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Implications of Public-Private Partnerships on Enforcing the Disadvantaged Business

Enterprise Program Within the Federal Highway Administration

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Doctor of Public Administration

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Division of Online and Professional Studies

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Implications of Public-Private Partnerships on Enforcing the Disadvantaged Business

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ABSTRACT

Purpose. The purpose of this qualitative study was to examine how public-private partnerships (P3) projects influence contractors' Disadvantaged Business Enterprises (DBE) compliance, accountability, and encouragement of social equity in Federal Highway Administration (FHWA) projects. The study explores the DBE program administrators' perceptions of DBE goals, good faith efforts, and the strengths and challenges of implementing the DBE program in a P3 environment. The study also ascertained best practices for implementing the DBE program on P3 projects from experienced compliance administrators.

Theoretical Framework: This study was based on the principal-agent (P-A) theoretical framework. The P-A theory is applied to FHWA's P3 environment in that the public sector acts as the principal and the private sector as the agent.

Methodology. The study employed a phenomenological design and collected data from DBE compliance administrators. The researcher conducted in-depth semistructured interviews with 24 DBE program administrators. The interviews were transcribed and coded for themes and categories using NVivo, a qualitative analysis software. The researcher also utilized an Excel spreadsheet to organize the coding analysis.

Findings. The data analysis was undertaken following the guidelines of Richard Hycner. Participants perceived that a majority of the P3 contractors were meeting the DBE goals or demonstrating good faith efforts. The data also indicated strengths and challenges related to facilitating the program in the P3 environment.

Conclusions and Recommendations. Current data indicate that the DBE goals are being met, and the contractors are performing good faith efforts. While the study showed that the

P3 environment could encourage social equity, it also demonstrated perceived challenges that could hinder the implementation of the DBE program on P3 projects. FHWA should consider revisiting the DBE regulation to guide governance in the P3 environment, and there should be discussions at DBE training and conferences. The research offered future studies that could contribute to existing literature.

Keywords: Public-Private Partnership, DBE program, FHWA, Compliance, U.S. DOT

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I am indebted to my family and best friends, who gave me the energy I needed to keep going when I was discouraged and unmotivated.

DEDICATION

This work is dedicated to the individuals who have contributed to my knowledge of the DBE program and career in the transportation sector. It is also dedicated to the people that take up the most space in my life, my support group.

- To my father, Ikechukwu Ohaya, and mom, Ngozi Ohaya, who taught me the importance of dedication and commitment
- To my siblings, Chikodi, Chinyere, Jude, Oluchi, and Onyinye, who have encouraged me to continue no matter how hard it got
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With love,

Ogechukwu

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CHAPTER 1: INTRODUCTION

Background

As a result of limited tax revenue in the United States, the federal government must find a way to provide all public goods with minimal resources. Therefore, public agencies contract with private enterprises to deliver needed goods and services. Outsourcing is considered optimal because the government often “lacks the skill, the will, and the wallet to meet its mission” (Michie, 2012, p. 843). Additionally, the private sector is more willing to handle or sustain risks concerning the delivery of infrastructure projects (Garvin & Bosso, 2008). However, using private businesses to provide public goods can impact public sector governance principles such as accountability and transparency (Johnston, 2002). Public-private partnerships (P3s) are growing increasingly common as a “governing model for delivery of public services” because P3s uphold the concept of accountability and transparency by establishing “proper safeguards to ensure that public services are not compromised for the sake of private profits” (Ferrer et al., 2010, p. 477). A P3 can create a different relationship between public administration and the private sector from the traditional outsourcing relationship because even though the public sector maintains responsibility and the delivery of the goods or services, the private sector is a valued member in the decision making and ultimate delivery (Ferrer et al., 2010). Moreover, the number of P3 projects continues to increase in North America because they are often seen as a “best-of-both-worlds substitute to public provisions (Chasey et al., 2012)” (Subedi, 2020, p. 1). Garvin and Bosso (2008) posited that “the public-private partnership movement is arguably the most significant,

worldwide trend in the public sector ... within the United States, activity in this market has started to pick up” (p. 162). According to Forrer et al. (2010),

[P3s] are ongoing agreements between government and private sector organizations in which the private organization participates in the decision-making and production of a public good or service that the public sector has traditionally provided and in which the private sector shares the risk of that production. (p. 476)

Acar et al. (2008) asserted that P3 can refer to a collaboration between public, private, and/or nonprofit organizations “ranging from simple coordination efforts between two organizations from different sectors to more comprehensive initiatives involving a significant number of individuals and organizations representing all three sectors” (p. 7).

In addition, Garvin and Bosso (2008) stated that a P3 is a “long-term contractual arrangement between the public and private sectors where mutual benefits are sought and where ultimately (a) the private sector provides management and operating services and/or (b) puts private finance at risk” (p. 169). This definition is imperative because it excludes the traditional procurement source—transfer of services or assets to the public sector from the private sector, design-bid-build, and design-build, a procurement type often included as part of P3s (Garvin & Bosso, 2008). It is essential to note this exclusion because it sets a foundation for the difference in contracting and enforcement mechanisms based on the procurement type. As previously mentioned, P3s are popular with agencies all over the globe, especially in the United States; from 2004 to 2014, “the use of PPPs has grown almost five-fold, with nearly \$4 billion of health P3 contracts signed in 2010 alone” (Roehrich et al., 2014, p. 110).

One industry that has embraced the use of P3 is the transportation sector as it is often prescribed as a solution to infrastructure funding shortfalls (Chasey et al., 2012; Garvin & Bosso, 2008). As of 2008, 24 states and territories had legislation permitting some form of P3 initiatives on state transportation projects (Garvin & Bosso, 2008). Policymakers and transportation officials view P3 “as an alternative method to supplement traditional funding sources to finance and deliver projects” (Chasey et al., 2012, p. 26), especially given fiscal constraints on government projects.

More specifically, the Federal Highway Administration (FHWA) has significantly increased its use of P3s in recent years. FHWA uses P3s for capital improvements, operations and maintenance, and infrastructure development. According to the FHWA P3 Factsheet, as of 2017, there were “more than 40 current or anticipated P3 projects involving private financing in the U.S. portfolio, and generally the value of each of these P3s ranges from a few hundred million dollars to more than a billion dollars” (U.S. Department of Transportation Federal Highway Administration [FHWA], 2017). Most often, “these P3s are structured as design-build-finance-operate-maintain (DBFOM) concessions that bundle together and transfer to a private sector partner responsibilities for design, construction, finance, and long term operations and maintenance over the concession period” (FHWA, 2017, P3 Defined).

The FHWA states that it governs P3 projects in the design-build model; however, Garvin and Bosso (2008) posited that design-build projects differ significantly from P3 projects (Keen et al., 2015). It seems that the FHWA has not yet identified a governance structure unique to P3 projects, which could be problematic because there has not been a deep dive into the governance of P3 projects to address their novel challenges. Notably,

P3s can only be governed by contracts and contract law (Garvin & Bosso, 2008). The problem is, “public-private ties raise important questions regarding the organizational models in which these relationships are structured, and the governance attributes they exhibit” (Kivleniece & Quelin, 2012, p. 273).

The organizational model adopted by participants in these partnerships impacts the contract language and others’ expectations. For example, if the partners value social equity as part of their organization models, the contract will exhibit that value accordingly. More specifically, the concern is “while P3 has garnered increasing interest among transportation agencies in the U.S., opponents raise suspicion that taxpayers’ money goes disproportionately to large companies in the P3 market, compared to other delivery methods” (Zhang & Cui, 2020, p. 132), which brings the question of whether opportunities to participate are provided to Disadvantaged Business Enterprises or DBEs. The answer to this question is critical as it could significantly impact the social equity and accountability models said to be upheld by transportation agencies, including the FHWA.

Statement of the Research Problem

In traditional procurement such as design-bid-build, the public sector owns, operates, finances, and maintains the development or assessment indefinitely. However, a P3 can call for risk-sharing between the public and private sectors, which cannot be reflected in contract specifications because of the level of ambiguity surrounding most projects (Boyer & Scheller, 2018). Consequently, “the open-ended nature of the contractual terms creates challenges for governing P3, which can make them a less straightforward decision for adoption” (Boyer & Scheller, 2018, p. 7). According to Acar

et al. (2008), “Many researchers have noted that P3s present significant challenges to traditional forms of accountability” (p. 7). The challenges to accountability arise from the characteristics of the P3s and their ambiguous contractual nature because hierarchal controls, type of power each partner possesses, the staked in collaboration shared by each participant, operative and normative differences, and participants’ determination are determined ill-defined (Acar et al., 2008). Hence, there is no “formal wherewithal to compel compliance with such cooperative undertaking” (Acar et al., 2008, p. 7), which demonstrates that P3 can impact regulatory compliance. Furthermore,

P3 contracts are complex and incomplete because they typically consist of multiple agreements covering the design, building, finance, and operation phases of a project, and parties cannot specify legally enforceable safeguards for the vast number of future contingencies at the outset of a 30-year relationship, for example. (Zheng et al., 2008, p. 45),

which further demonstrates P3s challenges to contractual governance. Zheng (2008) et al. added, “There are significant embedded difficulties with the effective application of relational mechanisms in public-private relationships such as power imbalance, post-contractual contractor/supplier lock-in, divergent values and strategies in both contractual negotiations and subsequent performance management, and inappropriate risk and benefit-sharing” (p. 46). Therefore, with ambiguous contractual relationships, obligations to the private contractor or concessionaire awarded the project, and possible power imbalances, P3s may further impact organizational or project sponsor compliance. Furthermore, these imbalances may negatively affect the ability to hold partners

accountable and adequately promote social equity in implementing or monitoring the DBE program.

Historically, the transportation sector has discriminated against minority-owned businesses in its outsourcing practices. Affirmative action programs (such as the DBE program) are implemented to

address past and continuing recognition discrimination by private contractors and lenders who have repeatedly refused to employ or provide financial services to women-owned and minority-owned businesses in the federal transportation subcontracting arena; public agencies at the federal, state, and local levels have established programs to promote the use of minority-owned businesses in public contracting. (Martin et al., 2007, p. 511)

The DBE program is a federally funded program designed to provide opportunities, development, and growth for minority contractors working on publicly funded projects; all 50 states participate in the DBE program (D'Agostino & Wachsman, 2015). The program has been “difficult to administer” because its implementation is based on the language and goal included or identified in the contract (Orndoff et al., 2011, p. 133). It is then unsurprising that the unspecified nature of P3 contractual terms creates a problem in the DBE arena as the program’s enforcement is contingent upon specificity and clarity in the contractual language. Critics assert that the P3 model blurs regulatory requirements and goals, thus limiting accountability and social equity. This creates further resistance to a model that has already been criticized because in the past, “minority- and women-owned firms and entrepreneurs have not participated fully in the

equity ownership opportunities offered by joint development projects” or P3s (Beltran et al., 1986, p. 1).

According to Roehrich et al. (2014), “Although the P3 phenomenon has attracted a wide range of practitioners and academic comments, there is a limited systematic review of the evidence, and the literature remains largely fragmented” (p. 111).

Therefore, there is even more resistance to the P3 model. A survey conducted in 2008 and 2009 on 34 states and the District of Columbia found that DBE program administrators identified the issues surrounding “lack of enforcement of DBE goals” as a hindrance to achieving success while also pointing out that innovating contractual requirements can serve as a plausible solution (Orndoff et al., 2011, p. 138). These findings expose the need for further research in the area of the P3 environment to ensure that DBE program administrators are equipped with accurate information and efficient strategies for implementing and monitoring the program.

Purpose Statement

This study focuses on the DBE compliance administrators’ perception of the DBE program’s inclusion into the P3 environment and how that influences DBE compliance, and thus the accountability and increased social equity achieved by the contractors’ P3 projects. As a result of some compliance administrators’ resistance to utilizing P3 as an alternative delivery method, this study aims to ascertain effective practices for implementing the DBE program on P3 projects from seasoned compliance administrators with experience in efforts to guide the DBE community. The study aims to alleviate some of the ambiguity surrounding implementing the DBE program in the P3 environment by collecting data from the FHWA compliance administrators. The study

investigates the effects of the P3 model on DBE goals or good faith efforts, analyzes any strengths and weaknesses that may be made apparent by the P3 environment, and derives strategies to monitor compliance on P3 projects. The results of examining the implications of the P3 model governing the DBE program could significantly influence policy development, implementation of P3 projects, and formalization of enforcement practices to maintain compliance and ensure that organizations meet their social equity goals. The study results will contribute to existing literature and may influence DBE training and conference topic focus or discussions.

Research Questions

The study centers on the following research questions:

1. What are the DBE compliance administrators' perceptions of whether the DBE goals are met on P3 projects?
2. What are the DBE compliance administrators' perceptions of whether P3 project contractors demonstrate good faith efforts (GFE)?
3. What are the perceived strengths of implementing the DBE program in a P3 environment?
4. What are the perceived challenges of implementing the DBE program in a P3 environment?

Significance of the Problem

A P3 contract is complicated and uncomprehensive and thus challenges accountability by inflicting ambiguity in hierarchal controls, the type of power each partner possesses, the stake in collaboration shared by each participant, the operative and normative differences, and the determination of participants (Acar et al., 2008; Zheng et

al., 2008). A P3 contract inherently calls for risk-sharing between the public and private sectors, which cannot be reflected in contract specifications because of the level of ambiguity surrounding most projects (Boyer & Scheller, 2018). Hence, researchers and DBE compliance administrators criticize P3s by asserting that the model can decrease accountability by blurring regulatory requirements and goals and not adequately encouraging social equity. Therefore, the problem is that the unspecified and open-ended nature of P3 contracts generates questions in the social equity arena because enforcement of such programs is contingent upon the contractual language's specificity and clarity. Public contracting has a history of discrimination because of the contracting process employed. Thus, the U.S. federal government mandates that each public agency receiving federal funding facilitate some variation of the DBE program and maintain information to support their compliance. Every year, this information is reported to the relevant transportation agency as the Annual Uniform Report.

By focusing on FHWA funding recipients, this study addresses the implications of P3 projects on governance and compliance of the DBE Program, a social equity program mandated by the U.S. Department of Transportation (DOT) to address past and continuing discrimination by private contractors and lenders. This is a significant problem to understand, explore, and resolve. With the increased use of P3 in the transportation sector, maintaining compliance with the DBE program is crucial to ensure contracting fairness and continue receiving DOT-assisted funding. As identified in 49 Code of Federal Regulations Part 26 (which governs the DBE program within the transportation industry), recipients' failure to administer the program in good faith can be penalized and treated by the department as complying with its rule:

§26.101 What compliance procedures apply to recipients?

If you fail to comply with any requirement of this part, you may be subject to formal enforcement action under §26.103 or §26.105 or appropriate program sanctions by the concerned operating administration, such as the suspension or termination of Federal funds or refusal to approve projects, grants or contracts until deficiencies are remedied. Program sanctions may include, in the case of the FHWA program, actions provided for under 23 CFR 1.36. (Code of Federal Regulations, 2017, n.p.)

DBE program noncompliance may jeopardize an agency's ability to receive funding, operate, develop, and maintain its organization. Therefore, this study evaluates any such implications and provides recommendations to mitigate any risks identified. The American Society for Public Administration emphasizes strengthening social equity; hence, public administration acts as “the instrument for counterbalancing inequalities” (Kellerman, 2015, p. 179). As researchers, it is essential to uphold initiatives that promote fairness and equality in society. The Christian worldview asserts that “he who oppresses the poor shows contempt for their Maker, but whoever is kind to the needy honors God (Proverbs 14:31)” and “because God is who he is, we cannot be indifferent when his truth and law are flouted” (Orr, 2007, p. 199). Believers must invoke Christian ethics by identifying areas of inequality and proposing recommendations to eradicate them amidst the development and implementation of policies. Accordingly, promoting and protecting social equity initiatives is crucial because it ensures nondiscrimination and increased fairness in public contracting.

The study contributes to the existing literature by addressing how DBE compliance administrators perceive the DBE program in P3 environments and the strengths and challenges in implementing the P3 program. Examining the implications of the P3 model on governing and meeting the goals of the DBE program could significantly influence P3 contract development, project implementation, and formalization of best practices to maintain compliance and ensure that organizations meet their social equity goals.

Definitions

Accountability

As guided by Lindberg (2013), accountability is the acceptance and postulation of responsibility for decisions, actions, sourcing, and policies within the scope as identified and agreed upon by all stakeholders involved. Additionally, accountability includes the obligation to report, explain, and demonstrate that the responsibilities, roles, and outcomes are satisfied. Accountability is operationalized in the terms below:

Source of Accountability. A form of acknowledgment by the accountability holder and one being held accountable is essential to measuring accountability. For example, a contract in which terms and provisions are adequately identified, explained, and agreed upon by all parties identifies the client and the services provider. The source will set forth the expectations and criteria for measuring accountability.

