

DEPARTMENT OF TRANSPORTATION

SUPPORTING STATEMENT:

**UNIFORM REPORT OF DBE AWARDS AND COMMITMENTS AND OTHER DBE
PROGRAM COLLECTIONS**

49 CFR Part 26

OMB Control Number 2105-0510

INTRODUCTION

This is to request the Office of Management and Budget (OMB) to provide Paperwork Reduction Act (PRA) clearance on five information collections associated with the Department's Disadvantaged Business Enterprise (DBE) program, four of which were included in the Notice of Proposed Rulemaking (NPRM), entitled "Disadvantaged Business Enterprise: Program Implementation Modifications," published on September 6, 2012. *See* 77 FR 54952. The Department published a correction to this NPRM on October 25, 2012, that included the fifth collection and extended the comment period for 60 days until December 24, 2012. *See* 77 FR 65164. As announced in a Federal Register notice published on November 13, 2013, the Department subsequently reopened the comment period until December 26, 2013, and held a public meeting on December 5, 2013. *See* 78 FR 68016. The Department published a Final Rule on October 2, 2014 that finalized, with modifications, the proposed changes in the NPRM, including those related to the Paperwork Reduction Act. 79 FR 59566.

Of the five collections, one, the Uniform Report of DBE Awards or Commitments and Payments, previously had approval under OMB Control Number 2105-0510. For this collection, the Department is requesting to reinstate this collection (it expired on June 30, 2012) and grant a three year approval for this collection, beginning with the publication of the final rule and consistent with changes the Department will make as part of the rulemaking process. The Department addresses OMB's terms of clearance of the earlier emergency clearance in this supporting statement. As part of this rulemaking, the Department is also requesting the four other collections that currently have no control number now be included under 2105-0510 and that OMB grant approval of them for three years. These collections are: Uniform Certification Application Form, Annual Affidavit of No Change, DOT Personal Net Worth Form, and Reporting Requirement for Percentages of DBEs in Various Categories.

The Department seeks to combine all five collections into one OMB Control Number because it believes this will lead to more efficient administration on the part of DOT.

Part A. Justification.

1. Circumstances that make collection of information necessary.

The Department of Transportation's (DOT) Disadvantaged Business Enterprise (DBE) program is mandated by statute, including the Moving Ahead for Progress in the 21st Century Act (P.L. 112-141) (MAP-21) and 49 U.S.C. 47113. The Department's final regulations implementing these statutes are 49 CFR Part 23 and 26. The program is implemented primarily by recipients of

DOT financial assistance (State highway agencies, transit authorities, and airports). This rulemaking, which began with the NPRM published on September 6, 2012 and concluded with the Final Rule published on October 2, 2014, dealt with five separate information collections, one of which is a proposed modification to an existing collection, two are revisions to unapproved collections, and two are new. These information collections support DOT's strategic goal of mobility and organizational excellence by ensuring that State and local recipients that let federally funded contracts carry out their mandated responsibility to provide a level playing field for small businesses owned and controlled by socially and economically disadvantaged individuals to fairly compete for such contracts.

