

Testimony of  
Farad Ali  
On behalf of the Airport Minority Advisory Committee (AMAC)  
Before the  
Committee on Transportation and Infrastructure United States House of Representatives  
Hearing on  
The U.S. DOT Disadvantaged Business Enterprise Program  
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Chairman DeFazio, Ranking Member Graves, and members of the Committee, my name is Farad Ali, and I am the Chairman of the Government Affairs Committee for the Airport Minority Advisory Council (AMAC). I am also the immediate past Chairman of the Raleigh Durham International Airport Authority. Thank you for providing AMAC with the opportunity to participate in the Committee's hearing today.

AMAC was founded thirty-six (36) years ago to combat discrimination in the airport industry. Since its founding AMAC has been at the forefront of nearly every national policy discussion concerning the ubiquitous nature of discrimination in the transportation industry and, in particular, concerning airport contracting opportunities for small and disadvantaged businesses enterprises (DBEs). AMAC's members include DBEs--and airport concessions DBEs (ACDBEs), non-DBEs, airports and airport officials and others who are committed to promoting diversity and inclusion in the airport industry. As a result, AMAC occupies a unique vantage point concerning the purpose of this hearing.

The DBE program authorized by Congress is vitally needed to combat conscious and unconscious bias and institutional discrimination that regrettably minority and woman entrepreneurs too often experience. Too be sure, steady progress has been made; however, our DBE and ACDBE members regularly attest that without the DBE program they would be locked out of contracting opportunities. Having served in many capacities with AMAC (as a board chair and committee chair) and as an airport commissioner I too have my own direct observations about the additional work to be done. In addition, anecdotal accounts, academic papers, and data from recent disparity studies--many of them undertaken by AMAC members who are consultants and researchers--further document the continuing challenge of racial and/or gender based barriers to full participation. They also point to the ongoing need for the DOT DBE program.

AMAC works consistently with Congress, the US Department of Transportation, the Federal Aviation Administration, aviation trade associations, and others as a resource for information, education and guidance concerning public policies and best practices to redress discrimination and further diversity and inclusion. On a bi-partisan basis this Committee and the Congress has shown great leadership in affirming the government's continuing interest in remedying discrimination and its effects. As we are aware, Congressional efforts to monitor ongoing evidence of discrimination undergird the statutory and regulatory framework of the DBE program -and give airports a targeted, narrowly tailored, evidence based "tool" to promote equity, fairness, participation. Again, Mr. Chairman, AMAC thanks you and the Committee for your ongoing leadership and collaborative approach with industry stakeholders.

Often we are unwilling to have candid discussions about discrimination and its ongoing present day manifestations. With regard to the government's interest in combatting discrimination, equity is a core value of our Constitution and fairness also yields other important societal benefits. Although there has been growth in the number of minority businesses in the United States, they continue to experience both direct and indirect discrimination. Examples of indirect discrimination include: direct discrimination by prime contractors or suppliers, unequal access to capital, bias in bonding decisions, how contracts are structured, RFP experience requirements in RFPs, and the like. The government has a powerful and fundamental interest in addressing these forms of discrimination and the DBE program is part of that effort.

Minority-owned businesses remain underrepresented as a share of the total U.S. business ownership. Moreover, these businesses when compared to their non-minority counterparts typically have fewer employees and lower revenues. This underrepresentation in large measure has its basis in racial discrimination and addressing it is a critical reason why Congress must continue to support initiatives like the DBE program.

The program allows women and minority-owned companies to participate in federally-assisted transportation contracts worth billions of dollars a year. The program is an essential entry point for many DBE firms into the transportation space and there is a large and growing body of evidence that shows that the DBE program enables women and minority owned firms the opportunity to play in a space that would otherwise be off limits to them. Simply put, this program works and as noted previously, it is narrowly tailored to meet the constitutional standard set out

by the U.S. Supreme Court. A fact that has been affirmed by many federal District and Courts of Appeal.

I'd like to offer a few more comments on disparity studies and other fact based evidence that discrimination continues to be a problem in the transportation sector. While it's clear that progress has been made and many policy battles have been won, it is also clear that there is still a continuing and compelling need for the DBE program. In far too many instances women and minorities are being denied equal access to opportunities in the transportation space. As noted previously, we continue to see extremely compelling statistical evidence of discrimination and its effects from a variety of disparity studies that are produced by state and local governments. These studies are backed up by countless accounts from women and minority owned firms that show that they continue to operate on an uneven playing field. AMAC continuously works with its members to monitor ongoing discrimination, and we will submit some examples to the Committee. AMAC believes that these accounts show that this problem is not specific to any one county, state, or group. Rather, it exists throughout the country and affects countless individual businesses.

In the aggregate, these studies show us that women and minority owned firms continue to face discrimination and that without initiatives like the DBE program, these firms would receive far fewer opportunities to successfully compete for contracts in the transportation sector. AMAC commends the work that the Committee has done in this area and I would personally like to thank all of the Committee Members and their staff for working to ensure that the DBE program continues to create a fairer marketplace in which women and minority owned businesses are able to find opportunities in transportation sector. For a number of years, this Committee has worked in a bipartisan manner to shore up and maintain this program by:

- **Monitoring Current Discrimination and the Present Day Effects of Past Discrimination:** Holding hearings like this one permit the Committee to hear directly from DBEs and ACDBEs and their representatives about the discrimination they experience as they attempt to establish and grow their businesses. It is critically important that Congress and the public have a full understanding of the types of discrimination that persist across the nation so that they can support and improve the programs intended to address such discrimination.. We are grateful to this Committee for the work it has done in this area.