The Degree of Control or Power Distribution. Understanding the level of control exerted by each stakeholder is vital because the unequal distribution of power can have varying influences on accountability. For example, a new public agency engaging in a P3 may create a situation in which the agency is highly dependent on the private

enterprise because it lacks the resources and talent to complete its mission, therefore in this context giving the private enterprise an increased degree of control or power in the collaboration.

The Magnitude of Consequences. This dimension can also be considered the ability or strength of enforcement. It is essential to understand and measure the consequences of not being accountable. Accordingly, it is vital to examine the punishments or consequences for not maintaining accountability or compliance with the agreed-upon terms. Are the implications strong enough to influence the business's ability to do business or discourage the company from violating the agreement's terms?

Compliance Outcome. Investigating and quantifying compliance of contracts by the stakeholders is necessary to measure accountability, for example, an agency's total agreements, identifying which partners and how many have held compliance and then categorizing and comparing that information by project type and contract terms. This information can also drive future contract development or strengthen the ramification of violating contract terms.

Acquisition or Procurement

“Acquiring by contract with appropriated funds of supplies or services (including construction) by and for the use of the Federal Government through purchase or lease, whether the supplies or services are already in existence or must be created, developed, demonstrated, and evaluated” (FAR, n.d., para. 1). According to FAR (n.d.), acquisition begins with the definition of requirements to meet agency needs. It includes the solicitation and selection of sources, contract award, contract financing, contract

performance, contract administration, and those technical and management functions directly related to the process of meeting agency needs by agreement.

Compliance

According to the Code of Federal Regulations (2017), a recipient has accurately applied the DBE program's standards in the research if they are in compliance.

Contract

According to the Code of Federal Regulations (2017), a legally binding agreement in which the seller is obligated to provide materials or services (including, but not limited to, construction and professional services) and the buyer is obligated to pay for those supplies or services.

Contractor or Prime

According to the Code of Federal Regulations (2017), a firm that engages in a DOT-assisted highway, transit, or airport initiative through a contract or subcontract (at any level). Usually leading the contract on a project.

Disadvantaged Business Enterprise (DBE)

According to the Code of Federal Regulations (2017), a small for-profit business concerns at least 51% of the stock in any publicly owned corporation is owned by one or more socially and economically disadvantaged individuals. Management and daily business operations are controlled by the socially and economically disadvantaged individuals who own them.

Disadvantaged Business Enterprise (DBE) Goal

According to the Code of Federal Regulations (2017), state departments of transportation (DOTs) must set an annual DBE objective every 3 years. Setting these

objectives makes it easier for DBEs to participate in DOT-assisted contracts. Within a 3-year cycle, each state must achieve its annual objective. If a project sponsor receives federal monies through its state DOT, it must contribute to achieving that goal. If a state DOT takes federal monies, it must contribute to the goal and report DBE participation on its federal-aid contracts to the DOT. A state DOT's overall goals are expressed as a proportion of federal monies spent.

Disadvantaged Business Enterprise (DBE) Program

According to the Code of Federal Regulations (2017), a USDOT program that applies to federal-aid monies spent on federally-assisted contracts issued by USDOT recipients, as mandated by law. The U.S. Congress established the DBE program in 1982 to assure nondiscrimination in the award and administration of DOT-assisted contracts, help remove barriers to DBE participation in DOT-assisted contracts, and help enterprises flourish.

DOT-Assisted Contract

According to the Code of Federal Regulations (2017), except for a contract merely for land purchase, any arrangement between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letters of credit or loan guarantees.

Enforcement

According to the Code of Federal Regulations (2017), putting the DBE program's requirements into action noncompliance complaints, compliance reviews, reasonable cause notice, and conciliation are all examples of enforcement proceedings.

Federal Highway Administration (FHWA)

According to the Code of Federal Regulations (2017), a division of the U.S. DOT that assists state and local governments in designing, building, and maintaining the U.S. highway system (Federal-Aid Highway Program) and other federally and tribally owned areas (Federal Lands Highway Program). The FHWA is responsible for ensuring that America's infrastructure is safe and secure by providing financial and technical assistance to state and local governments.

Good Faith Efforts (GFE)

According to the Code of Federal Regulations (2017), the efforts made by beneficiaries or contractors to meet the DBE goal or other requirements of 49 CFR Part 26 that can reasonably be expected to meet the program requirement due to their extent, intensity, and suitability to the aim.

Noncompliance

Refers to a recipient or contractor who has not adhered to the DBE goal, program, or 49 CFR Part 26 requirements.

Operating Administration (O.A.)

According to the Code of Federal Regulations (2017), the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA), and the "Administrator" of an operating administration includes his or her designees.

Public-Private Partnerships (P3s)

According to Forrer et al. (2010), public-private partnerships are ongoing agreements between government and private sector organizations in which the private

organization participates in the decision making and production of a public good or service that has traditionally been provided by the public sector and in which the private sector shares the risk of that production.

Project Sponsor

According to the Code of Federal Regulations (2017), the agency that owns and facilitates the P3 project.

Socially and Economically Disadvantaged Individual

According to the Code of Federal Regulations (2017), any American citizen (or lawfully admitted permanent resident) who has been subjected to racial or ethnic prejudice or cultural bias in American culture because of his or her ethnicity, regardless of his or her unique merits.

Social Equity

The fair, nondiscriminatory, and equitable distribution of public goods and services (Norman-Major, 2011). Social equity is the development and implementation of fair and just policies that ensure a level playing field for all and commitment to encourage fairness. Therefore, social equity is operationalized in the terms below:

Procedural and Process Fairness. Providing due process and equal rights to all citizens is critical for social equity. Everyone should be treated equally, regardless of race, color, national origin, sexual orientation, ethnicity, and gender. Therefore, the unfair treatment of any individual should be mitigated. Hence, all processes and procedures should be assessed or examined to safeguard inequality and undue burden placed on people. For example, did the stakeholders implement an objective sourcing or

procurement process so only businesses that meet the requirement's eligibility standards can participate or receive subcontracts?

Distribution or Access to Resources. Distributing services equally, making sure service is accessible to anyone interested, and removing barriers to participation are elements necessary for social equity. This also includes ensuring that the underprivileged receive basic accommodation. Hence, evaluating and comparing how services and resources are distributed is an essential dimension for measuring social equity—for example, assessing whether the stakeholders reached out to disadvantaged communities to spread awareness of available procurement opportunities. Also, were resources and special accommodations provided to equalize accessibility?

Outcome. Investigating and examining disparities (overutilization and underutilization) that exist is necessary to measure social equity. For example, what kind of businesses are being awarded P3 projects? What companies are they subcontracting with? What are the racial and ethnic demographics? What disparities are apparent within the strategic partners? Is there equal representation based on the goals set by the agency?

U.S. Department of Transportation (DOT). The Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA) are all part of the U.S. Department of Transportation.

Organization of the Study

The preceding analysis lays the foundation for this study's research questions. To investigate these questions, the subsequent chapters are organized as follows. Chapter 2 presents the literature that is pertinent to the research topic. Chapter 2 provides the

principal-agent relationship as the theoretical framework that borders the research topic, a comprehensive analysis of P3 projects, the FHWA and its recipients, FHWA's DBE program, FHWA's accountability capability, and its possible implications on monitoring P3 arrangements. Chapter 3 explains the qualitative research methodology. The study employs a qualitative phenomenological approach by conducting interviews with DBE compliance administrators, thus collecting data within the FHWA P3 administration space. The method offers a robust approach for probing the research questions. Chapter 4 identifies the data collection tool, interview data, and the exploration results. Chapter 4 also identifies the emergent themes of the undertaking, the interpreted strengths, challenges, and best strategies identified by compliance administrators. Chapter 5 further details the findings, inferences that can be made based on the research findings, implications of the results, and recommendations for future studies.

CHAPTER 2: REVIEW OF THE LITERATURE

Disparity in Public Contracting

The government spends its money in several ways, including direct employment of talent or personnel and procuring goods and services from private firms (Enchautegui et al., 1997). In 1995, there seemed to be a shift in public spending from in-house employment to contracting. According to Martin et al. (2007), “The relationship between the rule of law and policy administration is not always a happy one. And though adherence to the rule of law might inhibit innovation or efficiency in policy development and administration, the reality is that “an administrator’s first responsibility is to carry out the law” and offset inequalities (Martin et al., 2007, p. 511).

However, this has not been the case in the public sector’s contracting environment. The public sector has previously been criticized for its complacency in ignoring minority contractors’ discrimination when competing for contracts or public projects. According to previous research, minority- and woman-owned firms have experienced barriers to firm formation and participation in government contracting (Enchautegui et al., 1997). For example, people from minority backgrounds make up about 28% of the U.S. population, but only 9% of construction firms are minority owned; minority-owned firms receive about 5% of construction contracts, demonstrating the inequality evident in public contracting (Sanchez et al., 2003). Sanchez et al. (2003) highlights the importance of equity in the public sector: without aggressive measures, minority-owned firms will not be adequately able to participate or grow in the communities they serve financially. According to Sanchez et al. (2003), “while minorities often suffer the burdens of having large transportation construction projects

placed in their neighborhoods, they do not usually reap the benefits of lucrative contracts or high-paying jobs in the construction industry” (p. 26). Just like the public sector did with its employment practices, the transportation sector applied affirmative action in the contracting environment by using the DBE program to remedy the inequalities (Enchautegui et al., 1997).

Although affirmative action programs in federal procurement were previously “rather routinely approved by the Congress,” these programs have also been subjected to “extensive judicial challenges” (Enchautegui et al., 1997, p. 3). The cases that set a precedent were *City of Richmond v. J.A. Croson Co.* (1989; as cited in Sullivan, 1990), and *Adarand Constructors v. Slater* (2000; as cited in Sanchez et al., 2003). In Richmond, although the city’s population was more than 50% African American between 1978 and 1983, only 0.67% of African American firms were awarded construction contracts in the same 5 years (Sullivan, 1990). Because of its past discrimination and the previous ruling by the Supreme Court for the federal, state, and local governments to set aside a portion of contracts to minority-owned firms, the City of Richmond “required contractors for public works projects to subcontract thirty percent of each project to minority enterprises” (Sullivan, 1990, p. 1610). However, in the *City of Richmond v. J.A. Croson Co.*, a private business brought a case against the City of Richmond, challenging the city’s affirmative action program’s fairness and contracting practices. The firm questioned the program’s violation of the equal protection clause (Sullivan, 1990). Therefore, “the court struck down the city of Richmond’s minority business set-aside program as a violation of the equal protection clause, which attempts to accelerate African American business owner’s access to economic opportunities long foreclosed”

(Sullivan, 1990, p. 1609). Literature attributes the court ruling to the societal backlash of affirmative action in the contracting environment and not to the fading of discrimination (Sullivan, 1990).

Unlike the Richmond case, *Adarand Constructors v. Slater* found that the DBE program is “narrowly tailored to meet the state’s interest and does not violate the equal protection clause of the constitution” (Sanchez et al., 2003, p. 29). The *Slater* case shed light on the government’s apparent discrimination against qualified minority businesses participating in public projects and contracts (Sanchez et al., 2003). Sanchez et al. (2003) stated,

For example, “the average loan to an African American construction firm \$49,000 less than the average loan to an equally matched nonminority construction firm,” prime contractors like to contract with subcontractors with whom they have long-standing relations, and as a result, new minority businesses are “seldom or never invited to bid for subcontracts on projects that do not contain affirmative action requirements;” and minority construction subcontracting firms received 87 cents for every dollar that would be expected to receive given their availability.

(Sanchez et al., 2003, p. 29)

The above cases and rulings result in a more rigid standard for state and local governments to facilitate affirmative action programs. Enchautegui et al. (1997) stated, “Under this standard of review, racial classifications must serve a compelling interest and must be narrowly tailored to suit that purpose” (p. ix). The public administrations’ application of equity in their contracting has some faults and has introduced public doubt in their ability to maintain fairness and accountability. Public doubt and aggressive

advocacy for equity contributed to the DBE program's uniform application on federally-funded projects, especially in the transportation sector. Sanchez et al. (2003) explained, "According to DOT data, in the fiscal year 2000, the DBE program helped to encourage more than \$2 billion in investment to disadvantaged businesses, including minority and women-owned businesses" (p. 29). However, there is constant resistance from the private sector because it requires the prime contractors (also called primes) to subcontract some portion of the contract, split monies, or profit accordingly in the contracting environment. Nonetheless, it is critical to facilitate the DBE program to ensure minority-owned firms' participation in transportation contracts (Sanchez et al., 2003).

The transportation sector has been criticized for its minimal outreach to minority communities in the transportation planning process and not having "effective mechanisms to ensure compliance" on both the public and private sector's role, with the requirement to include minorities in the planning (Sanchez et al., 2003, p. ix). The transportation sector has also been accused of having ineffective accountability measures for the public and private sectors resulting from inadequate resources. Sanchez et al. (2003) stated,

Civil rights laws such as Title VI of the Civil Rights Act of 1964 and environmental laws provide legal protections for minority communities faced with discriminatory transportation policies. However, enforcement of these protections or measuring compliance of the DBE program has been limited because it has not been made a priority. (p. 34)

One of the recommendations to make transportation outsourcing more equitable and to make the DBE program more effective is to establish enforceable standards because

“although the federal government states that it is committed to the enforcement of Title VI, there appears to be very little actual enforcement” (Sanchez et al., 2003, p. 36). The recommendation to increase equity and increase the effectiveness of affirmative action programs like the DBE program highlights the importance of accountability in the relationship between the actors, which the principal-agent framework can explain.

P3 and Equity

In the transportation environment, P3 “refers to the planning and implementation of an income-producing development adjacent to or physically related to an existing or proposed public transportation facility (e.g., Metrorail transit station, Kiss & Ride Facility bus transfer facility, etc.)” (Beltran et al., 1986, p. 5). Another definition of P3 in the transportation sector is “an agreement to provide infrastructure projects with more private input than is customary” (Erhardt, 2007, p. 906). There are several benefits to P3 projects including the opportunity to leverage the private sector’s resources and experience (Pula, 2016). For example, unlike traditional project delivery methods, P3 makes it easier to innovate because of the private sector’s additional resources.

One of the crucial characteristics of joint developments (or P3s) is the intense collaboration between the private and the public sector. There are concerns related to P3 arrangements, such as “loss of public control and flexibility, compromising private profits at the public’s expense, loss of future public revenues, and lack of specific contract terms, accountability and transparency” (Pula, 2016, p. 8). P3 arrangements may influence traditional project execution or delivery safeguards, compromise public administration principles, and introduce legal conflicts (Erhardt, 2007).

Another essential element of P3s is the necessary equilibrium between social and fiscal policy; hence, P3 project sponsors must maintain absolute compliance with the policies of the transportation mode funding the project (Erhardt, 2007). When a project receives federal aid, the project “must follow certain federal policies” (Erhardt, 2007, p. 908). It is important to note that the United States has been slower to adopt P3 agreements than the rest of the world because of the difficulty in blending the contract within the framework of its unique federal and state laws, especially in the transportation realm (Erhardt, 2007). Therefore, these joint developments should only come about when each participant has agreed to the terms and objectives. Erhardt (2007) explained, “In order to achieve equilibrium between these two arguably competing interests, federal and state laws must work together to best accommodate public concerns about P3s” (p. 938).

One of those objectives and unique federal laws fundamental to the transportation sector is DBE equity; private entities interested in participating in P3 projects in the transportation sector agree to comply with the DBE program. The joint development can take different forms to ensure DBE equity. For example, a DBE can act as a subcontractor or serve as one of the partners (Beltran et al., 1986). Similar to the historical discrimination minorities face in traditional contracting, equity seems challenging to attain in joint development or P3 projects. DBE firms were also discriminated against, and their participation was limited (Beltran et al., 1986).

According to Erhardt (2007), “With privatization and its focus on efficiency, competition, and market forces, other interests that are also important to the public’s social and economic wellbeing are not being taken into account” (p. 906). Therefore, to

lessen the risk of flouting public sector principles (such as equity), the transportation agency can ensure DBE participation on P3 projects by putting specific terms in the agreement and methods for holding all participants accountable, which can be achieved by understanding the nuances of the relationship between the sectors. The principal-agent theory can guide the collaborative network between the public and private sectors.

