were let by a transportation agency?**
Answer [0]
 [1-5]
 [5-10]
 [20 or more]
- Question** **Of those bids, how many contracts did you bid on as an ACDBE/DBE?**
Answer [0]
 [1-5]
 [5-10]
 [20 or more]
- Question** **Of those bids, how many were successful?**
Answer [0]
 [1-5]
 [5-10]
 [20 or more]
- Question** **Is this the first year that you have received a federally assisted contract or lease as a ACDBE/DBE?**
Answer [YES/NO]
- Question** **In the last 2 years, how often have primes contacted you and asked that you bid on a particular project as an ACDBE/DBE (on average)?**
Answer [0 times]
 [1-5 times per month]
 [5-10 per month]
 [20 or more times]
- Question** **Of those, how many times did you bid?**
Answer [0 times]
 [1-5 times per month]
 [5-10 per month]
 [20 or more times]
- Question** **How many times were you successful?**
Answer [0 times]
 [1-5 times per month]
 [5-10 per month]
 [20 or more times]
- Question** **In the last 2 years, on average, how often have you performed work outside of your home state as an ACDBE/DBE?**
Answer [0 times]
 [1-5 times per month]
 [5-10 per month]
 [20 or more times]

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Question **What barriers have you encountered that you believe have prevented you from receiving a contract or successfully competing in the ACDBE/DBE program?**

Answer [Insufficient Bonding Capacity]
 [Lack of Necessary Equipment for job]
 [Primes use same ACDBE/DBE]
 [Scope of contract was too large for my firm]
 [Discrimination by prime]
 [My ACDBE/DBE firm was not certified in the NAICS Code solicited]
 [Competition from other small firms]
 [My firm was not promptly paid by the prime]
 [Other, please describe]

Question **Has your firm ever filed an ACDBE/DBE-related complaint with a local transportation agency?**

Answer [YES/NO]

Question **If Yes, what did the complaint involve?**

Answer [Primes use same ACDBE/DBE]
 [The scope of contract was too large for my firm to consider bidding on]
 [Discrimination by prime]
 [My firm was not promptly paid by the prime]
 [Other, please describe]

Question **How are you made aware of existing and future federally-assisted contracting opportunities?**

Answer [Recipient Websites]
 [Direct solicitation]
 [Other, please describe]

Question **Of the federally-assisted contracts that you have bid on in the last two years, how many included ACDBE/DBE contract goals?**

Answer [Do not know if there were ACDBE/DBE contract goals on the contract]
 [0]
 [1-5]
 [5-10]
 [20 or more]

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