- The “Uniform Report of DBE Awards or Commitments and Payments” is necessary for the Department to be able to carry out its oversight responsibilities because the Department must be able to obtain information from the recipients about the DBE participation they obtain in their program. It implements statutory reporting requirements and 49 CFR 26.11, and 26.47. In this rulemaking, the Department has modified this collection to respond to concerns the Department has identified by revising the form used for routine DBE reporting, for transit vehicle manufacturers (TVMs), and for mega projects, amending and clarifying the report's instructions, and changing the forms to better capture the desired DBE data on a more continuous basis.
- The “Uniform Certification Application Form” is necessary to implement 49 CFR 26.83(c)(7)(i) and completion and submission of this collection by the DBE is necessary for certifying agencies in the Unified Certification Programs (UCPs) to determine whether a particular firm qualifies for certification as a DBE. This collection, therefore, serves the important goal of ensuring that firms participating in the program are owned and controlled by socially and economically disadvantaged individuals and of preventing fraud on the part of DBEs by requiring applicants to provide necessary information and also minimizes the likelihood that a UCP would arbitrarily reject an applying DBE. The Department has finalized certain modifications of this collection described below that will increase the integrity of the program, but without making the collection unnecessarily burdensome.
- The “Annual Affidavit of No Change” is mandated under 49 CFR 26.83(j) and is necessary to ensure the integrity of the DBE program that requires DBEs to annually state that they remain eligible for the program, and a firm that fails to submit this form will be deemed to have failed to cooperate and could be subject to decertification. This collection is necessary to ensure the integrity of the DBE program because it requires DBEs to affirm in a notarized affidavit that they are still eligible to participate in the program. Since DBEs are not required to reapply after they are certified, this affidavit is the only information DBEs are required to submit regularly to the UCP to maintain their certification, absent certain changes in circumstances identified in section 26.83(i). In the NPRM, the Department's proposed revisions would have required that the affidavit be accompanied by an updated Personal Net Worth Form (see below) and three additional items: (1) A record from each individual claiming disadvantaged status regarding the transfer of assets for less than fair market value to any immediate family member, or to a trust any beneficiary of which is an immediate family member, within two years of the date of the annual review; (2) a record of all payments, compensation, and distributions (including loans, advances, salaries and dividends) made by the DBE firm to each of its

owners, officers or directors, or to any person or entity affiliated with such individuals; and (3) the owner and the firm's (including affiliates) most recent completed Internal Revenue Service (IRS) tax return, IRS Form 4506 (Request for Copy or Transcript of Tax Return). The Department believed that these proposed revisions were necessary to further strengthen the integrity of the program by responding to issues that have led to problems in the past and requiring DBEs to substantiate their claim of no change, while, at the same, not requiring DBEs to go through a lengthy recertification process. However, most commenters opposed these changes as being overly burdensome. In the Final Rule, the Department agreed and decided to maintain the current provision that only requires that the affidavit be accompanied by supporting documentation of a DBE's size and gross receipts (e.g., Federal tax return). The Department reasoned that including that information would be of little burden to the DBE, but would allow recipients to gain information about the DBE's current financial situation that could identify potential red-flags in that DBE's status.

- The "Personal Net Worth Form" is necessary to implement the requirement found in 49 CFR 26.67(a)(2) that a firm applying for DBE status must certify that the personal net worth (PNW) of the owners does not exceed the current maximum (currently \$1.32 million) and support that certification with PNW statement. Prior to proposing this form, the Department had encouraged DBEs and recipients to use the Small Business Administration (SBA) Form 413 (OMB Control No. 3245-0188), but has now decided that the program would be better served by using a form tailored specifically to the DBE program. When submitted as part of the initial application, this collection allows recipients to determine whether a firm is truly owned and controlled by a disadvantaged individual with a PNW below the regulatory cap and is therefore necessary to ensure that only properly qualified firms are certified. In the NPRM, the Department proposed that this form should be accompanied by various supporting documents for all applicants. However, in response to comments that this would be overly burdensome, the Department, in the Final Rule, has determined that additional documents should only be requested by UCPs on a case-by-case basis, which retains the ability of UCPs to ensure that an applicant's PNW is below the threshold without burdening all applicants.
- The "Percentages of DBEs in Various Categories" collection is necessary to implement a long-standing statutory requirement calling on States to report the percentages of white women, minority men, and minority women who control DBE firms, most recently included at section 1101(b)(4)(B) of MAP-21. Submission of this information will also satisfy 49 CFR 26.11(e).