Principal-Agent Theory

The principal-agent (P-A) theory often characterizes P3 agreements because of the delineation or involvement of two actors—private and public entities. For instance, Parker et al. (2018) followed the stages of P3 implementation in Kenya. Using the P-A theory, the researchers explored the relationship between the operating members, such as the government, nonprofit organizations, and private companies. The theory allowed the researchers to study the relationships linked with managing the projects and provide perceptions to improve the project results (Parker et al., 2018). Halachmi (2010) focused on the P3 project in Kentucky’s Henderson County School Transit System. The researcher analyzed the understanding of P3 relationships and assessed the P-A theory as the framework for understanding the P3 relationship (Halachmi, 2010). As supported by previous studies, the principal-agent framework is an adequate theory to explore P3 agreements or arrangements.

Numerous attempts were made to document explorations on research policies such as economics and Marxist, system theory, constructivism, institutionalism, and the assertions on the “finalization of science” (Braun & Guston, 2003, p. 302). However, these approaches fell short of capturing the comprehensive theoretical essence of research policy making because it was too “abstract (system-theory), lacking in parsimony or

theoretical rigor (constructivism, institutionalism, and finalization), or if they are parsimonious (classical economics), that they are abstract too greatly from the requisite variety of real-life” (Braun & Guston, 2003, p. 302). The P-A approach arose as a result of the “under-theorized nature in the area of research policy-making” (Braun & Guston, 2003, p. 302). Also, financial literature depends on the P-A theory to explain the P3 phenomenon, model, and relationship (Subedi, 2020). The P-A theory explains the relationship between two actors (principal and agent) in a transfer or exchange of resources (Braun & Guston, 2003). According to Braun and Guston (2003), “The principal is the actor who disposes of several resources but not those of the appropriate kind to realize the interests,” necessitating an agent with the means to achieve the preferred outcome (p. 303). Therefore, the agent is the actor who accepts the principal’s resources and will further the principal’s goals (Braun & Guston, 2003).

Coleman (1990) summarized this relationship as the principal’s “extension of self” because of the delegation’s apparent presence. The P-A theory was developed in the era of new institutionalism economics and shared the notion that

rational actors striving to maximize their preferences that are ordered according to their priorities. ... Institutions can constrain actors’ choices so that the conscious design of institutions (like contracts) may help to overcome typical collective action involved in the P-A relationship. (Braun & Guston, 2003, p. 303).

As with every relationship, there are two problems (moral hazard and adverse selection) that arise when facilitating the P3 relationship because in these relationships, “one side may be more powerful than the other; in terms of knowledge, skills, influence or finances” (Shrestha et al., 2019, p. 4). The new institutional economics terms this

“opportunism” of actors because, theoretically, “actors are self-interested and thus seek to maximize their welfare,” and often this behavior can come in the form of lying, stealing, and cheating at the expense of the other actor (Braun & Guston, 2003, p. 303). Moral hazard conceptualizes that the principal has no way of knowing that the agent will complete the tasks or achieve the goal, creating a disparity in information knowledge and providing an advantage for the agent (Braun & Guston, 2003). For example, “moral hazards are exemplified by private companies lowering product quality to reduce production costs, or in lobbying government to grant higher subsidies” (Shrestha et al., 2019, p. 4). Often, this creates adverse selection, meaning that “the principal does not have sufficient information on the abilities of potential agents to find the one best suited to do the tasks” (Braun & Guston, 2003, p. 304). Subedi (2020) stated, “The result of opportunistic behavior may be adverse selection, the ex-ante choice of an inferior option, or moral hazard, increasing the ex-post risk that one party will exploit the terms of the contract,” disadvantaging other parties (p. 3).

Additionally, the P-A theory asserts that the private sector may not share all of the public sector’s project goals (Shrestha et al., 2019). The P-A theory claims that this problem results from the imbalance between the actors and their commitment and operational definition of project success (Shrestha et al., 2019). Shrestha et al. (2019) stated,

Governments use PPPs as a low-cost vehicle to promote economic development and social welfare maximization. Private firms, however, will not share these goals as a priority. Rather, they are motivated by profit and consequently can be expected to promote efficiency over effectiveness. Typically, they aim at

reducing expenses, often by cutting costs, which in turn can compromise outcomes. ... the dilemma of PPP project procurement is that while private participation offsets procurer cost burdens, it also places the private partner in significant control of the project, inviting actions that siphon off benefits to the project contractor at the expense of the procurer, whose interests they are supposed to serve. (p. 4)

Generally, these problems arise when the principal cannot monitor the agent's productivity. The literature discusses the importance of enforceable and stable contracts with measurable output indicators that can be observed. The literature identifies processes, resources, mechanisms for screening and monitoring, and credible punishment in case cheating occurs as proven method to eradicate problems with the agent (Braun & Guston, 2003; De Palma et al., 2009; Dewatripont & Legros, 2005; Subedi, 2020; Williamson, 2002). For example, to reduce adverse selection on an outsourcing project, the principal can request some background assessment conducted by an independent party or adopt an internal supplier evaluation system that examines the agent's compliance (Keil, 2005). However, to reduce moral hazard, the principal should monitor aspects of an agent's performance to lessen the information disadvantage or outline specific contract restrictions to determine the agent's compliance (Keil, 2005).

According to Shrestha et al. (2019), "Strategies for safeguarding public interest in P3 contracts are important for governments as public interest is treated as something that promotes social welfare and is considered synonymous with public policy" (pp. 4-5). Based on the relationship's impact, as deduced by the P-A theory, the concept and contextual presence of accountability are imperative in P3s to preserve the public

administration's goals and integrity, thus maintaining legitimacy and effectiveness. Besides, "P-A theory has proven to be a flexible and useful approach for interpreting the effects of institutional arrangement on accountability of public decision-makers and public policy" (Gailmard, 2012, p. 20). P-A theory is widely used for analyzing accountability. As such, it characterizes accountability as a "function of the capabilities of principals to judge the performance of their agents" based on the agreed-upon expectations or contractual agreement (Gailmard, 2012, p. 2). P-A theory emphasizes a tool or system for holding the agent accountable and encouraging favorable reactions. The agents are held responsible for what they have done or failed to do based on the objectives they received from the principal, which are usually documented in an agreement or contract. Then, "the basic values and the conscience of the agent, as well as the relationship to the principal, would serve as a control mechanism assuring that the assignment was being performed satisfactorily" (Nyman et al., 2005, p. 124).

Framing P-A Theory to FHWA's P3 and DBE Environment

The P-A theory applies to FHWA's P3 environment in that the public sector acts as the principal and the private sector as the agent. As the P-A theory asserts, the project sponsors mandate the private industry to provide specific services on the project sponsors' behalf (Subedi, 2020). Subedi explained, "If the public sector or principal succeeds in aligning its primary objective to the private sector, the principal-agent relationships serve very well for P3s" (p. 2). If the principal cannot effectively monitor the agent, that could lead to problems in the P3 relationship or outcomes such as moral hazard or adverse selection (Subedi, 2020).

In FHWA, there are two sets of relationships: one between FHWA and the project sponsors with the FHWA as the principal and the state DOT as the agent, then another connection between the project sponsor and the private sector. The multiple P-A relationships require channels to maintain accountability and safeguard effectiveness. Said differently, to receive funding, the FHWA (principal) holds state DOTs (agent) accountable to its requirements. At a later time, the state DOT (principal) regulates the private sector (agent) responsible for what they have or have not done based on the federal regulations, state statutes, public policies, or contracts. Keil (2005) stated,

[Ultimately,] the alliance between public and private sector requires actors from each sector to embrace each other's characteristics and point of view. Public sector actors would need to think and behave like entrepreneurs, and private sector actors would need to carefully consider the public interest and expect greater public accountability. (Keil, 2005, p. 5)

It is necessary to understand whether the agent (contractors) buys into the FHWA's DBE program, a significant agency value or objective, by examining program goals and GFE achievement on P3 projects. Accordingly, the researcher can derive this information from the administrators' perception of the contractors and their compliance with the program. In this relationship, the administrators have firsthand knowledge and necessary insight into the program requirements and compliance. Additionally, to better the P-A relationship, understanding the weaknesses and strengths of implementing the DBE program in the P3 environment will help FHWA either continue or reconstruct its methods of influencing accountability and encourage social equity for future projects in the P3 domain. Ultimately, this study supports the P-A theory by demonstrating whether

the contractors embrace the FHWA DBE program, establishing accountability, and upholding the public's interest.

FHWA and Public-Private Partnership

Because of the government's inability to address deteriorating infrastructure, lack of sufficient revenue, and limited resources, it relies on the private sector to develop infrastructure. Research demonstrates that P3 is not a new concept; it has been around since the Roman Empire in the form of concessions (Jomo et al., 2016). Nonetheless, the P3 term is relatively new; it was coined and popularized in 1970 when the government's inefficiency was attributed to the poor economic performance of neo-liberal ideologists (Jomo et al., 2016). At that time, "new ideas, such as New Public Management (NPM), became the new vogue and in this context, PPPs were often invoked as alternatives to bureaucratic public services and inefficient state-owned enterprises, often for the promotion of privatization" (Jomo et al., 2016, p. 2). The justification for this assertion regarding the notion that the public administration's efficiency and provision of public services can only be enhanced by outsourcing (Jomo et al., 2016).

FHWA was created in 1966 as an agency within the U.S. DOT that supports state and local governments in designing, constructing, and maintaining the nation's highway system (FHWA, 2012). Because of its diminishing funds, lack of infrastructure development, and availability of resources, the federal government, the DOT, and the FHWA encouraged the use of P3s in the development and delivery of transportation improvements and infrastructure development (Millemann & Reynolds, 2006). FHWA recognized that it could not financially substantiate the maintenance and development of U.S. highways and infrastructure. For example, as early as 2002, it became "apparent

that states can't rely on the federal government" because the Highway Trust Fund, the federal funding used to finance road projects, is "drying up" (Chavers, 2007, p. 11). In 2008, the FHWA created the Office of Innovative Program Delivery, specifically the Center for Innovative Finance Support (or the Center), to improve transportation performance by supporting initiatives such as P3s and other types of partnerships.

The center provides resources, information, and expertise to use P3 and aids, including programs, private activity bonds, and the TIFIA federal credit program to enable P3 projects. This demonstrates that FHWA is committed to driving infrastructure and transportation improvements delivery using P3 as a method. FHWA (2017) defines P3 as "contractual agreements between a public agency and a private entity that allow for greater private participation in the delivery of transportation projects" (para. 1). FHWA posits that P3 agreements usually stipulate additional risk allocation to the private sector. FHWA uses P3 as a mechanism for new building facilities by bundling and transferring design, construction, finance, and long-term operations and maintenance over a concession period to a private sector partner (FHWA, n.d.). FHWA also uses P3 to lease existing public-financed tolled facilities for private partners for operations for a duration. The private company can collect tolls on the facility to operate and maintain the facility (FHWA, n.d.). In 2017, FHWA had more than 40 projects valued from "a few hundred million dollars to a few billion dollars" (para. 1). Also, "as of August 2018, 36 states, plus the District of Columbia and Puerto Rico, have passed P3 authorizing legislation" (Zhang & Cui, 2020, p. 126). FHWA defends its use of P3s by asserting that "P3s can provide access to private capital, reduce costs borne by transportation agencies, accelerate project delivery, shift project risk, spur innovation, and provide for more

efficient management” (FHWA, 2017, p. 4). P3 serves as a solution for the FHWA’s typically stunted development because it supports increased capacity and resource capability. Notwithstanding the significant advantages of P3 projects, FHWA expounds on the shortcoming of P3 arrangements such as the burden they place on administration and the need for new revenue and explains that P3 may not be cost effective for some projects to adopt (FHWA, 2017).

Although the objective function for the “private sector participants in a P3 arrangement is to maximize their profits over the contract life,” a public agency like FHWA must safeguard its legitimacy by ensuring that public sector principles such as accountability and equality are upheld in its practices (Vining & Boardman, 2008, p. 152). For instance, government acquisitions in the transportation sector emphasize social equity by providing equitable opportunities for minority- and women-owned businesses to participate (Zhang & Cui, 2020). P3 projects are large contracts with long durations, typically more sustainable for large companies to handle. Alongside the ambiguous nature of P3 agreements, which can create difficulties for large businesses to identify any use for minority-owned or small firms, it is notably problematic for minority- or women-owned businesses to participate. FHWA requires large private proposers to develop DBE performance plans that detail how the company will achieve DBE participation and outline its compliance strategies (Zhang & Cui, 2020).

A study conducted on the current practices to set and monitor DBE goals on alternative project delivery methods found that 33 of 48 state DOTs “that have used design-build, or P3 methods applied DBE contract goals,” demonstrating that FHWA maintains the regulation and upholds the responsibilities of its agency by applying DBE

goals on P3 contracts (National Academies of Sciences, Engineering, and Medicine [NASEM], 2015, p. 12). Even though it is clear that the objectives of the public and private partner innately differ, FHWA emphasizes that an agreement serves as the conduit to identify expectations, describe standards and scope, create a level playing field, and document consequences, ultimately creating a tool for shared objectives and accountability. P3's "interface is contractual (legal) and transparent, and the relationship is based on vendor compliance with the contract specifications" (Forrer et al., 2010, p. 476). It is essential to note that FHWA highlights that even though the P3 approach solves the funding shortfall, it introduces a considerable burden on administrative resources and oversight (FHWA, 2017).

The literature necessitates the importance of understanding whether DBE goals or GFE are met on FHWA P3 projects because of the level of oversight necessary and the possible difference in objectives between the FHWA funding recipients (principal) and the P3 contractors (agent). The literature also supports exploring whether the P3 environment presents additional challenges (i.e., administrative resources and oversight or implementing the DBE program) and whether the P3 environment welcomes unique strengths for the DBE community.

FHWA and the DBE Program

Through the federal aid highway program, FHWA provides financial assistance to different states to improve highways, facilitate construction or reconstruction, and build bridges (U.S. Government Accountability Office [GAO], 2008). The FHWA distributes these funds to the states through discretionary grants and "annual apportionments established by statutory formulas" (GAO, 2008, p. 7). FHWA supports P3 contracts

through state DOTs or recipients by initially financing the projects through access to public funds such as toll collections, public agency bonds, availability payments or subsidies, and notable governmental credits (FHWA, 2017). According to the GAO (2008), “State DOTs are primarily responsible for delivering highway infrastructure and services, so FHWA has a limited role in determining how consultants and contractors should be used on federal-aid projects” (p. 6). FHWA is responsible for ensuring that the state DOTs and their contractors adhere to federal laws and regulations; thus, FHWA conducts oversight and risk assessment of state DOTs’ P3 projects. State DOTs must ensure that they comply with the 49 Code of Federal Regulations Part 23, which was later replaced with Part 26’s DBE program, to receive FHWA funding for P3 projects. Part 26 primarily addresses the effects of past and current discrimination against small, minority-owned, and women-owned businesses (Orndoff et al., 2011). The DBE program requires that a “certain percentage of contracts be awarded to small businesses owned and controlled by socially and economically disadvantaged individuals, including minority- and women-owned businesses” (GAO, 2008, p. 8).

For project sponsors to receive funds for a highway improvement project that was already proposed, they must agree to ensure that a percentage of the funds it receives from FHWA is allocated to businesses certified as DBE firms. Once FHWA approves the grant or aid to the state DOT, the agencies agree that “FHWA has the authority to oversee any project that receives federal-aid highway funds. However, the agency has increasingly delegated responsibility for oversight to state DOTs since the passage of the Intermodal Surface Transportation Equity Act in 1991” (GAO, 2008, p. 10). The agreement details FHWA’s oversight strategies, the responsibilities delegated to the state

agency, the state agencies' performance measures to track the funds, and the risk assessment that should be analyzed and measured. According to the GAO (2008),

FHWA division offices oversee state DOTs through reviews of the departments' programs and processes. ... Some of these reviews occur annually, and others are undertaken at the discretion of the division office based on areas where there may be increasing risk to the highway program. (p. 11)

The reviews assess the grant recipients' compliance with FHWA requirements, laws, and regulations. The assessments are also set up to safeguard accountability by ensuring that the agencies have full control of the project and appropriately use the funds provided by FHWA. The evaluations result in recommendations if the state agency complies or corrective actions if the agency is noncompliant. One of the most closely scrutinized elements is the agency's compliance with the DBE program as discussed by Smith et al. (2019) as follows:

On P3 projects, ... a State agency may choose to set a DBE contract goal, or it may set a separate project goal. ... In a design-bid-build project, the design and scope of the project are known at the time of bid, allowing bidders to identify upfront DBEs that can be used on the project to meet the contract goal. In a P3 project, the project design and the scope of construction are yet to be determined as of contract award. ... Thus, best practices typically require the developer to submit a DBE Participation Plan that includes those specific, typically design-related DBEs, and work items for which DBEs will be solicited to perform. The recipient must monitor compliance with the schedule, which becomes a roadmap for the developer to show ongoing good faith efforts to meet the goal. (p. 77)

The Civil Rights Act of 1965 jumpstarted the federal, state, and local governments' mandate to create affirmative action programs to assist small, minority-owned, and women-owned businesses (Heron & Williams, 2015). President John F. Kennedy issued Executive Order 10925 on March 6, 1961, which required that "government contractors utilize affirmative action to ensure that applicants were provided employment and fair treatment without regard to color, creed, race, or national origin," which was the first time that the U.S. federal government used the term affirmative action (Heron & Williams, 2015, p. 30). Following suit, President Richard Nixon issued Executive Order 11458 on March 5, 1969, establishing the Office of Minority Business Enterprise.

