

(e) DISADVANTAGED BUSINESS ENTERPRISES.—

(1) FINDINGS.—Congress finds that—

(A) while significant progress has occurred due to the establishment of the disadvantaged business enterprise program, social and economic disadvantage and related barriers continue to pose significant obstacles for businesses owned by socially and economically disadvantaged individuals seeking to do business in federally assisted surface transportation markets across the United States;

(B) the continuing barriers described in subparagraph (A) merit the continuation of the disadvantaged business enterprise program;

(C) Congress has received and reviewed documentation of the effects of social and economic disadvantage on individuals seeking to do business in federally assisted surface transportation markets from numerous sources, including congressional hearings and roundtables, scientific and other reports, news stories, written statements of barriers to participation by disadvantaged business owners, and related lawsuits, which show that efforts that fail to specifically consider socially and economically disadvantaged individuals are insufficient to address the problem;

(D) the documentation described in subparagraph (C) demonstrates that barriers remain for the full and fair participation in surface transportation-related businesses of socially and economically disadvantaged business owners and has impacted firm development and many aspects of surface transportation-related business in the public and private markets; and (E) the documentation described in subparagraph (C) provides a strong basis that there is a compelling need for the continuation of the disadvantaged business enterprise program.

(2) SMALL BUSINESS CONCERN DEFINED.—In this subsection:

(A) IN GENERAL.—The term “small business concern” means a small business concern (as the term is used in section 3 of the Small Business Act (15 U.S.C. 632)).

(B) EXCLUSIONS.—The term “small business concern” does not include any concern or group of concerns controlled by the same socially and economically disadvantaged individual or individuals that have average annual gross receipts during the preceding 3 fiscal years in excess of \$31,840,000, as adjusted annually by the Secretary for inflation.

(3) AMOUNTS FOR SMALL BUSINESS CONCERNS.—A national, aspirational goal of not less than 10 percent of the amounts made available for any program under titles I, II, III, and VI of this Act and section 403 of title 23, United States Code, shall be set for expenditure through good faith efforts by recipients of Federal financial assistance through small business concerns owned and controlled by socially and economically disadvantaged individuals.

(4) DEVELOPMENT OF OBJECTIVE CRITERIA.—

(A) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Secretary shall develop and publish objective criteria to establish how State governments and unified certification programs will evaluate whether an individual qualifies as socially and economically disadvantaged under the program.

(B) CONSIDERATIONS.—The criteria developed under subparagraph (A)— (i) shall include the ability for an individual to demonstrate social and economic disadvantage by submitting evidence that would support a finding of the types of discrimination prohibited under Federal law; and (ii) shall include the ability for an individual to submit evidence of specific instances of economic hardship, systemic barriers, and denied opportunities that impeded the individual from achieving educational progress or success, employment opportunities, or business opportunities (including access to capital).

(C) PERIODIC REVISION.—The Secretary may periodically revise the objective criteria developed under subparagraph (A). (5) *ANNUAL LISTING OF DISADVANTAGED BUSINESS ENTERPRISES.—Each State shall annually— (A) survey and compile a list of the small business concerns referred to in paragraph (3) in the State, including the location of the small business concerns in the State;*

(B) notify the Secretary, in writing, of the number of new small business concerns that have been certified in the State in the previous year; and

(C) provide the Secretary with such other information as the Secretary may require regarding the administration of the disadvantaged business enterprise program.

(6) UNIFORM CERTIFICATION.—

(A) IN GENERAL.—The Secretary shall establish minimum uniform criteria for use by State governments in certifying whether a concern qualifies as a small business concern for the purpose of this subsection

(B) INCLUSIONS.—The minimum uniform criteria established under subparagraph (A) shall include, with respect to a potential small business concern—

(i) on-site visits; (ii) personal interviews with personnel; (iii) issuance or inspection of licenses;

(iv) analyses of stock ownership;

(v) listings of equipment;

(vi) analyses of bonding capacity;

(vii) listings of work completed;

(viii) examination of the resumes of principal owners;

(ix) analyses of financial capacity; and

(x) analyses of the type of work preferred.

(7) REPORTING.—The Secretary shall establish minimum requirements for use by State governments in reporting to the Secretary—

(A) information concerning disadvantaged business enterprise awards, commitments, and achievements;

(B) the process utilized and progress made by each unified certification program in the State to evaluate and recertify or decertify small business concern under the criteria set by the Secretary, including periodic revision of the criteria for certification;

(C) the number of existing small business concerns recertified or decertified in fiscal year 2026 through 2031; and

(D) such other information as the Secretary determines to be appropriate for the proper monitoring of the disadvantaged business enterprise program.

(8) COMPLIANCE WITH COURT ORDERS.—Nothing in this subsection limits the eligibility of an individual or entity to receive funds made available under titles I, II, III, and VI of this Act and section 403 of title 23, United States Code, if the entity or person is prevented, in whole or in part, from complying with paragraph (3) because a Federal court issues a final order in which the court finds that a requirement or the implementation of paragraph (3) is unconstitutional.

(9) SENSE OF CONGRESS ON PROMPT PAYMENT OF DBE SUBCONTRACTORS.—It is the sense of Congress that—

(A) the Secretary should take additional steps to ensure that recipients comply with section 26.29 of title 49, Code of Federal Regulations (the disadvantaged business enterprises prompt payment rule), or any corresponding regulation, in awarding federally funded transportation contracts under laws and regulations administered by the Secretary; and

(B) such additional steps should include increasing the Department's ability to track and keep records of complaints and to make that information publicly available.

(b) EXCEPTIONS.—The limitations under subsection

(a) shall not apply to obligations under or for—

(1) section 125 of title 23, United States Code;

(2) section 147 of the Surface Transportation Assistance Act of 1978 (23 U.S.C. 144 note; 92 Stat. 2714);