2. How, by whom, and for what purpose is the information used.

- As part of the terms of clearance for the emergency approval of the "Uniform Report of DBE Awards or Commitments and Payments," OMB requested that the Department "adequately describe the collection of information." DOT Form 4630 must be submitted bi-annually or annually by each recipient having an approved DBE program, which generally refers to State DOTs, regional/municipal transit agencies and airports. Thus, the report form is collected bi-annually from recipients by the Department's Federal Highway Administration (FHWA) and Federal Transit Administration (FTA), and is collected annually from recipients of the Federal Aviation Administration (FAA), and is

used to enable DOT to conduct program oversight of recipients' DBE programs and to identify trends or problem areas in the program. FTA and FAA use an electronic collection system. FHWA uses primarily paper collection, though it is moving toward an electronic system based on that of FAA. The form requires recipients to include information about their DBE goals for that year and the DBE participation they managed to achieve during that time. As discussed above, the collection of this information is necessary to ensure that the DBE program is achieving its goal of encouraging DBE participation in Federal transportation-related contracts. The Department's final rule will not change the answer to these questions, but will rather make it easier for States to complete the form and the Department to analyze the responses.

- For the "Uniform Certification Application Form," businesses that wish to become certified as a DBE submit this information to the State. The exact method of submission varies by State, but most States require the applicant to mail the notarized form and necessary attachments to the State UCP. The application is then used by the UCP to determine whether a firm qualifies as a DBE. In reviewing an application, the UCP looks to the information provided to determine whether, among other things, the applying business is under the mandatory gross receipts cap for a DBE, actually owned and controlled by a disadvantaged individual, and owned by an individual whose personal net worth does not exceed the current cap. If a UCP is satisfied by this information provided in this collection, it will certify the DBE, which allows the DBE to compete for federally assisted contracts with DBE contract goals and to be included in statewide DBE usage rates. The information provided in this collection will also be used as a basis for DOT to determine whether a UCP correctly rejected an application in the event the decision is appealed to the Department. The Department also finalized several additional items to be included in the existing form: (1) A list of dates of any site visits conducted by the firm's home State and any other UCP members; (2) a business profile seeking a concise description of the firm's primary activities, products, or services the company provides along with applicable NAICS codes if known by the firm when it applies; (3) an assessment of the amount of time the majority owner and key officers, directors, managers, and key personnel devote to firm activities such as bidding and estimating, supervising field operations, and managing staff or crew, and (6) résumés of owners, directors, managers and key personnel; (7) information on concession operations if applying as an Airport Concessions DBE (ACDBE). In response to comments, the Final Rule also shortened the form by removing redundant or otherwise unnecessary fields, shortening the form, and making some items in the checklist no longer mandatory.
- For the "Annual Affidavits of No Change," firms certified as DBEs must submit this affidavit annually to the UCP of every State for which they are certified. The affidavit requires that the DBE affirm that "there have been no changes in the firm's circumstances affecting its ability to meet size, disadvantaged status, ownership, or control requirements of this part or any material changes in the information provided in its application form, except for changes about which you have notified the recipient under paragraph (i) of this section," and that the firm "continues to meet SBA business size criteria and the overall gross receipts cap of this part, documenting this affirmation with supporting documentation of your firm's size and gross receipts." The Department has only finalized that, in addition to the Affidavit, DBEs will need to submit Federal tax information at this

time. The UCP will use the information in the Affidavit and tax documents to determine whether the DBE remains eligible to participate in this program.

- For the “Personal Net Worth Form”, the new form will be used in the same manner as SBA Form 413 is currently used. That is, prospective DBEs will submit this form and necessary supporting documentation.
- For the “Percentages of DBEs in Various Categories” collection, States, through their UCPs are the respondents for this new collection. To carry out this requirement, UCPs would go through their statewide Directories and count the number of firms controlled, respectively, by white women, minority or other men, and minority women. They would then convert the numbers to percentages and send the result to the Departmental Office of Civil Rights, with which they already have a working relationship in certification appeals matters. The Department anticipates using this statutorily required information to respond to public and governmental questions regarding the DBE program, determine which States may need assistance in conducting outreach to DBEs, and assist in determining whether States’ DBE goals are in line with the current make-up of the DBE market.