Through the Public Works Employment Act of 1977, state DOTs were required to award at least 10% of the value of their contracts to small and minority-owned businesses. In 1982, the DOT and FHWA "required states to implement affirmative action programs for minorities in the awarding of road construction contracts that are funded with federal aid" (Marion, 2011, p. 901). Then, in 1988, requirements extended to include women-owned businesses (Heron & Williams, 2015; Marion, 2011). Businesses need to meet ownership and operations requirements to qualify as a DBE: "At least 51% of a business must be owned by the group for which the goal applies, and operations require that the minority or female owners be involved in the day-to-day operation of the business" (Marion, 2011, p. 902). If a state needs to set a DBE goal lower than 10% for a justifiable reason, it must submit a petition for a lesser goal and provide substantial evidence to support its reduced goal (Marion, 2011).

There are several ways to satisfy the DBE goal; the state DOTs or recipients can contract directly with a minority- or women-owned contractor. They can also require their prime contractor to use subcontractor suppliers or DBE-certified manufacturers. A contractor submitting a proposal to a solicitation advertised by state agencies will either note that they are certified or provide a list of DBE-certified firms that will act as subcontractors to be used to complete the project. Marion (2011) conducted a study to evaluate the relationship between DBE goals set by state agencies (or recipients of FHWA aid) and actual DBE utilization; the study found that the DBE goal is effective in increasing DBE utilization by asserting that on the project level, there is a positive relationship between DBE goals and actual utilization; more specifically, the presence of a DBE goal increases the portion of the contract committed to DBE-certified firms (Marion, 2011). Notably, the study also found that “increasing the DBE goal is more effective at raising DBE utilization in states with stronger enforcement regimes and when the increased goal is likely to be binding” (Marion, 2011, p. 914). These results emphasize the importance of including a DBE goal in each project, staff oversight to ensure enforcement or accountability, and a comprehensive contract that binds the DBE program as part of the performance. However, DBE program administration requires “significant resources of personnel and time for the DOT,” presenting an additional burden to ensuring that the federal grant recipients are compliant with the DBE program (Orndoff et al., 2011, p. 135).

It is not reassuring to discover numerous examples in which state DOTs have failed to monitor their contractors’ compliance and thus have not held the private enterprises accountable. Tymann (2012) asserted that “federal regulations oblige grant

recipients to monitor contractors' compliance with DBE requirements, including that a DBE to whom work is contractually committed is performing a 'commercially useful function' – that is, doing the contracted work with its personnel and resources" (p. 2). But mounting examples of wrongdoing in DBE programs have led to questions regarding the effectiveness of state DOT oversight. For example, the Oregon DOT was sanctioned for failing to discover fraudulent DBE program participants on a federally-funded \$35 million contract (the fraud was noted after a whistleblower report; Tymann, 2012). An investigation by FHWA revealed that three private contractors had gone into a relationship to misappropriate meeting the DBE goal, which directly led to the prime contractor being awarded that project. The state DOTs did not conduct follow-up compliance reviews, and the private contractors were not held accountable to the DBE goal. As reported by FHWA, "the state agency failed to exercise effective DBE program oversight on the trucking operations on the project, and as a result, failed to comply with DBE program regulations" (Tymann, 2012, p. 2).

Similarly, the Washington State DOT was found to have violated the DBE program by not holding the private enterprises accountable. As a result, the Washington DOT nearly lost its federal aid on state highway projects (Tymann, 2012). State DOTs attribute the lack of proper oversight to many reasons, such as the lack of resources and, in certain settings, the lack of enforceable language in the contract. These findings support this study's research questions because they demonstrate the need to understand whether the private contractors are being held accountable to the DBE goal and what monitoring mechanisms the compliance administrators are using to ensure the DBE program's integrity.

Possible P3 Implications on Governing FHWA's DBE Program

The concept of accountability is subjective in that its definition depends on the underlying objectives set within a context. Lindberg (2013) asserted that “accountability has several forms depending on the actors (e.g., citizens– politicians; politicians– bureaucrats; or judges–citizens)” (p. 202). There have been many debates in the public administration community on the definition of accountability; as the term has become more popular, the ambiguity has seemingly increased. Regardless of the context, as demonstrated by the P-A theory, the consensus is that accountability refers to the idea that “when decision-making power is transferred from a principal (e.g., the citizens) to an agent (e.g., government), there must be a mechanism in place for holding the agent accountable for their decisions and tools for sanction” (Lindberg, 2013, p. 203).

Forrer et al. (2010) stated that “accountability has long been recognized as the cornerstone of successful public management” (p. 477). In a partnership environment, oversight is imperative to ensure compliance, effectiveness, and efficiency. The dynamics of P3s are very different from traditional outsourcing because the private partners are part of the decision-making and the delivery of the project (Forrer et al., 2010). Forrer et al. believed, “The terms and conditions of this involvement deserve scrutiny and understanding by public officials, before entering a PPP, as private partners enter into these arrangements for different reasons than governments” (p. 477). While governments work to serve the public in capital investment projects, private partners are understandably “focused on recouping [their] investment and on generating a profit” (Forrer et al., 2010, p. 477).

There must be sufficient safeguards to the public objectives so they are not neglected to make profits and ensure accountability. Also necessary is the public's ability to provide "the capacity and know-how to balance a variety of economic, political, and social factors when designing and monitoring the operations" in P3s (Forrer et al., 2010, p. 479). Critical questions that public administrators in a P3 relationship must ask include, "Are the terms of the contract useful?" and "Do the resources necessary for oversight exist?" (Forrer et al., 2010, p. 481).

Critics have long expressed significant concerns with FHWA's oversight role. In 2005, the U.S. Government Accountability Office (GAO) completed a study evaluating the trends in contracting within the state agencies, variables that influence the contracting relationship within the state DOTs, measures state agencies employ to protect the public interest in work with contractors, and FHWA's oversight on the state DOTs (GAO, 2008). The study found that, in theory, FHWA has agreements that dictate expectations; however,

FHWA lacked a comprehensive approach in its oversight efforts ... even though FHWA had made progress in improving its oversight efforts, such as establishing performance goals and outcome measures to limit cost growth and schedule slippage on projects, FHWA had not linked these efforts to its day-to-day activities and was not using them to identify problems and target oversight. (GAO, 2008, p. 11)

Hence, the GAO is concerned that the increased dependency and partnerships in contracting may not have the oversight necessary to ensure compliance. Furthermore, Orndoff et al. (2011) conducted a robust statistical analysis utilizing a survey of DBE

program administrators; 34 states and the District of Columbia responded, totaling a response rate of 69% (Orndoff et al., 2011). The study found that “collectively, issues concerning lack of enforcement of DBE goals by FHWA and DOT administration round out the list of the top three issues”; also included are issues with prime contractors, underutilization of DBE contractors, and lack of staffing capacity to govern the DBE program (Orndoff et al., 2011, p. 138).

A more specific example comes from a study conducted by Zhang and Cui (2020) exploring whether P3 favors large companies and how that affects the realm of social equity. The argument is that large companies benefit more on P3 projects when compared to other project types: “admittedly, limited design in the procurement stage creates challenges in enlisting specific DBEs in the proposal” (Zhang & Cui, 2020, p. 125). The research examined the DBE program’s performance on alternative delivery contract types (design-build, design-bid-build, design-build-finance, design-build-finance-maintain, design-build-finance-operate-maintain, and design-build-maintain) to discover if P3 projects influence the implementation of the DBE program. The authors analyzed 134 contracts from the U.S. Major Transportation Project Database against four metrics: DBE goal, commitment, attainment, and performance (Zhang & Cui, 2020). The research aimed to reveal whether the project delivery method impacted the DBE goal and performance. The study found that although the DBE goals established for the P3 projects were higher than goals for other project types, which can be attributed to the contract value of P3 projects, “there is no significant mean difference in DBE performance” (Zhang & Cui, 2020, p. 133). However, the research described needing

more data to validate its findings. Generally, these results further support investigating and exploring how P3 projects influence the DBE program.

One of the shortcomings of P3 agreements is the level of oversight needed to ensure that expectations are met and that accountability is upheld, as demonstrated by the literature review. In a P3 environment, an agreement accompanied by contract law that stipulates terms is necessary. Administering the DBE program is already tricky; therefore, it is imperative on a P3 contract to explicitly spell out the enforcement language and ensure staff capacity to monitor compliance. However, based on the literature available, FHWA is already struggling with overseeing the DBE program on traditional projects; the open-ended nature of P3 contracts may pose an even more significant threat to the DBE program's compliance.

In summary, "many transportation P3s involve federal loans through the Transportation Infrastructure Finance and Innovation Act (TIFIA) program, exposing federal taxpayers to losses if project revenue is insufficient to service the loans" (Mallett, 2017, p. 5). As FHWA continues to fund and encourage P3 projects, the use of the P3 model will continue to increase within the transportation industry. Implementing the DBE program is imperative to uphold social equity by mandating the utilization of small, minority-owned, and women-owned businesses in the transportation sector, making it urgent to examine P3 influences on the program.

Previous research has demonstrated the concerns with implementing the DBE program in the alternative delivery environment by summing that the project nature necessitates mechanisms to ensure private partner' accountability to the program. The literature review suggests that assessing the DBE oversight available on P3 projects is

important, as is evaluating the safeguards available to ensure accountability of the DBE program. Literature also recommends further exploring the attainment of the DBE goal on alternative delivery projects and the implication of the P3 model. This study contributes to the literature within the DBE community. More literature will highlight the strength and remedy for possible negative ramifications by researching the P3 environment's implications for implementing the DBE program. Based on the research conducted on the state DOTs, Keen et al. (2015) deduced that future studies should research and document "effective monitoring and steps to ensure consistency with federal regulations on P3 contracts projects" (p. 4). Therefore, this study adds insight by attempting to identify best practices from DBE compliance administrators who have monitored P3 projects.

In Chapter 1, the researcher identified the purpose and justification for the research. In this chapter, the researcher provided a relevant literature review that guided the study's purpose. Also highlighted in this chapter is the conceptual framework guiding the study and demonstrating how this study can contribute to the existing literature by capturing best practices from DBE administrators. Chapter 3 provides details on the research design and data collection mechanism. Chapters 4 and 5 present findings and discuss the study's implications.

CHAPTER 3: METHODOLOGY

Purpose Statement

This study focuses on the DBE compliance administrators' perception of the DBE program's inclusion into the P3 environment and how that influences DBE compliance, and thus the accountability and increased social equity achieved by the contractors' P3 projects. As a result of some compliance administrators' resistance to utilizing P3 as an alternative delivery method, this study aims to ascertain effective practices for implementing the DBE program on P3 projects from seasoned compliance administrators with experience in efforts to guide the DBE community. The study aims to alleviate some of the ambiguity surrounding implementing the DBE program in the P3 environment by collecting data from the FHWA compliance administrators. The study investigates the effects of the P3 model on DBE goals or good faith efforts, analyzes any strengths and weaknesses that may be made apparent by the P3 environment, and derives strategies to monitor compliance on P3 projects. The results of examining the implications of the P3 model governing the DBE program could significantly influence policy development, implementation of P3 projects, and formalization of enforcement practices to maintain compliance and ensure that organizations meet their social equity goals. The study results will contribute to existing literature and may influence DBE training and conference topic focus or discussions.

Research Questions

The study is central to the research questions below:

1. What are the DBE compliance administrators' perceptions of whether the DBE goals are met on P3 projects?

2. What are the DBE compliance administrators' perceptions of whether P3 project contractors demonstrate good faith efforts (GFE)?
3. What are the perceived strengths of implementing the DBE program in a P3 environment?
4. What are the perceived challenges of implementing the DBE program in a P3 environment?

Research Design

The study employed a qualitative phenomenological research approach by conducting interviews with the DBE compliance administrators, thus collecting data within the FHWA P3 administration space. Creswell (2014) defined the qualitative method as one that primarily involves a critical focus on “text and image data, obtains unique steps in data analysis, and variety draw on designing data” (p. 179). Qualitative studies are considered viable and credible methods to study topics and conduct research. More specifically, Creswell posited that the phenomenological approach is instrumental for matters that require an understanding based on the “lived experiences of individuals” (p. 13). The operative word in phenomenological research is “describe.” According to Groenewald (2004), “The researcher aims to describe as accurately as possible the phenomenon, to refrain from any pre-given framework, but remaining true to the facts” (p. 44).

Researchers employ phenomenological designs in situations that deem subjective experiences from a particular population necessary for understanding a compounded matter or case. Phenomenological research helps frame a data-rich environment curated from the participants' actual or lived experiences. The phenomenological research

method explores a way to impart contextual meaning by including the situational knowledge from professionals involved first hand in the researched topic. The research questions identified examined the perceived phenomenon of social equity (DBE program) and accountability (GFE) implementation in the FHWA P3 environment.

Phenomenology is an appropriate methodology for this research because it allowed for a contextual study based on the professionals' knowledge that facilitates these programs.

The researcher looked to professionals directly involved in managing the DBE program and monitoring GFE on P3 projects to describe the procurement model's implications on such programs. Seemingly, the topic lies in a territory with limited data or research; therefore, looking to the eyewitnesses for definitions and concepts introduces a more profound understanding and circumvents any preconceived notions, assumptions, and biases.

Creswell (2014) posited that the primary approach for collecting phenomenological data is an interview. The researcher conducted interviews with the population made up of DOT recipient compliance administrators who implement and manage DBE programs on P3 projects. The researcher facilitated one-on-one interviews using several web-based applications based on the interviewees' computer or phone compatibility, that is, Microsoft Teams, Google Meet, Zoom, or Skype. The interviews allowed for an in-depth discussion, some level of intimacy and personalization, and monitoring of nonverbal cues and responses.

The interviews relied on the contract compliance administrators to provide robust feedback to measure the P3 contractors' accountability to the DBE goals and GFE. The interviews also investigated the DBE administrators' perception of the enforcement

language included as part of the P3 agreements. A series of questions about implementing the DBE program within the P3 climate was developed and then asked to the contract compliance administrators. Transcriptions of each interview conducted and the researcher's notes were reviewed, coded for themes, and served as the information used for data analysis presented in this research. Ultimately, the data analysis from the interviews provided information that helped shed light on the oversight, resources, strengths, and challenges of implementing the DBE program within the P3 environment. The qualitative interviews allowed for a more detailed assessment of the compliance issues and obtained the best strategies for managing DBE programs in P3 environments.

Population and Sample

The researcher conducted preliminary research and found that FHWA's P3 Project Profile web page listed 70 P3 projects with 41 different agencies. Of the 70 projects, seven were granted to the Virginia Department of Transportation (VDOT), six were granted to the Texas Department of Transportation (TDOT), and six were granted to the Cumberland Community Improvement District; therefore, 26% of the active projects belonged to three agencies. For added value to the study, it was imperative that the researcher receive participation from at least one of the three agencies. Three projects were granted to the Puerto Rico Highways and Transportation Authority. Puerto Rico is outside the United States, and the code of regulations governing the DBE program does not apply (Code of Federal Regulations, 2017, Part 26.3), so Puerto Rico was eliminated from the population, ultimately yielding 40 agencies and 67 projects. From this population, all the agencies were invited to partake in an interview.

The researcher has an extensive background and rapport in the transportation industry; after receiving IRB approval, the researcher first reached out to FHWA's DBE & Contractor Compliance Team Leader and program analyst and garnered support for the research. The support of FHWA's DBE program analyst added to the researcher's credibility, which was used to encourage the agencies to participate by offering familiarity. The population for the study was the contract compliance administrators for FHWA-sponsored projects, and there were no specific age or sex criteria for the calculated population. All 40 agencies or project sponsors were contacted to identify compliance administrators responsible for monitoring the DBE program and contractors' performance and ultimately for in-depth interviews. The entire population was contacted for participation because the existing population is not too large. Also, the study did not employ secondary data, so narrowing the sample would have introduced constraints because of the limited population or data available. Based on the research objective, the study utilized nonprobability purposive sampling by making a judgment call to exclude Puerto Rico agencies and inviting agencies that adhere to the federal regulations requiring implementing the DBE program. Also, the researcher employed snowball sampling, "a method of expanding the sample by asking one informant or participant to recommend others for interviewing" (Groenewald, 2004, p. 44). Snowball sampling increased the data set for the study because it opened the window for more participants who, at the time of this study, may not have had active P3 projects but had monitored DBE compliance on P3 projects in the past.