- **Legislative Modifications to the Current Program that Foster a Fairer Marketplace:** Similarly, this Committee has also worked to incorporate needed statutory modifications into legislation that has moved through this committee. Again, for example, in the 2018 FAA Reauthorization, the Committee addressed a long-standing discriminatory small business “size standard” barrier to DBEs involved in FAA-assisted contracting. The legislation rectified this matter by conforming the DBE size standard for programs authorized by the FAA bill to those set by the U.S. Small Business Administration. The prior definition had not used size tests that are generally applicable under the Small Business Act, but instead imposed an arbitrary rule that reduced the size standard for DBEs by approximately 30% as compared to the size standard set in the Small Business Act. We note as well that H.R. 2, which recently passed the House of Representatives, would eliminate the discriminatory small business standard with respect to all DOT modes--highways, transit, and rail.

These efforts have been substantive and helpful in ensuring that the DBE program continues to be a success. However, while I and AMAC applaud the Committee for its efforts in assisting women and minority owned businesses, I want to take some time to let Members know that many of these policy gains (particularly in airport concessions space) will likely be lost as a result of the COVID-19 Pandemic--if Congress does not provide direct and immediate assistance to concessionaires.

The COVID crisis has absolutely decimated women and minority owned airport businesses. From the vantage point of the airport sector, I can say that this crisis and the resulting economic downturn has been absolutely devastating. Airport concessionaires including Disadvantaged Business Enterprises (ACDBEs) are the third major partner in an ecosystem that serves air travelers. Concessionaires take empty airport terminals and turn them into vibrant shopping and dining destinations that generate important revenues for themselves and fees that are paid to airports. These concessionaires are major sources of employment and taxes for surrounding communities and they help to grow the airports in which they are located by providing (in aggregate and pre-COVID times) approximately \$2.5 billion in non-aeronautical revenue to airports. This revenue fuels new airport growth by underpinning airport bond financing, development, and growth.

However, as airport concessionaires, these businesses are uniquely dependent on the flow of passengers in and around airports. Our revenues rise and fall based on Airline passenger traffic. If there is no traffic, we cannot survive. With COVID-19, we have seen this traffic fall sharply in some cases up to 95% of pre-pandemic totals. This dramatic fall in potential customer traffic has already caused many ACDBEs to close their doors permanently. Those that are still open are barely surviving and have seen their revenues drop by 95 percent or more. Unlike the rest of the economy, industry experts don't expect this industry to bounce back quickly. Instead these experts expect passenger traffic (and subsequently business sales) to remain depressed for at least 18-36 months. Prior to this pandemic, ACDBE program had created several success stories of businesses that not only scaled within their home airport but were able to open new operations in airports across the country. This program saw businesses that had begun to setup joint ventures with larger businesses to grow their operations, and had also seen older ACDBEs act as mentors to other businesses that had just entered this space. COVID-19 could undo all of this progress. I don't want to sound alarmist, but the industry and ACDBEs in particular are at a crossroads.

Although in response to the pandemic Congress has enacted programs intended to assist small businesses, they are not well suited to the airport environment. As a result, concessionaires continue to struggle to secure adequate resources to survive the COVID crisis. ACDBEs, which are already hindered by discrimination in many aspects of their work, are even more vulnerable to the pandemic. As I said earlier, these businesses have unique challenges that can't be solved by short term programs like the Paycheck Protection Act and often need more funding than what is currently available under the Economic Injury Disaster Loan. ACDBEs also find themselves ill-equipped to participate in programs like the Main Street Lending Program and airport concessionaires unlike the passenger air carriers, air cargo carriers, or associated contractors received no explicit assistance in Phase III of the CARES Act.

Although DBEs and ACDBEs, in particular, are severely impacted by the pandemic, this economic devastation is not limited to the aviation sector. Minority businesses in general have been decimated by the pandemic. All across the country, minority businesses are shutting down permanently. Lacking pre-existing relationships with banks, many of these businesses were unable to access loans from the first round of the PPP. Many of these companies simply folded, taking jobs and potential revenues with them. This country can't afford to lose a generation of minority entrepreneurs. These businesses are sources of income, skills training, and

development for many minority communities. I ask that as you look into the issues surrounding the DBE program that you also look at what can be done in the short-term to protect and sustain businesses under the current economic climate. This Committee and the DBE program has done an amazing job of helping to build a transportation marketplace that is more equitable and fairer than it would have been without your efforts. To protect and maintain these efforts, I ask that Members continue to not only support the DBE program, but to also work to support the ACDBEs and DBEs as they seek to get back on their feet.

Thank you for this opportunity to testify before the House Committee on Transportation and Infrastructure on behalf of AMAC. Our group and the thousands of Airport Concessionaires that we represent look forward to working with the Committee to advance policies that will continue to protect and enhance the DBE program.