3. Extent of automated information collection.

- As part of the terms of clearance for the emergency approval of the “Uniform Report of DBE Awards or Commitments and Payments,” OMB requested that the Department “adequately describe . . . the electronic processes surrounding this collection.” As of our last submission in 2010, most recipients already use computer systems for many of these information collection tasks, such as the reporting requirements on the achievements of DBE firms in contract awards. FAA and FTA had also developed electronic systems that allowed recipients to submit this form electronically, at FAA’s DBE Office Online Reporting System (DOORS) (<https://www.faa.gov/secure/doors/>) and FTA’s Transportation Electronic Awards and Management (TEAM) system to receive reporting data (<http://ftateamweb.fta.dot.gov/fta-flash2b.html>), and FHWA was in the process of devising a system. Since that time: FAA has moved to a new system called *dbE-Connect* (<https://faa.dbecconnect.com/faa/login.asp>), which allows FAA recipients to submit their uniform report; FTA continues to use TEAM for submissions from FTA recipients and via email from Transit Vehicle Manufacturers; and FHWA currently collects this report through submission of an Excel document, but continues to research electronic systems and plans to adopt one soon. The Department’s revisions in the final rule do not change the way the information is collected.
- For the “Uniform Certification Application Form,” the Department’s revisions will not affect how this form has traditionally been submitted to the State UCP. Thus, the decision regarding how a State UCP will accept this form is left to the recipient. The Department has available on the DBE website copies of this form (in screen-fillable format) and links and contact information for all State UCPs. Nearly all States provide additional information about the application process on their websites. However, States generally require that application forms be submitted to the UCP by mail, not through electronic means.

- For the “Annual Affidavit of No Change,” the revisions will not change the way this information has traditionally been submitted. Thus, the Department provides examples of an accepted affidavit on its website, as well as contact information for all State UCPs. The States also provide copies of the affidavit on their websites, but generally only accept submission of the affidavit through mail.
- For the “Personal Net Worth Form”, the Department will make the final form available online in a screen fillable format, on both the DBE website and in the Code of Federal Regulations, and will also encourage States to make the form available online as well. However, as with the Application Form and Annual Affidavit, the Department anticipates that most States will continue the submission of this form primarily through mail.
- For the “Percentages of DBEs in Various Categories” collection, the Department anticipates that States will provide this information to the Office of Civil Rights via letter or e-mail.

4. Efforts to identify duplication.

- For the “Uniform Report of DBE Awards or Commitments and Payments,” the Department’s revisions do not change this aspect of the collection. Thus, the form does not have duplicative information on it. The Unified Certification System is still in effect, though since it relates to certification rather than DBE commitments and achievements, it is not directly involved with the form. The “lead agency relationship’ likewise is still in place, though since it has to do with DBE program documents rather than records of awards and commitments, it is also not directly involved with the form. Some recipients may also collect similar information for their own purposes, but the extent of this collection is not known.
- For the “Uniform Certification Application Form,” the Department has attempted to minimize the burden of this collection in three ways. First, with the creation of the UCP program, a DBE need only apply once for each State in which it seeks to be certified, not for each DOT recipient within that State. That is, a DBE certified by a State UCP for work it has done on a contract with the State DOT is not required to resubmit this form if the DBE next wishes to perform work on a contract for a municipal transit agency. Next, once certified in a State, a DBE is certified until it is decertified through the procedures found in 49 CFR 26.87. Thus, there is no requirement that a DBE must resubmit this form at any regular interval to remain certified. Finally, although DBEs are certified on a State-by-State, not Federal, basis, the Department has taken steps to ease the process of a DBE that is already certified in one State to become certified in another State. Most importantly, all States are required to use this form and are not permitted to create their own form. Additionally, the Department has adopted an interstate certification process in section 26.85 that attempts to expedite the process of a DBE already certified in one State gaining certification in another State without submitting a new application. The Department’s revisions does not generally affect issues associated with duplication, since the new information being requested in the form is not duplicative of other information requested as part of this program. However, the Department has eliminated some redundant or unhelpful fields from this form, such as asking the applicant to list their

PNW, which is unnecessary because they are submitting the PNW form with their application.