The researcher sent an informed consent form to all the agencies, including the study's purpose, procedures, techniques used to protect the confidentiality, risk/benefits

of the investigation, and voluntary nature (Appendix A). The script in Appendix B was sent to all agencies through email first on March 2021 to solicit participation. Because the projects are publicly funded, contact information for the project managers and compliance administrators is public. Also, the researcher received confirmation from the FHWA's DBE & Contractor Compliance Team Leader that there was no need to get prior approval from agencies to reach out to the DBE compliance administrators.

It is imperative to keep in mind that a lack of participation and attrition rates could have significantly diminished the potential participant size. Therefore, to mitigate participation risk, participants were afforded a full explanation of the research and its purpose and advised that their participation would be made anonymous to the public, their executives, and leadership. The researcher worked diligently to offer anonymity by ensuring that the participants' responses could not be linked back to the participants. All participants signed a consent form, which detailed that information shared by the administrators during the interview would not be used for any other purposes. The researcher offered the participants opportunities to receive a \$10 Starbucks card to incentivize their participation. However, all of the participants declined the Starbucks card primarily because of the ethics and gift-giving policies governing public agencies; instead, the participants cited desiring feedback when the research was completed on other agencies' approaches, challenges, and best practices implementing the DBE program on P3 projects.

Instrumentation

The researcher based the qualitative interview instrument on two separate studies that ensured validity. The first was the foundation of the State DOT Survey

Questionnaire developed by the American Association of State Highway and Transportation Officials, FHWA, and National Cooperative Highway Research Program—Transportation Research Board (NASEM, 2009). The second basis for the interview instrument was the interview tools developed by a state DOT, which were used to examine the DBE goals on alternative project delivery methods (NASEM, 2015). Because both studies referenced are public, and the final interview questions developed ultimately differed from the interview questions included on the other tools, the researcher did not seek permission from the National Academies Press to consider both instruments as guidance for generating the questions for the study. Finally, based on the theoretical framework, the researcher improved the instrument's questions and metrics so that the interview questions aligned with the study. Ultimately, the researcher derived the final interview instrument with guidance from previous research measuring a similar phenomenon and discussion with her committee chair. Also, postapproval from the Institutional Review Board, the researcher sent a list of the interview questions to the FHWA DBE program analyst for awareness and comments. The FHWA DBE program analyst shared that there was no guarantee that the FHWA project sponsor would participate in the study but encouraged the researcher to solicit their participation and asserted that there should be favorable participation based on the researcher's background.

The qualitative instrument was open-ended and included 20 questions (Appendix C). The questions were developed to probe the participants for their experiences of the DBE program on P3 projects. The questions also aimed at collecting the DBE program administrators' perception of the contractors' progress toward DBE goals and GFE

participation. Specifically, the interview questions focused on the implementation and oversight of the DBE program, perception of the private sector accountability or compliance to the program, obstacles that administrators face while facilitating the program, and perceptions of DBE program strength and weaknesses, all in relation to P3s. Each question was strategically created and aligned with the research questions.

In qualitative research, “validity refers to whether or not the final product truly portrays what it claims to portray ... and reliability refers to the extent to which the results are repeatable” (Grossoehme, 2014, p. 111). Validity and reliability are not mutually exclusive because there can be a valid instrument or data that is not reliable and vice versa (Grossoehme, 2014). Validity points to the trustworthiness of the data. According to Grossoehme (2014), validity in research is increased by grounded theory methodology such as themes and trends generated based on the participants’ words or descriptions. Alternatively, reliability in research is maintained by “documenting the research decisions made along the way” (Grossoehme, 2014, p. 112). The study employed a research methodology that allowed categories and themes to be generated based on the participants’ experiences captured in the interview transcripts increasing the study’s validity. The researcher employed a script and interview template that maintained consistency among participants. The researcher also comprehensively documented the approach employed on the study.

Data Collection

The data collection began with a comprehensive review of the literature, which is identified in Chapter 2 of the study, and preliminary data provided by the FHWA on its website. The literature review guided the study’s research questions and interview

questions. First, the researcher investigated all the active FHWA-sponsored P3 projects using the information provided on FHWA's website, state DOT websites, and other websites, articles, or publications written on the project. The preliminary research yielded the names of project sponsors' project managers or DBE compliance administrators. After identifying the P3 projects and contact information, the researcher facilitated the interviews within 12 weeks, which provided enough time to schedule the interviews and ascertain responses. Using interviews as the method for data collection contributed to more rich data collection and allowed for effective communication.

The researcher found the contact information for the P3 project or the DBE compliance administrator from the FHWA project profile website. Once the researcher found the contact information for the DBE compliance administrator or facilitator, an email was sent to solicit participation. The email contained the script, the informed consent form for review, and the researcher's contact information for any questions. The researcher requested that the participants who agreed to participate in the study sign the informed consent form and return it. The researcher then scheduled an hour-long individual interview via the selected mode of communication based on the participant's availability. An hour was feasible for the administrator to be available; administrators are usually inundated with many contracts to monitor and have limited time to perform actions. Also, an hour served as adequate time for the researcher to keep the participants engaged. The researcher made the participants aware that the interviews would honor the hour scheduled; however, if they want to continue speaking past an hour, the researcher welcomed that. The researcher conducted in-depth interviews via web applications or software such as Microsoft Teams, Skype, and Zoom with the participants. In some

cases, the interviewees preferred a phone interview, during which a call recorder was used to record the interview audio.

Each interview began with the first question in the interview script (Appendix E); however, the researcher adjusted according to the interviewees' responses as the interviews moved forward. For example, as the participants answered initial questions, impromptu decisions were made to ask the follow-up question, skip to another question, or ask the same question differently. It is imperative to mention,

At the root of phenomenology, the intent is to understand the phenomena in the participant's terms – to describe the human experience as the person herself experiences it ... to understand the world from the subjects' point of view to unfold the meaning of people's experiences. (Groenewald, 2004, p. 47)

The researcher reached out to 40 agencies for their participation in the study. On occasions when the researcher did not get a response from the agency on the first attempt, at least three additional attempts were made to reach the agency. Of the 40 agencies with active P3 projects according to FHWA, nine agencies reported not having the DBE program applied to its P3 project, four agencies declined to participate in the study because of lack of time, and 16 project sponsors did not respond to the researcher's request for participation. Twelve agencies agreed to participate in the study, and by employing snowball sampling, the researcher was connected to two more agencies and acquired participation—yielding 14 total agencies. From these agencies, the researcher interviewed 24 DBE program administrators responsible for managing the DBE program implemented on their projects. The researcher was able to solicit participation from the Virginia DOT and the Texas DOT, two of the agencies with the most active P3 projects

according to the FHWA profile. The first interview occurred on March 4, 2021, and the last interview occurred on May 29, 2021. In all cases, the researcher conducted semistructured, in-depth phenomenological interviews with the DBE compliance administrators. The researcher directed the questions to the participant's perceptions, experiences, feelings, ideas, and suggestions about the matter in question. The researcher emphasized that the compliance administrators set aside their biases on the P3 projects alone but focus their feelings and experiences on how the P3 model impacts the DBE program. Notably, the researcher's professional career lies in facilitating the DBE program in the transportation sector. Therefore, the researcher "bracketed her preconceptions and entered into the individual's lifeworld and used the self as an experiencing interpreter" (Groenewald, 2004, p. 47).

The researcher used a template to guide all interviews and maintain consistency. The template began with a greeting that thanked the participants for their participation and time. The researcher then discussed the interview process, reiterated that interviews would be recorded, expressed that the researcher would be taking notes, and emphasized that the participant could end the interview at any time. Also shared with the interviewees were the background and the purpose of the study. Time was allowed for the participants to ask any questions or share any concerns regarding the study. Nine of the participants emphasized that their participation remain anonymous to everyone but the researcher and wanted their responses kept anonymous or made impossible for their organization or the public to link them back to them. Thirteen of the participants asked questions regarding the willingness of other agencies to participate in the study or whether other agencies had agreed to participate in the study. The researcher addressed

the initial concerns that arose from the participants. Then the researcher proceeded with the 20 interview questions. Where necessary, the interviewer probed and asked for more explanation or clarification—for example, asking for examples or further explanation. When the questioning was completed, the researcher debriefed by thanking the participant for the discussion, reiterating that their anonymity would be upheld, and asking if the interviewee had any questions. None of the interviewees had follow-up questions on the record. All interviews followed this template.

The researcher recorded the interviews using a web application or a phone recorder and requested consent to record at the beginning of the interview. Recording the interviews ensured that the verbal interaction was fully captured and the transcribed information and coding were reliable. When the researcher interviewed multiple participants on a particular day, she used a naming scheme that clearly differentiated the interviews and indicated which agency the interview belonged to: name initials (last, first) and agency initial. In the weeks after the interviews, the researcher transcribed the recorded information verbatim. Using the model set forth by Leonard Schatzman and Anselm Strauss on field notes, the researcher also kept handwritten observational and theoretical notes throughout the interview (Groenewald, 2004). Notably, the field notes were a step toward analyzing the data; the researcher stayed clear of surmising any conclusion or categorizing responses at the interview time, not introducing bias, or making premature assessments.

The interviews were transcribed using NVivo's transcription service; then the researcher edited, fixed, and quality assured the transcripts by comparing the original audio recording to the transcription and making changes accordingly. Transcription is a

vital element of the study as it influenced data interpretation. Filler words such as hmm, um, uhs, and repeated words were deleted from the transcripts as they did not add any value to the interviewees' responses. Finally, the researcher stored the following data from each interview:

- The informed consent agreement;
- The researcher's notes made during the interview and field notes made after each interview;
- Any notes that the participant made during the interview;
- Any additional information the participant offered during the interview, i.e., program plan; and
- Any subsequent communication between the participant and researcher

Data Analysis

According to Groenewald (2004), utilizing the heading "data analysis" is not useful in phenomenological studies because "analysis usually implies breaking into parts and therefore often means a loss of the whole phenomenon" (p. 48). For that reason, the researcher refers to this section as data explication, which implies "an investigation of the constituents of a phenomenon while keeping the context of the whole" (Groenewald, 2004, p. 48). Hycner (1985) first identified a series of processes or procedures for analyzing phenomenological research. The method served as guidance, and the research should not employ the guidelines as "a cookbook set of instructions; instead, the researcher should interpret the explication procedures as an approach, an attitude, or an investigative posture with a certain set of goals" (Hycner, 1985, p. 279).

Hycner (1985) posited that the phenomenological explication process has five stages: bracketing and phenomenological reduction, delineating units of meaning, clustering units of meaning to form themes, summarizing each interview, validating or modifying the summary, extracting general and unique themes from all interviews, and creating a composite summary (Groenewald, 2004). The researcher employed the explication process in its entirety by listening to the audio recording and reading the transcripts repeatedly to become familiar with the interviewees' unique experiences. The researcher extracted the relevant meaning by paying attention to the repeating content (Groenewald, 2004). Reading the transcripts various times allowed the researcher to comprehend the phenomenon and its meaning. The researcher also examined the themes and produced the core meaning within the P3 context. According to Groenewald (2004), "Grouping units of meaning together typically form the "cluster of themes, and the researcher identifies important topics, also called units of significance" (p. 50). This step called for extensive knowledge and judgment of the participants' environment, which the researcher satisfied as she is versed in the topic and transportation sector.

Following the explication process, the researcher summarized each interview while making necessary changes (Groenewald, 2004). The synopsis included the trends from the interview and the context in which the participant responded. Finally, the researcher compiled all of the themes from each interview and developed a merged summary; this process is often referred to as the composite summary (Groenewald, 2004). Groenewald (2004) summarized, "The researcher, at this point, transforms participants' everyday expressions into expressions appropriate to the scientific discourse supporting the research" (p. 51).

To perform this comprehensive analysis, the researcher transcribed all the interviews and quality assured all the transcripts. The researcher purchased and used a qualitative data analysis software, NVivo, to code the themes and trends from the transcripts. NVivo was used to fragment the statements, code the responses for themes, and collectively analyze the interviews' themes for a compiled finding and relationship. The researcher also utilized an Excel spreadsheet to organize the coding analysis. The interviews provided comprehensive information on the DBE program and GFE measures in P3 environments. The interviews also shed light on the strengths, challenges, and best practices experienced by the DBE compliance administrators; Chapter 4 identifies the themes and subthemes discovered from the exploration.

Limitations

One of the phenomenological research design's strengths is its contribution to the truth. The researcher was careful not to include her perspective but focused on the participant's perspective (Groenewald, 2004). However, this design's limitation was the inability to generalize the findings—a phenomenological study “may not be the best choice when you want to be able to generalize your findings, which serves as a limitation to the current study” (Grossoehme, 2014, p. 117). But for the study's purpose, the truthful depiction of the DBE compliance administrators' perceptions is more important than the ability to generalize the findings across all situations because it can enlighten other DBE program administrators. Another limitation with a phenomenological study is the difficulties in interpretation and the amount of time necessary for data collection and analysis. Because of the nature of the study, a limitation that could have influenced the study was the responder's bias. To lessen the impact of this limitation, the researcher

provided a safe space for the participants to be candid and forthcoming by offering confidentiality and assurance that their responses would not be shared with their superior or agency. Another limitation or further restriction was the number of participants in the study. Nonetheless,

the emphasis on accurately portraying the phenomenon means that large numbers of participants are not required. The goal is to gather descriptions of their lived experience, which are rich in detail and imagery, as well as reflection on its theological or psychological meaning. (Grossoehme, 2014, p. 117)

Summary

The federal government requires state and local governments to implement the federal DBE program to receive certain U.S. DOT funds for transportation projects. As FHWA facilitates P3 projects, it applies and enforces the DBE program. Therefore, it is imperative to determine the compliance administrators' perceptions of the strengths and challenges of implementing the DBE program. The study employed a phenomenological design and collected data from DBE compliance administrators to identify whether the contractors met the DBE goals and showed GFE. The researcher conducted in-depth, semistructured interviews with 24 DBE program or compliance administrators. The interviews were listened to repeatedly and transcribed. The researcher first coded the participants' responses to each interview question. Then the individual codes were grouped and analyzed for themes and subthemes using NVivo, a qualitative analysis software. The trends were further grouped based on the research questions. The study demonstrated reliability by using tools to maintain consistency, such as an outreach script and an interview template. The researcher encouraged validity by employing a

methodology that allowed categories and themes to be generated based on the participants' interview transcripts or perceptions. Because of the limited pool of participants available, there was an inability to generalize the findings and possible responder bias; thus, the researcher provided a safe space for participation and confidentiality of interview responses. Ultimately, by understanding these phenomena through the program enforcers' perspectives, this study could help with the development of new policies.

CHAPTER 4: RESEARCH, DATA COLLECTION, AND FINDINGS

Overview

The study employed a qualitative phenomenological approach by conducting interviews with the DBE compliance administrators and collecting data within the FHWA P3 administration space. Based on the research objective, the study utilized nonprobability purposive sampling. Responses were collected from 24 DBE compliance administrators. The semistructured interviews produced data, and the researcher conducted a phenomenologically guided analysis of the findings. The data analysis and results are included in this chapter. The researcher anticipated that data from these interviews would influence new policy development or revision of the current regulation and offer best practices for DBE compliance administrators implementing the DBE program in a P3 environment.

Purpose Statement

This study focuses on the DBE compliance administrators' perception of the DBE program's inclusion into the P3 environment and how that influences DBE compliance, and thus the accountability and increased social equity achieved by the contractors' P3 projects. As a result of some compliance administrators' resistance to utilizing P3 as an alternative delivery method, this study aims to ascertain effective practices for implementing the DBE program on P3 projects from seasoned compliance administrators with experience in efforts to guide the DBE community. The study aims to alleviate some of the ambiguity surrounding implementing the DBE program in the P3 environment by collecting data from the FHWA compliance administrators. The study investigates the effects of the P3 model on DBE goals or good faith efforts, analyzes any

strengths and weaknesses that may be made apparent by the P3 environment, and derives strategies to monitor compliance on P3 projects. The results of examining the implications of the P3 model governing the DBE program could significantly influence policy development, implementation of P3 projects, and formalization of enforcement practices to maintain compliance and ensure that organizations meet their social equity goals. The study results will contribute to existing literature and may influence DBE training and conference topic focus or discussions.

