

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

Make it Easier to Work with DBE Firms to Help Ensure Their Success

Action Needed:

House and Senate: Tell U.S. DOT to reform the DBE program by allowing DBEs to grow and make it easier to do business as a DBE.

Background:

The DBE program was originally established by regulation in 1980 to ensure that small businesses owned by socially and economically disadvantaged individuals could compete for federally funded transportation projects. In the years since it was established, Congress included provisions in certain transportation laws, including most recently the Infrastructure Investment and Jobs Act (IIJA), that established goals for a certain amount of federal funding to be expended through DBEs.

Unfortunately, over the years, the U.S. Department of Transportation (DOT) has limited the success of DBE firms by restricting their ability to grow and as a result handicapping their long-term success. Rather than making it easier for prime contractors to utilize specialty DBE firms, the program has imposed constraints that make it more difficult. These limitations have also made it challenging for states to meet or exceed their DBE goals by restricting the scope of work DBE firms can perform.

AGC Message:

- **Grow DBE capacity by assigning the same NAICS code to all DBEs.** AGC believes the current DBE size standard is misleading. While Congress and other stakeholders often reference the current cap of \$30.72 million, they usually do not refer to, or understand, that specialty contractors are often limited to a lower threshold because of the NAICS codes. Additionally, State DOTs might prequalify a DBE at a higher threshold, giving the false impression that the DBE has the capacity to take on new construction work when, in reality, they face lower thresholds.
- **Allow DBEs to specialize without being forced out of the program.** As written, the existing rules punish DBEs that choose to specialize in a particular industry segment by imposing smaller caps on their growth. Currently, NAICS codes for specialty contractors are generally capped at a \$19 million gross annual revenue threshold. To address this, AGC advocates for maintaining a singular NAICS code with a \$45 million threshold (237310 – Highway, Street, and Bridge Construction) for all DBEs. This approach would eliminate administrative confusion and prevent DBEs from being prematurely removed from the program. Such a change would not be unprecedented, as Congress made a similar change in the 2018 FAA Reauthorization for airport construction, demonstrating the feasibility and effectiveness of this solution.