

WRITTEN TESTIMONY  
CONGRESSWOMAN GWEN MOORE  
HOUSE COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE  
MEMBER DAY  
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Thank you Chairman Graves and Ranking Member Larsen for the opportunity to submit testimony.

As this committee begins work on key legislation during the 118<sup>th</sup> Congress, I want to make sure that it keeps at the top of its list, the need to continue to help ensure the federal government live up to its longstanding policy of ensuring that businesses that have been historically discriminated against have the opportunity to compete and win work on federal funded transportation projects.

Particularly for FAA reauthorization, I urge the Committee to build on work from the last two reauthorizations including provisions I championed to push the FAA to strengthen its DBE efforts.

Each year, the Federal Aviation Administration (FAA) distributes more than \$3 billion in Federal grants for airport projects. In accepting these grants, airports are required to establish disadvantaged business enterprise (DBE) and airport concession DBE (ACDBE) programs.

Congress has long recognized the pernicious role that discrimination has played in denying certain qualified businesses operated by socially disadvantaged individuals from competing for and winning work on transportation projects.

This policy is enshrined in sec. 157 of the FAA Reauthorization Act of 2018 in which Congress found that “while significant progress has occurred due to the establishment of the airport disadvantaged business enterprise program, discrimination and related barriers *continue* to pose significant obstacles for minority- and women-owned businesses seeking to do business in airport-related markets across the Nation. These continuing barriers merit the continuation of the airport disadvantaged business enterprise program. “

There remains a compelling need to take commonsense steps to improve the FAA’s ability to address known barriers and better assist these businesses and truly ensure that minority and women contractors and workers can fairly compete.

*Unless we pay attention here, I am afraid that many qualified minority and women owned businesses will continue to be denied a fair opportunity to compete for work.*

It is critical that upcoming FAA reauthorization legislation continue to build on efforts improve FAA oversight, transparency, and data collection practices regarding FAA DBE participation so we can keep removing barriers to competition for all businesses and ensure that there is in fact a fair playing field when it comes to bidding for work on federally funding airport projects.

The FAA Reauthorization Act of 2018 included my amendment to address a concern about failure of successful DBE’s to be promptly paid that I and others have heard across DOT programs.

No business—small, DBE, or otherwise—can remain viable if it does not get paid in a timely fashion for the satisfactory work it has done. U.S. DoT regulations require prompt payment because the Department has long recognized the burden that delayed payments cause for small businesses, including DBE's.

The Department's prompt payment requirement applies to all subcontractors regardless of race. As noted by DOT, Prompt payment provisions are an important *race-neutral* mechanism that can benefit DBEs and all other small businesses.

The Department's existing regulations require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment from the grantee.

DBE contractors are significantly affected by late payments from prime contractors, and lack of prompt payment constitutes a very real barrier to the ability of DBEs to compete in the marketplace. In one report, the DOT Inspector General noted that "half of the new DBE firms we interviewed cited difficulty in receiving timely payments from their prime contractors. One DBE owner was not paid by her prime contractor for 6 weeks after payment was due and had to take out more than \$180,000 in personal loans to pay her 63 employees."

My amendment to the 2018 FAA reauthorization law required airports with a DBE program to track delayed payment complaints and to report those complaints to the FAA. It also required the FAA to assess whether this prompt payment rule is being satisfied, how airports are enforcing the requirements, and whether improvements need to be made to help resolve complaints in a timely manner. Those reports have been helpful but even FAA continues to note that given the small number of such reports that have been forwarded and continuing anecdotal evidence of difficulties getting paid promptly, more can be done here.

And I want to be clear that this is not just a FAA problem. I was proud to have language included in the FAST Act urging the U.S. Department of Transportation to enforce its requirements that DBE's be promptly paid.

As the FAA reauthorization moves forward, I have introduced legislation (H.R. 2507) to continue to take steps to strengthen the ability of the FAA to allow all small businesses to compete for work and I hope the committee will include provisions from that bill in FAA legislation that it takes up.