Research Questions

The study focused on the following research questions:

1. What are the DBE compliance administrators' perceptions of whether the DBE goals are met on P3 projects?
2. What are the DBE compliance administrators' perceptions of whether P3 project contractors demonstrate good faith efforts (GFE)?
3. What are the perceived strengths of implementing the DBE program in a P3 environment?
4. What are the perceived challenges of implementing the DBE program in a P3 environment?

Research Methods and Data Collection Procedures

The study employed a qualitative phenomenological approach by conducting interviews with the DBE compliance administrators and collecting data within the FHWA P3 administration space. Based on the research objective, the study utilized nonprobability purposive sampling by making a judgment call to exclude Puerto Rican agencies and inviting agencies that adhered to the federal regulations requiring

implementing the DBE program. Also, the researcher employed snowball sampling to garner more participants.

The researcher reached out to 40 agencies for participation in the study. Of the 40 agencies that FHWA reported as having active P3 projects, nine agencies responded to the researcher's email request for participation by reporting that it did not apply the DBE goal or program to its P3 projects, 15 agencies did not respond to the researcher's three email and two phone call requests for participation, and four agencies declined to participate in the study because they did not have sufficient time. Twelve agencies agreed to participate in the study. By employing snowball sampling, the researcher was connected to two more agencies and acquired participation; in total, the researcher interviewed 14 agencies. From these 14 agencies, the researcher interviewed 24 DBE program administrators responsible for implementing and monitoring the DBE program on P3 projects.

The researcher sent informed consent forms, which included the study's purpose, procedures, techniques used to protect participants' confidentiality, risk/benefits of the investigation, and voluntary nature of participation, to all of the agencies. The qualitative instrument used was open-ended and included 20 questions. The interview questions focused on the implementation and oversight of the DBE program, the DBE compliance administrators' perception of the private sector accountability to the DBE program, the obstacles that administrators face while facilitating the program, and perceptions of the program's strength and weaknesses; all questions were focused on perceptions within the P3 environment.

The researcher conducted semistructured in-depth phenomenological interviews with DBE compliance administrators for the P3 projects. The researcher facilitated one-on-one interviews using several web-based applications based on the interviewees' computer or phone compatibility, that is, Microsoft Teams, Google Meet, Zoom, or Skype. The interviews relied on the DBE administrators to provide insight into the P3 contractors' accountability to the DBE goals and GFE. The interviews also revealed the DBE administrators' perception of the enforcement language included in the P3 agreements. At the beginning of the interviews, the researcher verbally requested approval to record the interview. Then the interviews were recorded using the web application or a phone recorder, whichever was employed for the interview. The interview recordings were transcribed using NVivo to create a verbatim transcript, and the transcripts were checked for accuracy and quality by the researcher. The researcher also reviewed the field notes written on a notepad during the interviews.

The researcher employed the explication process in its entirety by listening to the audio recording, reading the transcripts numerous times to become familiar with the interviewees' unique experience, and extracting the relevant meaning by paying attention to the repeating content. The researcher summarized each interview, compiled all the themes from each interview, and developed a merged summary. The researcher utilized NVivo, a qualitative data analysis software, to fragment the statements, code the responses for themes, and collectively analyze the interview themes for a compiled finding and relationship. The researcher also utilized an Excel spreadsheet to organize the coding analysis. The researcher scrutinized the data several times to validate and verify accurate coding. Anonymous abbreviations were assigned to each DBE program

administrator interviewed to maintain anonymity, and an unspecified abbreviation was associated with the agency (see Table 1).

Table 1

Interviewee Coding

Participant #	Code names	Agencies coding
1	A1	T1
2	B2	T2
3	C3	T2
4	D4	T3
5	E5	T4
6	F6	T4
7	G7	T4
8	H8	T4
9	I9	T4
10	J10	T4
11	K11	T5
12	L12	T5
13	M13	T6
14	N14	T6
15	O15	T7
16	P16	T8
17	Q17	T9
18	R18	T10
19	S19	T11
20	T20	T12
21	U21	T13
22	V22	T13
23	W23	T14
24	X24	T13

The study employed a research methodology that allowed categories and themes to be generated based on the participants' transcribed interviews or perceptions. Also, the researcher employed a script and interview template that maintained interview procedural consistency with each participant. This study aimed to discover the DBE compliance administrators' perception of the DBE program's inclusion into the P3

environment and how that influenced DBE compliance and the accountability and greater social equity achieved by the P3 contractors or private partners. The interviews provided comprehensive information on the DBE program and GFE measures in P3 environments. The interviews also expounded on the strengths and challenges experienced by the DBE administrators. Chapter 4 identifies the units of general meaning, subthemes, and major themes discovered from the exploration. The data from these interviews may be useful for influencing policy development, changes, and guidance.

Presentation and Analysis of Data

The data analysis was undertaken following the guidelines of Hycner (1985). After transcription, the researcher conducted bracketing and phenomenological reduction with openness to the meanings that emerged from the data. The researcher listened to the interviews carefully and read the transcription diligently to get an overall sense of the data, followed by a delineation of units of general meaning. Demarcation of units of general meaning was done by carefully reading each word, sentence, and paragraph to discern the meanings of the respondent. These units of general meaning were delineated first according to each interview question then combined based on relationship and similarity. Relevant units of general meanings were grouped into clusters of general meaning or subthemes. The researcher grouped clusters of meanings into major themes.

Presentation of Data—DBE Program Participant Responses

The researcher's first four interview questions were demographic to ascertain participants' background and confirm that they could participate in the study.

Interview Question 1

About how many FHWA P3 projects has your agency completed since 2021?

The first interview question was intended to illustrate the participants' recollection of the number of P3 projects the agency had facilitated to ensure further that the participants knew of the agency's P3 involvement. This question was also asked to ensure that the interviewed agencies or participants had projects funded by the FHWA and must adhere to the DBE program requirements. Fourteen of the participants reported that their agency had completed at least one P3 project, four participants reported that their agency had worked on three to five P3 projects, four participants reported that its P3 projects are still active, and two participants reported that their agency had completed more than six P3 projects.

Interview Question 2

About how many other FHWA P3 projects has your agency initiated (including pre-award) that are not yet complete?

Similar to the first question, the second question was intended to investigate the participants' knowledge on any P3 project awarded with FHWA funding currently active or any P3 projects currently in the planning phases. This question was asked to get participants to think about their experience with FHWA-funded P3 projects. Ten of the participants reported having at least one FHWA-funded P3 project that was active but in the postaward phase of the project. Six participants reported not having any FHWA P3 projects active in the planning phases or coming down the pipeline. Five participants reported having more than three FHWA funded P3 projects that were active but in the postaward phase of the project. Three participants reported at least one FHWA-funded

P3 project in the preaward or planning phase and had not yet been awarded to a private partner.

Interview Question 3

How many P3 projects have you monitored?

The researcher asked the third question to ensure that the interviewed participants were familiar with the P3 projects and facilitating the project. In the context of the study, monitored refers to ensuring the agencies and private partners' compliance with the DBE program elements of the P3 project. The participants were asked to estimate if they could not remember an exact figure. Fourteen participants reported that they had monitored at least one P3 project, four reported monitoring two P3 projects, and four shared that they had monitored between three and six P3 projects. Two participants reported monitoring more than six P3 projects.

Interview Question 4

Were DBE contract goals set for any of the P3 Projects?

This question was intended to assess whether the P3 projects monitored by the participants had to adhere to the DBE program requirements. This question is important because establishing a DBE goal is largely considered by the federal regulation and industry standard as the most important accountability mechanism for the agency to hold the primes accountable to adhering to the DBE program and its requirements. Suppose a DBE goal were not established for the P3 project. In that case, the agency does not have an enforceable DBE program on the P3 project, nor does it have the accountability mechanism to hold the prime to the program. It also means that the agency must rely on the prime's willingness to utilize the DBE firms and adhere to the DBE program

requirements on the FHWA funded project. Without a DBE goal, the DBE program is perceived as voluntary and not mandatory. Twenty-four participants, all the participants interviewed, reported that the FHWA P3 projects they perceived having within their agency had DBE goals established. Although not requested, a few participants volunteered to share the DBE goal established on its P3 projects. One participant shared that its DBE goal ranged from 0%-25% DBE goal. Another participant reported that the DBE goals on the FHWA funded P3 projects ranged from 10%-30%. Two participants reported setting a 12% DBE goal on their FHWA funded P3 projects. Two participants reported setting a 3% DBE goal on their P3 project. The DBE goal or percentage itself is not insightful unless the researcher also asked the participants to provide the contract value for the P3 projects and thus calculate or measure impact.

The study was designed to examine the phenomenon of implementing the DBE program on FHWA-funded P3 projects. The researcher intended for the first four questions to ensure that the participants knew of the FHWA-funded P3 projects and were involved in implementing the DBE program to obtain firsthand knowledge and experience. The questions confirmed that the DBE program and requirements were administered and mandatory on the P3 projects, thus making the P3 projects valid for the research. The questions also set the tone for the discussion by establishing the context for the participants to begin thinking about their experience with facilitating the DBE program on FHWA-funded P3 projects. The participants all reported being aware of their agency's FHWA-funded P3 projects and reported having monitored a P3 project, making their perceptions valid for the study. The results of Interview Questions 1-4 are summarized in Table 2.

Table 2

Participants: Responses for Interview Questions 1-4

Interview questions	Responses	# of Respondents	% of respondents
1. About how many FHWA P3 projects has your state agency completed since 2021?	At least 1 P3 project	14	58.30%
	3-5 P3 projects	4	16.70%
	None completed	4	16.70%
	More than 6 P3 projects	2	8.33%
2. About how many other FHWA P3 projects has your state agency initiated (including preaward) that are not yet complete?	At least 1 P3 project active	10	41.70%
	No active P3 project	6	25.00%
	More than 3 P3 projects active	5	20.80%
	At least 1 P3 project in the planning phase	3	12.50%
3. How many P3 projects have you monitored?	At least 1 P3 project	14	58.30%
	3-6 P3 projects	4	16.70%
	2 P3 projects	4	16.70%
	More than 6 P3 projects	2	8.33%
4. Were DBE contract goals set for any of the P3 projects?	Yes	24	100.00%
	3% DBE goal	2	8.33%
	12% DBE goal	2	8.33%
	0-25% DBE goal	1	4.16%
	10-30% DBE goal	1	4.16%

Interview Question 5

What is your general methodology for setting goals for P3 projects? Is it any different from traditional construction contracts? Do you set a goal at the beginning that covers the entire project? Different goals for design, construction, or maintenance phases?

The researcher developed this question to investigate the goal-setting methodology for the FHWA-funded P3 projects. As mentioned earlier, setting a goal is critical for establishing accountability when implementing the DBE program. Hence,

understanding how the DBE goals are set on P3 projects sheds light on the experience of the compliance administrators and can potentially highlight some perceived strengths and challenges. Seventeen participants reported that the DBE goal-setting process for the FHWA-funded P3 project is the same as other types of projects. For example, Participant X24 reported that “the goal-setting for P3 projects is based on the traditional goal-setting methodology of items that are considered DBE friendly.” Participant S19 reported that “overarchingly the methodology by and large, at a very, what’s the word I’m looking for, at a at a high level does not change.” Participant W23 stated that “it was treated quite similarly in the goal-setting phase to other design projects.” Participant U21 shared that “when we’re setting or analyzing for goals, we don’t discern whether it’s a P3 or not; we’re just looking at the scopes of work and the DBE firms that are available to perform those scopes.” However, Participant R18 reported that although “the goal methodology seems the same; I think it should be different.” Seven participants reported treating the DBE goal-setting process in FHWA-funded P3 projects differently from other projects. According to Participant C3, “We have an aspirational goal that is set on the project, and then we end up engaging in the actual workaround scoping out elements of the project, and that starts to drive up that commitment at award.” Participant B2 shared, “We do 800-900 design-build projects every year, and we get a P3 maybe once every 10 years. So, it’s a different process.” Participant O15 stated,

Yes, the goal methodology for the P3 project was different from traditional projects. When you set goals on a standard federal project, you’re not allowed to include other types of goals. But in a P3 project, the private portion, they’re able to do whatever they want, as well as whatever is dictated by the local entity.

Fifteen participants reported that the P3 projects had one overall DBE goal established on the P3 project. In contrast, nine participants shared that because of the size of P3 projects and the available scope of work, there are more opportunities afforded to DBEs because such separate goals were established for different portions of the projects to maximize DBE participation on the P3 projects. According to Participant M13, “The DBE goal is applied to the design and construction portion of the project.” Participant D4 shared, “We have separate goals for each phase of the P3 project; a goal will be established for design, another for construction, the operation, and if viable maintenance.” Participant U21 stated, “We set goals for the different specific parts. A lot of the P3 projects are broken up into separate smaller contracts. ... There may be different goals for the construction, design, maintenance, and operations portions.”

Three participants reported that a unique feature of the P3 model is that it involves more private partner input into the DBE goal. Participant O15 reported, “Now one of the things that I’ve noticed is that the private funds tend to exceed the public funds in all these cases, so the private entities have significant sway in the decision making.”

Participant H8 shared,

On a P3 project, there is more collaboration with DBE goal setting; we have more discussions with the design-builder to understand the project and its scope. We also discuss at great length with the private partners elements of the project that might not be conducive to subcontracting.

Participant I9 stated,

The team collaborates more with the primes to determine what’s appropriate for subcontracting yeah, just to really understand and make sure that we’ve captured

all of the scopes or work items. Also, to use their technical expertise to understand the projects overall.

Two participants reported that another unique feature of the P3 model is that it necessitates FHWA involvement. According to Participant O15, “FHWA has to step in, which is different from other traditional projects we facilitate and stand by our side in implementing all the DBE program requirements.” Participant P16 shared, “Because our program is so aggressive, we have very high goals we typically look towards FHWA.” One of the participants added that the DBE goal established on the P3 project was influenced by DBE firms’ hesitation to participate in P3 projects due to its ambiguous nature. According to Participant O15,

Our DBE goal was a lot lower, and this could be attributed to the significant size of the job and the number of DBEs we had who were willing to participate in a very new venture [P3 model] and the DBEs were hesitant to participate because they were unsure how it was going to turn out.

Another participant stated that DBE goal setting on P3 projects is difficult; according to Participant E5, “P3 projects are very difficult, I am not going to lie to you.” The results of Interview Question 5 are summarized in Table 3.

Table 3

Participants: Responses for Interview Question 5

Interview questions	Responses	# of Respondents	% of Respondents
5. What is your general methodology for setting goals for P3 projects? Is it any different from traditional construction contracts? Do you set a goal at the beginning that covers the entire project? Different goals for design, construction, or maintenance phases?	Goal setting process is the same as other projects	17	66.7%
	One overall DBE goal	15	62.5%
	Separate DBE goals	9	37.5%
	Goal setting process is different	7	33.3%
	Private partner input	4	16.7%
	FHWA involvement	2	8.33%
	DBE firm's hesitation	1	4.17%
	Difficult goal setting	1	4.17%
	Goal setting should be different	1	4.17%

Interview Question 6

Thinking about your current or recent experiences, what point in the project planning process is the DBE program's application considered and DBE program staff involved? In your opinion, when should it be applied?

The researcher included this question to continue setting the stage for the participants to recall their experience implementing the DBE program in the P3 environment. The researcher asked this question to investigate the point at which the DBE program is conceptualized and highlight any planning challenges that the participants may experience. In response to this question, 15 participants shared that the DBE program's application and staff were invited to the P3 project just before the solicitation was advertised. Participant B2 stated that "the goals went out with the

solicitations, and the DBE team was involved prior to the solicitation going out.”

Participant O15 shared, “We started talking about the DBE goal midway in planning the P3 project,” and N14 mentioned that “the DBE team is usually involved before the P3 project is advertised.” Eight participants reported being included at the beginning phase, which is the planning or predevelopment phase of the P3 project. Participant H8 revealed,

We begin having discussions about the DBE program and goal implementation on the P3 project at the very beginning before the primes are determined. We have that conversation way before we even get to the solicitation to understand how the DBE program should be implemented to fit the P3 project.

Participant A1 commented, “We are included at the very beginning of the planning phase.” Participant P16 said that “the DBE staff is included as part of the P3 planning at the very onset.” Eighteen participants emphasized that the DBE program application and the team should be invited or included at the beginning or planning phase of the P3 project. Participant X24 responded, “We should be involved at the planning phase.”