- For the “Annual Affidavit of No Change,” as with all parts of the DBE program, if a State has established a UCP, firms are only required to submit one affidavit to each State UCP, regardless of how many different recipients within that State they engage in contracts with. For example, a DBE that does work on contracts involving both a State DOT and municipal transit agency within that State need only submit one affidavit to that State’s UCP. However, DBEs must submit an affidavit to each State in which it is certified; this is because certain aspects of DBE eligibility, for example the requirement of control, may vary from State to State. The Department, though, does not view this as creating any significant additional burden, since the DBE may create the affidavits and go through the notarization process for each State at the same time. The revisions do not request information that is duplicative of any other collection.
- For the “Personal Net Worth Form”, the new form will not lead to the collection of duplicative information because it will replace the Department’s prior approach of requesting the SBA form with the Application Form. Beyond basic identifying information, the Personal Net Worth and Application Forms do not request the same information.
- For the “Percentages of DBEs in Various Categories” collection, the Department noted in the NPRM that the commitments and achievements reporting form located in Part 26 Appendix B (OMB Control No. 2105-0510) already captures information broken down by gender and ethnicity concerning contracts and contracting dollars going to DBEs. However, this is a different collection than the statutorily mandated report on the percentages of certified firms. The Department requested comment on whether it would be easier to include the percentage information on this reporting form in some fashion rather than having a separate report submitted. However, the majority of the commenters opposed this suggestion and the Department has not included this collection in the Uniform Report. This information will be reported separately in a letter to the Director of the Departmental Office of Civil Rights.

5. Efforts to minimize the burden on small businesses.

Various commenters to the NPRM argued that the Department’s proposed changes would lead to increased burdens on DBEs, especially with regard to the PNW form, Affidavit of No Change, and, to a lesser extent, the Application Form. The Department did not intend for the proposed changes to lead to significant burden increases and, in the Final Rule, the Department took steps to lessen the potential burden of these collections, as explained in greater detail below.

- For the “Uniform Report of DBE Awards/Commitments and Payments,” FTA and FAA have funding thresholds that exempt their smaller recipients from the DBE program requirements, including this report. As noted above, reporting frequencies are only annual or semi-annual. The information on these matters is found in the DOT DBE regulation (*see* sec. 26.21 and Appendix B). The final rule does not change these aspects of the form.

- For the “Uniform Certification Application Form,” the revised form may increase the burden on DBEs, all of whom are small businesses. However, in addition to efforts to identify and prevent duplication described above, the Department has attempted to make this collection as streamlined and user-friendly as possible to minimize the burden on applicants, while requiring sufficient information to maintain the integrity of the program. Some commenters argued that the proposed changes were too complicated. In response, we have shortened the form and removed redundant and/or unnecessary fields. Further, we have decided to make discretionary some supporting documentation that was previously mandatory.
- The “Annual Affidavits of No Change” minimizes as much as possible the burden on DBEs, all of whom are small businesses. Firms are only required to submit this affidavit on an annual basis and the affidavit is essentially a “fill-in-the blank” statement, copies of which are available online on both the Department’s and States’ websites. In addition, the annual affidavit causes considerably less burden than any foreseeable alternative, such as a requirement that DBEs go through a recertification process after a period of time. In the NPRM, the Department proposed that the Affidavit be accompanied by additional documentation (described above). Commenters were generally opposed to this proposal, arguing that this it was unnecessarily burdensome. The Department agrees and, in the final rule, only finalized that the affidavit be accompanied by the DBE’s Federal tax information, which the DBE will have already generated for its IRS filing. Thus, the additional burden will be very limited, while, at the same time, providing UCPs with additional information that will be helpful in ensuring that the DBE should remain certified.
- For the “Personal Net Worth Form”, the Department did not intend for the proposed form to be any more burdensome than the SBA form and, instead, believed that, since it is tailored to the DBE program, it would potentially reduce the burden on DBEs by not requiring them to include information that is unnecessary for the DBE program. However, many commenters argued that the Department had created a form that was more burdensome than the SBA form. This was not the Department’s intent. As such, the Department took steps in the final rule to minimize the burden here by streamlining the actual form and no longer requiring that all DBEs include with the form various supporting documents and, instead, leaving it up to the UCP to request additional documentation on a case-by-case basis.
- The “Percentages of DBEs in Various Categories” collection only burdens States, not DBEs, airports, or local government entities.

