

Highlights of [GAO-12-78](#), a report to the Ranking Member, Subcommittee on Highways and Transit, Committee on Transportation and Infrastructure, House of Representatives

## Why GAO Did This Study

The U.S. Department of Transportation's (DOT) Disadvantaged Business Enterprise (DBE) program aims to increase the participation of small businesses owned and controlled by socially and economically disadvantaged individuals—known as DBEs—in highway contracting. In 2009, U.S. DOT awarded, through state and local governments, about \$4 billion to DBEs nationwide. State DOTs are required to establish DBE programs and implement them on federal-aid highway projects. This report responds to a congressional request to examine U.S. DOT's Federal Highway Administration's (FHWA) oversight of state DOT DBE programs. It examines how FHWA (1) oversees state DOTs to ensure they implement their DBE programs according to applicable regulations, (2) assesses whether state DOTs have met their DBE goals, and (3) oversees organizations that certify businesses as DBEs. GAO analyzed FHWA data; reviewed relevant laws and regulations; and interviewed FHWA, and state DOT officials from five states, selected to obtain variation in, among other things, the methods state DOTs use to meet DBE goals.

## What GAO Recommends

GAO recommends that FHWA (1) evaluate its committed spending data to determine if it is a reasonable proxy and (2) include statements in information provided to decision makers about potential data limitations. U.S. DOT provided comments on the draft recommendations; GAO clarified the recommendations based on U.S. DOT's comments. U.S. DOT agreed to consider the recommendations.

[View GAO-12-78 or key components.](#)  
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# DISADVANTAGED BUSINESS ENTERPRISE PROGRAM

## Assessing Use of Proxy Data Would Enhance Ability to Know If States Are Meeting Their Goals

## What GAO Found

FHWA uses a risk-based approach, which includes conducting risk assessments and day-to-day monitoring, to oversee DBE programs that state DOTs implement. In response to FHWA's designation of the DBE program as an agencywide high-risk area from 2007 through 2010 and other reasons, FHWA recently increased its oversight of state DOT DBE programs. For example, in 2010, FHWA hired a full-time DBE Program Manager and required FHWA division offices in each state to explain to FHWA headquarters how they oversee their state DOTs' DBE programs. While these steps could help FHWA ensure state DOT compliance with regulations, it is too early to assess their effectiveness.

Although FHWA has increased its oversight, FHWA faces two fundamental problems with the DBE data it collects from state DOTs to assess whether state DOTs have met their DBE goals. First, the data that FHWA collects from state DOTs on actual spending on DBEs can cover multiple fiscal years and cannot be meaningfully compared to state DOTs' DBE goals, which reflect the percent of federal-aid highway funds state DOTs will expect to spend on DBEs for one fiscal year. Thus, FHWA may not be able to effectively track whether state DOTs have met their goals as required by federal internal control standards. Second, data on committed spending on DBEs—the proxy measure that FHWA uses instead to measure whether goals were met—shows that about half of the state DOTs met their DBE goals each fiscal year from fiscal years 2006 through 2010; however, FHWA has not conducted a nationwide analysis comparing committed to actual spending to know whether committed spending reflects actual spending for DBEs in all state DOTs. Thus, FHWA does not know whether its data on committed spending can be relied on to evaluate a state DOT's progress in meeting DBE goals. Ensuring that committed spending data are a reasonable proxy is important because state DOTs and FHWA make program decisions based on this information. U.S. DOT's working group that considers various improvements to the administration of the DBE program could provide FHWA with an opportunity to identify options it can use to evaluate its proxy data. Also, while FHWA uses committed spending data to facilitate timely reporting of whether state DOTs have met their goals, FHWA's reporting of data on committed spending to describe progress towards DBE goals does not include statements about potential limitations of the data—namely that the data on committed spending on DBEs might not reflect actual spending.

FHWA oversees the certification activities of state DOTs, which certify that DBEs primarily working on federal-aid highway projects meet federal eligibility requirements. Other U.S. DOT administrations—the Federal Aviation Administration and the Federal Transit Administration—oversee other certifying organizations, such as local airport authorities and state transit agencies, that certify DBEs for work primarily in those areas; such DBEs might also have the skills required (e.g., paving) to work on highway projects. FHWA divisions use their discretion to determine how much and how often to oversee state DOT DBE certification activities.