According to Participant V22,

I think we need to be in the very planning or the very early stages of it. I would say that we need to be involved from the very beginning. We need to be involved in the planning of solicitation. Because we need to be able to make sure that the solicitation is written correctly so that we’re covering the DBE program and so the answers we get when we receive our responses are in line with the DBE program.

Participant S19 said,

It's all about transparency and having a great partnership and you have to be involved, I think, at the very beginning of that process, because that way if you're involved the very beginning of the process then you're sitting at the table with them and making decisions about which projects you're going to be able to set goals on and which ones you may have difficulty setting a goal on.

Participant D4 revealed that "it would have been better and more critical for the DBE team to be invited into the discussion at the pre-planning or pre-development phase."

Five participants communicated that there is a particular challenge getting invited to the planning phase of the P3 project. For example, Participant W23 revealed that "the DBE team is invited when they need the DBE goal and there is an ongoing battle to get the DBE team invited early enough." Participant X24 said, "We are trying to work it out internally and collaborate more, but it is challenging not been involved early enough. We are trying to improve."

Three of the participants communicated that alongside the DBE program being implemented with the P3 project, what should also be considered at the beginning phase of the P3 project is DBE outreach or involving the DBE community. Participant J10 commented,

One of the key things that I have to keep fighting, is having an outreach very early is that the concessionaire partner holds an outreach with all of their design-builders before they select one. So that before they start forming their teams, they consider DBE in the preliminary stages of that contract.

Participant Q17 revealed that as a way to facilitate DBE engagement, they require a “comprehensive plan for communicating with our supplier diversity division” from the private partners who are interested in the P3 projects. Participant F6 said, “The DBE community is not invited in the predevelopment, which should be changed.” Three participants shared that it is necessary to educate or support the P3 primes with understanding the DBE program and its requirements early on. According to Participant Q17,

When the developers or private partners are coming in, that right there gives us the impression ... how much inclusion the developers will have. ... So, we are reviewing the inclusion at the very beginning. Because if you do not get it at the very beginning, then it will not have that great of an impact going forward ... we like to get that in the beginning stages, where inclusion is a top priority.

Participant O15 said, “We spent a significant amount of time explaining the differences between the DBE program and an MBE or some other kind of program. ... We had to explain to all the stakeholders what a DBE program is and what a DBE goal is.”

Participant J10 also echoed the importance of supporting the private partners early on by stating that “the team facilitates the relationship between the P3 partners and the DBEs available within the community ... so, any DBE can find the group of experts they need to talk to.”

Three participants communicated experiencing challenges or difficulties when applying the DBE program requirement at the beginning of the P3 project. According to Participant P16, “Often, there’s a disagreement between the parties as to what the goal should be.” Participant M13 commented, “We may not necessarily be able to set a goal

at the scoping phase.” Participant L12 revealed that “many of the information is hard to determine until you’re further along. ... So, therefore, it may not be possible to calculate what is a reasonable or realistic, achievable DBE goal at the onset.” Two participants asserted that the highly public nature of the P3 project makes the application of the DBE program very critical. Participant P16 shared,

Sometimes, the participation of DBE or minority businesses, or small businesses in the state projects, especially the larger ones, can become very contentious and highly publicly contentious issues because our Board of Public Works meets at least twice a month. It’s televised and recorded. ... So, everyone is looking to see that they’re implementing those programs and making those opportunities available.

Participant Q17 commented,

The application then goes through the process. ... Before its final approval, there is a public hearing ... at the board meetings, if they do not get the DBE memo, then the board is most likely going to say, you need to go back ... and fulfill the inclusion plan requirements.

One participant mentioned that also critical in the project planning phase of the P3 project is requesting the DBE inclusion plan from the private partners. Participant Q17 revealed that “the developers must submit an inclusion plan. An inclusion plan gives us a footprint of the developers’ ... anticipated good faith effort steps ... anticipated participation or forecast through the duration of the project.” The results of Interview Question 6 are summarized in Table 4.

Table 4

Participants: Responses for Interview Question 6

Interview questions	Responses	# of Respondents	% of Respondents
6. Thinking about your current or recent experiences, what point in the project planning process is the DBE program's application considered and DBE program staff involved? In your opinion, when should it be applied?	Should be invited at the planning phase of the P3 project	18	75.00%
	Invited before the solicitation is advertised	15	62.50%
	Invited at the beginning phase	8	33.30%
	Challenge getting invited to the planning phase	5	20.80%
	Outreach early on/involve the DBE CMN Early on	3	12.50%
	Educating or supporting private partners early on	3	12.50%
	Difficult to set the DBE goal at the onset of the P3 project	3	12.50%
	Highly public	2	8.33%
	DBE inclusion plan	1	4.17%

Interview Question 7

What has been your personal experience with monitoring the DBE program on P3 projects?

The researcher included this question to investigate further the implications of implementing the DBE program in the P3 environment from the lenses of the participants. Until this question, the other questions primarily focused on the P3 environment before the project was awarded and active; Interview Question 7 kickoffs the postaward experience by focusing on the monitoring aspect of the DBE program application. The question was also intended to make apparent any possible variation or nuances to monitoring the DBE program on the P3 project perceived by the

administrators. The responses from the administrators varied for this question as they all pulled from different aspects of their experience.

Four of the participants shared that in their personal experience monitoring the DBE program on P3 projects necessitates designated resources. For example, according to Participant A1, “You have to have a DBE administrator that we can be in contact with and making sure that the program is being followed.” Participant D4 shared that “for the P3 project, we plan to make sure there are enough resources dedicated to monitoring the project. ... I have a contract administration unit, so I have compliance administrators that handle all the DBE-related compliance on our contracts.” Participant E5 commented,

We have a Civil Rights person that monitors the compliance portion ... whether it is one o’clock, two o’clock in the morning...there is like a liaison or kind of an officer dedicated to the P3 project, which makes it less challenging to monitor.

Participant X24 expressed that “the DBE program implementation went well because we were able to stay on top of compliance. We had a dedicated team to provide oversight. Yes, the P3 project required additional staff, but it was necessary and worked out.” Of all the responses for this question, only Participant H8 shared that in the DBE program, the P3 environment yields an opportunity for DBE to participate by commenting, “The P3 model provides the agencies, the locality, the opportunity to get projects that they wanted to have done and get them completed more efficiently. But it does provide a lot of opportunities for DBE to participate.”

Four of the participants learned the importance of requiring a DBE Utilization or Inclusion Plan as a mechanism for holding the partners accountable to the DBE requirements. For example, Participant A1 mentioned that “they have to submit DBE

utilization plan on how they're going to meet goals and all that and ... our office evaluates those, and they have to say, how are you going to be meeting the goal."

According to Participant M13, "When the contract was awarded, obviously, we didn't have the design completed. We didn't have all work and quantities identified, so a good faith effort plan was initially submitted and approved, so I review any updates."

Participant O15 said that "as they're creating the project, with the DBE utilization the private partners can keep in mind what portions they can allocate to DBEs." Participant Q17 shared, "The inclusion plan required from the private partners show that it is ultimately the developers' responsibility to carry the language down to the contractors and the tier levels." Two participants reported the importance of requiring reports and forms from the private partners as a method for monitoring compliance of the DBE program. According to Participant M13, "Specifically on the P3 project, we get quarterly updates, and I review the quarterly updates. ... The agency has standard forms for reporting work for DBEs." Participant Q17 shared, "We have the developers submit monthly reports and letters of intent for all DBE subcontractors."

Four participants communicated challenges such as private sector resistance to the DBE program requirements that arose from monitoring the DBE program on P3 projects.

According to Participant D4,

One of the areas of challenge is getting the DBE program required reports from the primes. After the project is awarded, the primes stop submitting the required documents that help us determine compliance. Sometimes it gets so egregious that I start to withhold money from the primes.

Participant E5 said,

Some of the issues that we run into is getting the necessary paperwork in on time which is unlike your regular construction projects ... and that's the most difficult part ... once the prime has submitted the contract, they no longer worry about providing the necessary/required paperwork.

Participant V22 shared,

A lot of the things that we're running into are efforts to maneuver around doing what they're required to do, and I think that's a big challenge. The primes spend so much time trying to find ways not to do what is requested of them ... it's difficult to keep Primes in compliance with the DBE program because certain Primes try to find loopholes or find ways not to do what's written in the federal regulations.

Participant W23 expressed, "I think the big part is getting the primes to realize that these are the regulations, and this is what needs to be followed and do it." Four of the participants communicated that they learned that there is no difference in the challenges they faced with monitoring the DBE program or how the DBE program compliance was monitored on P3 projects versus other types of projects. Participant B2 shared that "it is still essentially the same in terms of monitoring or the actual process of monitoring."

Participant D4 shared, "We treat this project just like we treat other FHWA Funded projects ... we use the resources and processes that we already have to monitor compliance." Participant S19 expressed, "I don't know from my vantage point if I thought that there was any particular difference or challenge to monitoring P3 projects."

Participant A1 shared, “The challenges we face on P3 projects are no different from the challenges faced on the other projects; it’s just magnified due to the size of P3 projects.”

Three participants responded that by monitoring the DBE program on P3 projects, they learned the importance of including appropriate contract language or enforcement mechanisms necessary to encourage compliance from the private partners. For example, Participant D4 said,

For the P3 project, we enforce the DBE program with some consequences. If the private partners aren’t complying with the DBE program, we will withhold estimates. ... In addition, we will ensure that the enforcement language is tightened up to keep the primes accountable.

Participant L12 shared, “Typically what we do is we prepare the bid documents, and the bid documents lay out the fundamental expectations and the goals.” Participant Q17 responded,

The contract states the prime contractor is required to either meet the goals or submit a waiver for good faith efforts at the end of the project. If the private partners ... do not have that good faith waiver in proper order, we can hold 10% of their payments, terminate their contract, or debar them from future opportunities; it also leaves a permanent history behind.

Two participants reported using monthly meetings with private partners to monitor DBE compliance on P3 projects. For example, Participant Q17 said, “Our P3 projects are the only model where we have to have monthly meetings that are mandatory to keep the projects in line and order.” Two participants shared that on P3 projects, they learned that it is necessary to communicate DBE requirements with the private partners

early in the project and often. According to Participant P16, “The government entity managing these P3 projects need to clarify that conversation and have it happen early and often ... everyone is clear from the beginning what their expectations are in terms of DBE participation in our P3 projects.”

Two participants learned that it is important to require the private partners to facilitate outreach events. Participant J10 said that “conducting DBE outreach at the beginning of the P3 project is very important” and Participant Q17 shared, “We ask the developers to host numerous pre-bid meetings and outreach meetings the DBE community.” Two participants highlighted the importance of collaboration monitoring the DBE program in the P3 environment. Participant I9 stated, “P3 requires more collaboration from the private partners to fit the DBE requirements into the P3 project. This collaboration lessens challenges for issues and complaints from DBE firms,” and Participant T20 shared that “there needs to be a collaboration between the DBE team and all the P3 partners or key players.”

Two participants expressed the fact that monitoring the DBE program on P3 projects introduced some administrative burden or shed light on the lack of necessary resources. For example, Participant H8 shared, “But with that being said, it (P3) just simply requires a lot of DBE program oversight.” Participant Q17 expressed the idea that a P3 project “requires a lot more administrative compliance and monitoring when compared to our traditional public work.” Participant Q17 also shared, “We do not have many compliance staff and the manpower to monitor compliance as necessary in the P3 environment.” Two participants reported needing additional support from another agency to monitor compliance on its P3 projects; for example, Participant L12 stated,

“The state DOT supports the monitoring on our behalf; they make sure our documents are in compliance.”

Two participants emphasized the implication of the private sector objective in monitoring the DBE program. Participant D4 said, “I’ve never worked in private industry, but money is the objective. And when the consequences are tied to money, the private partners adhere accordingly, not without resistance, but they do what is necessary for compliance.” Similarly, Participant Q17 shared that “in P3 projects ... procurement ... is done by the developers or private partners. ... Often, what they are doing and what we are doing are conflicting because there are conflicting objectives, so we do not see eye to eye or interpret things in the same way.”

One of the participants reported learning that onsite monitoring is important for holding the primes accountable on P3 projects, and another participant shared that implementing an online reporting system supports monitoring compliance on the P3 project. Of all the responses for this question, only Participant M13 mentioned participating in the GFE committee as part of the DBE program monitoring in the P3 environment: “I’m part of the good faith effort committee that reviews these goals of the good faith effort plans or any modifications to them.” Only Participant R18 reported the importance of setting reasonable DBE goals on P3 projects by commenting, “Just because P3s are big projects doesn’t mean they need high DBE goals. I mean, follow the rules on DBE goal setting, don’t feel pressured to set a high goal because it’s P3.” Only Participant G7 communicated that “once the DBE goal has been established from the compliance perspective, from my perspective, it’s easier to help the private partners achieve the DBE goal,” while only Participant F6 said that P3 projects, “introduce the

need for the DBE program to be discussed and examined very early on.” Only Participant D4 emphasized the importance of executive-level support and organizational structure by stating that

for the DBE team or program to be successful, where the department sits in the agency is very important and influential. Also important is support from the executive level. I’m not an executive level, but I’m going to get the support to do what I need to do to ensure the success of our program.

One of the participants shared that in their experience, there are a lot of unknowns with the scope of work. According to Participant N14,

I think one of the key things that I’ve seen for DBE on a P3 is there’s a lot of unknowns as to what the work entails and so sometimes trying to identify a DBE to actually fulfill the work that’s needed.

Only Participant V22 said, “But [it] also shows that there are elements of the DBE program that are difficult to follow.” On another note, Participant Q17 said that “one of the challenges we continue to face. ... The out-of-state developers have no expertise in this area, which becomes challenging because they are not used to the DBE program.”

For this question, only Participant B2 said, “In my experience there needs to be a better definition of the P3 model with the DBE compliance administrators, there are varying definitions and understanding,” while Participant C3 described the challenge of reporting DBE P3 commitment against the agency’s overall goal:

The challenge I think comes in looking at the results. ... My observation has been that on the P3 projects, the goal on the project does not necessarily rise to our

triennial goal, which is the annual goal that we have, every 3 years that's established through a disparity study.

Only Participant V22 discussed the prime's lack of DBE program understanding and need for training: "I think the primes need to understand the program, and this is where training is important, contract modifications and change orders affect DBE participation dollars ... so that they can potentially plan for it." The results of Interview Question 7 are summarized in Table 5.

Interview Question 8

Do you find that an average of your P3 contracts meets the DBE Goals? Do you think, in general, DBE goals are met on P3 projects?

One of the research questions focuses on exploring the compliance administrators' perceptions of whether the DBE goals are being met; as such, the researcher developed Interview Question 8 to ascertain responses directly from the DBE program administrators.

Eighteen participants responded that their P3 projects met the DBE goal. For example, Participant E5 said, "The P3 partners are all meeting the DBE goals," and Participant T20 stated that "all the P3 projects exceeded the DBE goals." Three participants reported not being sure whether the P3 contractors met the DBE goals. According to Participant K11, "I am not sure"; Participant L12 said, "Frankly, I don't know." Participant S19 shared, "I am not sure what the DBE participation was at the end of the contract; I am not sure it was met." Two participants communicated that the DBE goals were not on the P3 projects. Participant P16A shared,

Table 5

Participants: Responses for Interview Question 7

Interview questions	Responses	# of Respondents	% of Respondents
7. What has been your personal experience with monitoring the DBE program on P3 projects?	Designated resources	4	16.67%
	No difference in compliance or challenges	4	16.67%
	DBE utilization or inclusion plan	4	16.67%
	Private sector resistance	4	16.67%
	Administrative burden or lack of necessary resources	3	12.50%
	Contract language or enforcement mechanism	3	12.50%
	Reports and forms collected	2	8.33%
	Compliance is supported by another agency	2	8.33%
	Communicate DBE requirements with private partners early and often	2	8.33%
	Collaboration is important	2	8.33%
	Monthly meetings with private partners	2	8.33%
	Private sector objective	2	8.33%
	Required outreach from the private partners	2	8.33%
	Unknown scope	1	4.17%
	Set reasonable DBE goal	1	4.17%
	Opportunity for DBEs to participate	1	4.17%
	Support private partners	1	4.17%
	Include the DBE community in P3 planning	1	4.17%
	Online reporting system	1	4.17%
	Elements of the DBE program challenging to enforce	1	4.17%
	Primes understanding of DBE requirement and training	1	4.17%
	Out of state developers	1	4.17%
	Onsite monitoring	1	4.17%
GFE committee	1	4.17%	
Definition of P3	1	4.17%	
P3 goal vs. overall agency goal	1	4.17%	
Executive-level support	1	4.17%	
Organization structure	1	4.17%	

I want to say two out of the six are, two might be too early to tell, and then the two in the middle of the project phase are not meeting the goal. I would say, on average, the megaprojects are not meeting the DBE goal.