6. Impact of less frequent collection of information.

- For the “Uniform Report of DBE Awards/Commitments and Payments,” the revisions will not affect the frequency of collection. Thus, without this information collection, there would be no way to determine whether the program’s objectives were being met, it would be impossible to determine whether the program was being administered consistent with legal and constitutional requirements, and there would be no accountability for any participants.

- For the “Uniform Certification Application Form,” There is no opportunity for less frequent collections of this information, since a DBE is only required to fill out this form when applying to a State for the first time. The Department notes that it has long rejected any mandate that the DBEs would be required to reapply after a set period of time.
- The Department believes that less frequent collection of the “Annual Affidavits of No Change” (e.g. every two years) would greatly affect the integrity of the DBE program and would lead to situations where Federal money would be awarded to contracts without the participation of firms that are correctly certified as DBEs. On the one hand, a less frequent collection would lead to an increased risk of fraud, such as in situations where a DBE knowingly continues to participate despite changes in its circumstances. The revisions will not affect the frequency of collection, as submission continues to be annual.
- For the “Personal Net Worth Form”, the requirement that the form be included with each application for certification cannot be reduced, as it is a necessary part of the initial application process. The Department notes that it proposed that this form be resubmitted annually, but did not finalize that provision in response to comments that it would be unnecessarily burdensome.
- For the “Percentages of DBEs in Various Categories” collection, the clear and unambiguous language of the DBE’s statutory language, most recently in MAP-21, mandates that this information be collected annually. The Department has decided that it will be due on October 1 of each calendar year, in response to requests from commenters to have it due close to the beginning of the fiscal year.

7. Special circumstances.

These information collection requirements are consistent with this and other applicable laws and regulations.

8. Compliance with 5 CFR 1320.8:

The Department has published an NPRM addressing these five collections on September 6, 2012, 77 FR 54952. The Department, however, inadvertently omitted reference to the “Uniform Report of DBE Awards or Commitments and Payments” collection in the PRA section of that NPRM (although the Department discussed the proposed changes at length in the main section of the preamble). To remedy this, the Department published in the Federal Register a correction that added this collection to the PRA section on October 25, 2012. 77 FR 65164. The Department published the Final Rule on October 2, 2014. 79 FR 59566. As discussed where relevant elsewhere in this supporting statement, the Department received comment on most of the collections included in the proposed rule and has modified these collections in response to the comments received.

9. Payments or gifts to respondents.

None.

10. Assurance of confidentiality:

Only two of the collections here contain these assurances: the “Application Form” and the “Personal Net Worth Form”. These two collections include statements that the Department will comply with both the Freedom of Information Act and the Privacy Act in collecting, using and disclosing this information. Further, 49 C.F.R. § 26.109 of the DBE regulations contains assurances of confidentiality for any information provided by a DBE as part of the DBE program. Section 109(a)(2) states that recipients “must not release any information that may reasonably be construed as confidential business information to any third party without the written consent of the firm that submitted the information. This includes applications for DBE certification and supporting information. However, you must transmit this information to DOT in any certification appeal proceeding under §26.89 of this part or to any other state to which the individual's firm has applied for certification under §26.85 of this part.”