And overall, as this Committee considers transportation broadly, it must continue to consider ways to strengthen efforts to increase DBE participation. We need to be proactive. When Congress is silent, little to no participation by DBE's occurs. This includes strengthening DOT programs focused on helping DBE's and small businesses, including providing additional resources, and better supporting the Department's Office of Small and Disadvantaged Business Utilization. Lastly, we cannot forget the need to increase access to capital. The DOT's ability to address capital needs of DBE and small business concerns must be strengthened.

I hope you agree with me that fostering a safe and modern transportation system and promoting small businesses are not conflicting goals; it actually makes good and sound economic and transportation policy

Transportation projects mean jobs and businesses for communities across our nation and ensuring that all businesses in our communities, including small and disadvantaged concerns owned businesses, must remain a priority.

## PROTECT TRANSIT WORKERS

I also think it is critical that the Committee continue to take steps to improve safety for the transit operators and workers who are critical to the safe movement of millions of passengers each day in our country.

As noted by a UW-Milwaukee report, “strong, healthy public transit systems are essential to the economic well-being of metropolitan regions.” Among many factors to having such strong systems, are the dedicated workforce that serve our communities every day.

In the Fixing America's Surface Transportation Act (FAST Act) and the Bipartisan Infrastructure law, Congress enacted provisions to help improve safety, including requiring new FTA guidance and regulations. For example, Section 3022 of the FAST Act required FTA to issue rules requiring recipients of Federal transit funding to assess the risk of assault to transit operators and then determine what, if any, mitigation should be implemented to ensure the safety of transit operators.

It is critical that the Committee continue to provide oversight to ensure that these new tools are implemented quickly and effectively to help protect our transit workers. The FTA has rightly acknowledged in the past that “any form of violence against transit workers poses a serious threat on the physical safety and emotion well-being of transit workers and also endangers the safety of passengers and the public.”

Transit operators continue to have to deal with rowdy/mentally ill passengers, neighborhood violence impacting their routes, and other unsafe conditions that not only threaten their own health and well-being but that of their passengers.

Earlier this year in Chicago, a man was arrested after he sideswiped a transit bus and threatened the bus driver with a gun. In Hawaii, a woman attacked a bus driver after a fare dispute. A few years ago in my district, a bus driver was stabbed. These aren't isolated incidents.

We need to take care of our transit operators who shouldn't have to risk their lives just to do their jobs. I urge this Committee to continue to take this issue seriously and to consider additional measures to take to help protect our transit operators and riders. This could include authorizing a Bus Driver Safety Pilot grant program by which U.S. DOT, working with the Department of Homeland Security, encouraging transit agencies to work more closely with local police departments and other stakeholders to increase security along transit routes.

## PUBLIC ENGAGEMENT IN TRANSPORTATION PLANNING

Too many communities in our country have been torn apart by transportation policies that often have excluded the voices of those most affected by the projects. We have enough examples of massive highway projects ripping apart communities, increased exposure to noise and other pollutants, and resulted in infrastructural barriers within the community that created obstacles for mobility and economic development for underserved communities.

It is critical therefore that federal transportation policies not only try to repair the damage that failed past policies have done, but help prevent such harmful impacts by continuing to protect the ability of communities of all means to meaningfully participate and engage in the planning and execution of federally funded transportation projects. That includes preserving and protecting the requirement that grantees of federal funds meaningfully engage communities, hold public hearings, thoroughly and sincerely consider alternatives, and provide ample time to solicit, receive, and consider public comments.

Short circuiting a real and meaningful public engagement process through NEPA or other statutes, through actions such as imposing arbitrary timelines for critical decisions, will do more harm than good, and potentially result in losing critical voices, comments, and insights that might help make a project truly meet local needs of all local communities, rather than of a select few.

The federal government has a vested interest and should financially support efforts to directly educate community members about opportunities to affect transportation planning and investment decisions, data gathering, and other information relevant to such decisions and to make such information easily available in plain language as early and in as many accessible formats as possible, to ensure community members are directly engaged in those processes.

More proactive and meaningful community participation and engagement on federal projects results in better projects and better use of taxpayer funds.