11. Justification for collection of sensitive information:

This is not applicable to this collection. The “Uniform Certification Application Form,” “Personal Net Worth Form”, and “Annual Affidavits of No Change” ask for information from the owners of the business, but this information is primarily commercial in nature.

12. Estimate of burden hours for information requested:

- **Uniform Report of DBE Awards/Commitments and Payments**

The Department does not anticipate that the revisions will lead to any measurable change in burden, as they exist primarily to make filling out the form easier but do not do so in a way that the Department is yet able to quantify.

Affected Public: DOT financially-assisted State and local transportation agencies

Number of Respondents: 1,250

Frequency of Response: once/twice a year

Estimated Average Burden per Response: 5 hours

Estimated Total Burden: 9,000 hours. This is derived from approximately 550 respondents who prepare two reports per year; approximately 700 recipients prepare one report per year. Estimating 5 hours per report, this gives us the 9,000 hour figure.

The Department does not believe the revisions will lead to any increased burden for this collection. As part of the terms of clearance for the prior emergency approval of this rule, OMB requested that the Department explain why the hour’s burden for this collection decreased from 1,311,000 hours to 1,250. The current burden estimate is unquestionably more accurate as this collection only requires that each recipient submit this form once or twice per year, which the Department estimates leads to 1,800 submissions per year. If the prior estimate were correct, that would mean that each response would require roughly 730 hours. Given the limited information required for this form, the Department views this figure as unreasonably high. The Department

speculates that it was either the result of a one-time error that was carried forward or that this control number once contained within it other collections that were not renewed due to program changes but whose burden hours remained in the total.

- **Uniform Certification Application Form**

Based on discussions with DBEs, it is estimated that the total burden hours per applicant to complete its DBE or ACDBE certification application with supporting documentation to be approximately 8 hours. In addition, new applicants will have to submit a Personal Net Worth Form (see below). The number of new applications received each year by UCPs is difficult to estimate. There is no central repository for DBE certification applications, and we predict that the frequency of submissions at times vary according to construction season (high applications when the season is over), the contracting opportunities available in the marketplace, and the number of new transportation related business formations or expansions. Prior to the NPRM, to get some estimate however, the Department contacted recipients, who reported receiving between 1– 2 per month, 5– 10 per month, or on the high end 80–100. There are likely several reasons for the variance. Jurisdictions that are geographically contiguous to other States (such as Maryland) and/or have a high DBE applicant pool may receive a higher number whereas jurisdictions in remote areas of the country with smaller numbers of firms may have lower applicant requests for DBE certification. These rough numbers likely do not include requests for expansion of work categories from existing firms that are already certified.

Affected Public: Firms applying to be certified as DBEs

Number of Respondents: 9,500

Frequency of Response: Once during initial DBE or ACDBE certification.

Estimated Average Burden per Response: 8 hours.

Estimated Total Burden: 76,000 hours per year.

- **Annual Affidavit of No Change**

Affected Public: Certified DBEs

Number of Respondents: The approximately 30,000 certified DBE firms.

Frequency of Response: Once per year.

Estimated Average Burden per Response: 1.5 hours. This will allow sufficient time for the DBE to generate and have notarized the Affidavit and collect together its Federal tax information.

Estimated Total Burden: 45,000 hours

- **Personal Net Worth Form**

Affected Public: Certified DBEs and firms applying to be DBEs

Number of Respondents: 9,500 applicants each year.

Frequency of Response: Once during initial DBE. For the DBE/ACDBE programs, information regarding the assets and liabilities of individual owners is necessary for recipients of Federal Transit Administration, Federal Aviation Administration, and Federal Highway Administration, to make responsible decisions concerning an applicant's economic disadvantage under the rule. All persons who claim to own and control a firm applying for DBE or ACDBE certification and whose ownership and control are relied upon for the certification will complete the form.

Estimated Average Burden per Response: 2 hours. The Department notes that the estimated burden hours contained in the proposed rule were based on the Department's experience in working with DBE and UCP agencies and our intent to produce a DBE-specific PNW form that includes the information typically needed to perform the certification function, but is not overly burdensome. Further, our proposed rule's estimate of 8 hours to complete the proposed PNW form is greater than the 1.5 hours SBA estimates for its form, which was designed to take into account the different purposes between the two programs and the fact that DBE applicants often need to supplement their form with supporting documentation. In response to comments, we have decided to lessen the requirements of the final form in today's final rule and believe that our original estimate, based on the form that will be now finalized, is reduced to 2 hours, slightly more than the SBA estimate for its form.

Estimated Total Burden: 19,000 hours per year for applications.

- **Percentages of DBEs in Various Categories**

Affected Public: States (through their UCPs)

Number of Respondents: 52 (50 states, plus the District of Columbia and Puerto Rico)

Frequency of Response: Annually

Estimated Average Burden per Response: 3 hours, 3 minutes.

Estimated Total Burden: 161 hours

The total annual burden for this collection, therefore, is estimated to be 149,161 hours per year. Of these hours, approximately 140,161 hours are from the four information collections for which the Department is seeking to add the four new Information collections under OMB control number 2105-0510.

13. Estimate of total annual costs to respondents.

Information not available, as costs to recipients and DBEs for these collections are not broken out in any way that allows the Department to identify costs specific to this task.

14. Estimate of cost to the Federal government.

Two collections here have costs to the Federal government:

- The “Uniform Report of DBE Awards or- /Commitments and Payments” is submitted to the Federal government. The Department estimates that its tasks related to the information requirements cited in this request that are submitted to us for review (i.e., report of accomplishments) will result in 1,800 hours (i.e., assuming an hour or staff review time for each report). Assuming the reports are reviewed by a GS-13 step 5 in Washington, DC at \$48.35/hour, the Federal cost of review would be \$87,030.
- For the “Percentages of DBEs in Various Categories” collection, the Department estimates that its tasks related to the information requirements cited in this request that are submitted to us for review (i.e., report of percentages) will result in 26 hours (i.e., assuming a half hour or staff review time for each report). Assuming the reports are reviewed by a GS-13 step 5 in Washington, DC at \$48.35/hour, the Federal cost of review would be \$1,257.10.

15. Explanation of program changes or adjustments.

The increased burden for this collection results from four information collections that the Department is requesting OMB approval for the first time. The Department notes that it does not anticipate any changes in the burden associated with the one collection currently covered by this control number, the “Uniform Report of DBE Awards or Commitments and Payments.”

The collections “Uniform Certification Application Form” and “Annual Affidavit of No Change” have long been integral parts of the regulatory make-up of the DBE program. The adoption and modification of these collections has also been done through numerous notice and comment rulemakings, but the Department has not until now placed these collections under the DBE Control Number. Another collection, the PNW Form, has been added to replace the Department’s prior practice of requesting that DBEs complete an existing SBA form at the time they apply for certification, so it does not add new requirements per se, so much as it transfers that burden from being caused by the SBA form to being caused by this proposed form. Finally, the “Percentages of DBEs in Various Categories” collection institutes for the first time a long-standing statutory requirement.

As discussed where relevant above, in the Final Rule, the Department made numerous revisions from the proposed forms, all in an attempt to minimize burden as much as possible, while continuing to require information necessary for the programs’ successful operation.

16. Publication of results of data collection.

None.

17. Approval for not displaying the expiration date of OMB approval.

N/A

18. Exceptions to certification statement.

N/A