Participant B2 said, “I don’t believe they met the DBE goal. They came close, but I don’t believe they met it.” It is important to note that one of the participants did share that historically their organization did not meet the DBE goal, but once a few changes were made to the enforcement of the program, the P3 projects began to meet the DBE goals.

Participant Q17 said,

Historically, no; those were not happening. But with the change in the ordinance, remedies, and our staff, our team began to provide educational services to the community, so education took a role too. ... The primes are now on average meeting the goals.

Only one of the participants reported that it was too early to determine whether the P3 contractors met the DBE goals. According to Participant M13, “I don’t think we’re at a point yet where we can say they are or are not going to meet the DBE goal. ... I think the developer is doing everything they can to meet the goal.”

Although the researcher did not ask the participants to expound on their responses, some participants volunteered some additional information. Participant E5 shared,

Part of the process that we have in place is that quarterly the partners provide a status report that’s part of the agreement. The comprehensive agreement, during a negotiation for the contract, is that they have to provide a contingency plan and in that contingency plan, the prime has to provide a status of where they are with meeting the DBE goal at that particular time. So, someone in the district offices

is always monitoring the program; they have compliance officers. Every P3 project has or is assigned a compliance officer or coordinator that monitors both the DBE requirements.

Participant E5 also said that “the P3 partners have a DBE coordinator that works hand in hand with the civil rights personnel in the district office as the work is being performed.”

Participant P16 commented, “The primes have to commit to meet the goal before they’re awarded the contract. Before the contract is awarded, they have to give us a plan.”

Participant Q17 communicated that “it is educating the private partners and, of course, having those remedies take into effect. The primes are now on average meeting the goals.” The results of Interview Question 8 are summarized in Table 6.

Table 6

Participants: Responses for Interview Question 8

Interview questions	Responses	# of Respondents	% of Respondents
8. Do you find that an average of your P3 contracts meets the DBE Goals? Do you think, in general, DBE goals are met on P3 projects?	Met the goal	18	75.00%
	Not sure	3	12.50%
	Did not meet goal	2	8.33%
	Historically did not meet goal	1	4.17%
	Too early to determine	1	4.17%
	Quarterly status reports	1	4.17%
	Dedicated resources for oversight	1	4.17%
	Require private partners to have DBE coordinators	1	4.17%
	Required DBE plan	1	4.17%
	Contract remedies	1	4.17%
	Educating the prime	1	4.17%

Interview Question 9

Do you find that an average of your P3 contracts makes adequate good faith efforts? Do you think, in general, P3 project contractors demonstrate good faith efforts (GFE)?

One of the research questions focused on exploring the compliance administrators' perceptions of whether P3 project contractors demonstrate GFE; as such, the researcher developed this question to collect responses directly from the DBE program administrators.

Nineteen of the participants communicated that their P3 partners demonstrated GFE. For example, Participant P16 shared, "I will say we typically do not have a problem with meeting the goal or making good faith effort." Participant Q17 said, "On average many private partners have met the GFE or have shown significant improvement in their good faith effort." Participant R18 stated, "The developers are making adequate good faith efforts." Only one participant responded that the P3 partners did not demonstrate GFE, Participant A1, who said, "On average they don't, for example, we found that a firm ... did not demonstrate good faith effort, which ultimately led to the firm being found nonresponsive and ultimately unable to work on that project." One participant communicated that some P3 contractors make adequate GFE, and some do not but could not confidently weigh whether it was an average. Participant N14 said that "some do, some do, but it depends on kind of what's in the contract. I can't give you an average on whether the contracts make GFE or not because it depends." Three of the participants responded with unsure or uncertain responses. Participant S19 stated being "not sure the GFE was made because primes were not held accountable." Participant

K11 said, “I am not sure if the GFE were met or are being met on the P3 projects,” and Participant L12 stated, “I don’t know, I am not certain.”

Although the researcher did not ask the participants to expound on their responses, some of the participants volunteered some additional information in the form of rationale, explanation for the P3 contracts GFE performance, or some of the challenges they faced with monitoring GFE on P3 projects. Three of the participants shared the role of leadership support in GFE participation. Participant I9 said,

Leadership prioritizes civil rights programs, including the DBE program. So, leadership ensures that the civil rights team is invited to the planning and pre-development stages early in the process. Leadership support sets the tone for how these projects are going to go.

According to Participant H8,

Our governor pays very close attention to P3 projects, and our Secretary of Transportation is very engaged to make sure that small, disadvantaged businesses get opportunities ... the private partners are aware of leadership’s presence and interest in P3 projects and their impact on small businesses.

Participant O15 said, “The governor’s office here involvement is very important because private partners won’t listen until they are required to listen.” Three participants pointed out the significance of requiring outreach event. Participant H8 said, “We require our private partners to host their own outreach event to meet with the DBE community and build that relationship. Also, so they can provide contract availability and opportunities to DBEs.” Participant I9 agreed, “We strongly encourage our private partners to host an outreach event.” Participant J10 responded, “The technique that works is mostly building

rapport for the new private partners in the DBE environment through outreach.” Two participants emphasized that meeting with primes influenced the GFE participation. Participant H8 said, “What we consider a challenge ... we bring up in our meetings and have a conversation with all the stakeholders to determine how we can do better. This collaboration lessens issues and complaints from DBE firms.” Participant I9 said, “We have project update meetings to understand the progress of the P3 projects. ... These meetings are important so that we can keep civil rights requirements elevated on the project.” Participant J10 said, “We joke that our monthly meetings need to be opportunities to sit around and eat bonbons to build a collaborative relationship. But efforts still need to be made.”

Two participants communicated the impact of requiring the private partners to have a DBE liaison. Participant J10 said, “As part of the partnership, a company subcontracted to prime is responsible for facilitating the DBE program. And that subcontractor inserts themselves ... to ensure things are being done correctly or per the DBE program requirements.” Participant O15 said, “We’ve added a requirement that the private partners obtain a designated civil rights representative to every one of our alternative delivery including on P3 projects.” Two of the participants shared the impact of the quarterly GFE reports. Participant H8 said, “I think the quarterly reporting and their compliance submittals allow us to ensure greater accountability for the private partners. I think the reporting side is how you govern the DBE program on a project of this size.” Participant I9 commented, “They have to submit quarterly GFE reports to track GFE ... for a P3 project, over 5 years, we know and can project where the partner is with the DBE goal attainment and if they are performing adequate GFE.” Two

participants communicated the impact of the contract or enforcement language.

According to Participant N14,

Because some contracts are a little bit stronger with the language as to penalties or, you know, incentives and things that they get if they meet the goal or exceed the goal. But then for others, it is basically you know they say, okay, well we put forth the effort, we didn't meet it, and there's really no penalties or, any issues, that comes from that and so it really depends on what language is in, in the contract from the beginning to hold them accountable.

Participant Q17 said,

We have added new remedies; if the contractors are not holding to their obligations of the DBE program, we have legal actions ... once those actions became city ordinances, we saw major improvements in the program ... many private partners have ... shown significant improvement in their GFE.

Two of the participants communicated the importance of maintaining the DBE program's intent as the P3 environment has the most significance on social equity. According to Participant H8, "With the P3 projects, the DBE program's intent must be carried out because those projects have the most significant impact on social equity because of how large they are." Participant O15 said,

Private partners are not philanthropists; they're in business to make money and squeeze every cent they can into their profits. We have to acknowledge that ... the private partners' receptivity is irrelevant, if we do our job and uphold the program's intent ... P3s support the equity of minority firms.

Two of the participants shared the role of private partner resistance. According to Participant J10, “The private companies for the P3 project that we have are still not committed to the DBE program ... my team hasn’t been successful at changing the minds of everybody (the prime).” Participant O15 said,

The private partners don’t want to reach the DBE goals ... when it comes to these P3 projects ... we need to work with our private partners to squeeze them to give us what we need ... private partners won’t listen until they are required to listen; it’s the nature of private businesses.

Two of the participants reported the impact of a civil rights symposium on the GFE participation. Participant H8 said, “Another level of accountability safeguard we introduce in the P3 environment is our civil rights workgroup. Our civil rights workgroup meets monthly with the private partners to discuss civil rights, including DBE compliance.” Participant I9 stated, “We have a yearly civil rights symposium in Richmond. ... We reach out to all the private entities and partners in the area, and they participate in this symposium.”

Only Participant O15 pointed out the impact of a DBE dashboard on monitoring GFE participation: “We implemented what we call a DBE dashboard. ... The DBE dashboard allows us to track BDE participation and requirements for the P3 projects. This DBE dashboard has been a real step forward in reaching the DBE program goals and requirements.” Participant N14 shared,

It depends on how they set it up from the beginning because sometimes they do put very strong language especially if the community and others are saying, “Hey,

we want to really make sure that there's DBEs that get opportunity on the job," then a lot of times they'll put stronger language in the beginning.

Participant J10 shared that utilizing the bragging approach encouraged GFE participation:

We take on a bragging approach as a method of positive reinforcement. I often tell the private partners that I want to be able to brag about what a wonderful job you did on the project to your competitors when the next project comes around.

Only Participant O15 shared that requiring the DBE utilization plan influenced GFE participation by saying that "the private partners must submit a specific DBE plan. ...

Once the P3 project is awarded, the P3 partners are required to make regular updates."

Participant O15 also communicated, "We've learned that as we start doing more P3 projects, we need more tools to implement the DBE program." The results of Interview Question 9 are summarized in Table 7.

Interview Question 10

How do you monitor whether the prime or partners comply with the federal DBE Program in the course of the P3 projects?

The researcher asked this question to gather mechanisms to shed light on challenges, strengths, or best practices of monitoring the DBE program in the P3 environment. The participants presented varying responses.

Eleven participants responded that they monitor whether the prime or partners comply with the DBE program on P3 projects by requiring and collecting monthly or quarterly reports from the primes. For example, Participant S19 said,

Table 7

Participants: Responses for Interview Question 9

Interview Questions	Responses	# of Respondents	% of Respondents
9. Do you find that an average of your P3 contracts makes adequate good faith efforts? Do you think, in general, P3 project contractors demonstrate good faith efforts (GFE)?	Demonstrated GFE	19	79.17%
	Leadership support	3	12.50%
	Not sure	3	12.50%
	Require outreach event	3	12.50%
	Meetings with primes	2	12.50%
	Require private partners to have DBE coordinators	2	8.33%
	Contract language/enforcement	2	8.33%
	Quarterly GFE reports	2	8.33%
	Private partner resistance	2	8.33%
	Program's intent	2	8.33%
	Civil rights working group	2	8.33%
	DBE dashboard	1	4.17%
	Did not demonstrate GFE	1	4.17%
	Some do and some don't	1	4.17%
	Depends on planning phase	1	4.17%
	Bragging approach	1	4.17%
DBE utilization or inclusion plan	1	4.17%	
Need more tools	1	4.17%	

We had a series of monthly reports that the prime had to complete everything from wage and, kind of compensation compliance, we did onsite inspections of the subs as well as we did site visits. You know, yeah, it was a very robust, an active compliance component involved in my group.

Participant R18 said, “We required compliance reports monthly. ... Especially in large mega-complex P3 projects, we have seen it is easier to monitor every month. So, things don't get lost and keep the owner informed.” Participant P16 responded, “We also require a monthly report; monthly reports must be submitted to us by the prime and

separately by the subcontractor. And if they don't align, then the compliance manager steps in to figure out why.”

Ten participants shared that they monitor whether the prime or partners comply with the DBE program on P3 projects by requiring prime-designated resources. For example, Participant A1 said that “the primes have to have a DBE administrator that we can be in contact with and making sure that the program is being followed.” Participant B2 said,

On our P3 projects, we require the partners to go out and hire a consultant that specializes in this work. That seems like it's been very helpful ... they know how to talk to them, and they know how to connect the two, and that seems like it's been a pretty successful program.

Participant E5 said,

The P3 partners have a DBE coordinator that works with the civil rights personnel in the district office as the work is being performed. ... All the P3 partners are required to have their compliance officers in-house to monitor DBE requirements.

Ten participants emphasized that they monitor whether the prime or partners comply with the DBE program on P3 projects by allocating a team designated for P3 projects. For example, according to Participant W23, “The P3 projects have designated compliance officers, and they're doing it.” Participant T20 said, “Necessary is a totally dedicated staff, and that's why I like that model at the agency. We had a dedicated team for each P3 project.” Participant Q17 stated, “We have two dedicated exclusively to P3 ... so those two start with the project in the early stages ... and then work with the developer through the final stages.” Eight participants shared that they monitor whether

the prime or partners comply with the DBE program on P3 projects by utilizing a compliance system. For example, according to Participant J10, “We use the civil rights and labor management system.” Participant I9 said, “We use software called CADAC. CADAC helps us with monitoring the DBE program on P3 projects because it allows us to collect ... and track DBE information. The system alleviates the challenge of tracking DBE information on P3 projects.” Participant D4 communicated that “we use AASHTOWare software ... it offers various reports that we can run to understand ... the primes DBE compliance. This system is critical for monitoring the DBE program on the P3 project and lessens ... administrative burden because we have access to information.”

Eight participants shared that they monitor whether the prime or partners comply with the DBE program on P3 projects by requesting the private partners’ DBE Utilization or Inclusion Plan. For example, according to Participant B2, “We require that the prime submit a DBE performance plan, and we use that plan to measure how well they did as GFE over the life of the contract.” Participant C3 said, “We do require our primes to submit a DBE plan ... which helps us monitor and guide the participation of DBEs on the program.” Seven participants stated that they monitor whether the prime or partners comply with the DBE program on P3 projects by facilitating meetings or conversations with the private partners. For example, Participant B2 said that “the DBE team met with the partners regularly to go over their progress towards meeting the goal.” According to Participant H8, “We host meetings and discussions, and I feel the meetings and discussions helped all the way around and help us with document control and assists with payment issues.” Participant Q17 stated that “the monthly meetings, and of course, they have to submit reports.”

Five participants reported monitoring whether the prime or partners comply with the DBE program on P3 projects by including liquidated damages or penalties as part of the DBE contract requirements to hold the private partners accountable. For example, Participant P16 reported that “we have liquidated damages clauses in our contracts. But liquidated damages explicitly related to noncompliance with our DBE requirements.” According to Participant U21, “We have contract language that required the private partners to adhere to the DBE program was included in the contract.” Four participants reported conducting site visits to monitor whether the prime or partners comply with the DBE program on P3 projects. According to Participant S19, “We did onsite inspections of the subs as well as we did site visits.” Participant P16 said that “there are also site visits that the compliance officer is supposed to do as well.”

Four participants emphasized assessing the payments made to DBEs as a method for monitoring whether the primes comply with the DBE program on P3 projects. Participant F6 said that “the district office monitors the P3 projects by way of ... requiring payment made to DBEs and other requirements,” and Participant G7 responded that “we monitor adherence to the program by ... ensuring payments are to the DBEs for work completed.” Three participants reported completing commercially useful functioning reviews as a method for monitoring whether the primes comply with the DBE program on P3 projects. For example, Participant Q17 said, “We ask the DBEs questions to ensure they provide a commercially useful function. Any issues or concerns are documented and submitted to the office.” Three of the participants shared reviewing subcontract agreements; for example, Participant O15 said, “We review any new DBE subcontract agreement to ensure adherence with DBE program requirements.” Three

participants pointed out the importance of the DBE team supporting the partnership or collaboration. Participant T20 said, “The DBE team must ensure that the entire partnership understands the DBE program requirements.” Participant O15 shared, “The DBE team offers support where the private partners need additional DBE participation.”

Two participants reported maintaining public sector objectives as a strength for monitoring the DBE requirements. Participant S19 said,

I took my job; I took my job seriously, and people who knew me knew that. ...

The other directors knew that, and so no, there were no inconsistencies, and if exceptions were being made in a given case, that would have surfaced with me. It would have required my agreement.

Participant T20 said, “The main job of the public agency is to ensure the integrity of the program.” Two participants emphasized the placement of the DBE department as influential in monitoring the DBE program in the P3 environment. According to Participant O15, “The placement of the DBE office within the agency or its setup in the agencies key.” Participant M13 said, “We have a co-located office; the owner and the developer all sit in one office. So, it’s something we talk about not every day.”

Two participants shared that their compliance was supported by a consultant hired to monitor the DBE program on P3 projects. Participant H8 said, “We have ... support from consultants that work on the P3 project to help ensure compliance for our P3 projects,” while Participant P16 said, “Sometimes in the past, we ... hire a consultant that we manage on-site, or hire a consultant who will be managing it offsite ... we use consultants alongside your compliance officers to ensure compliance.” Two participants pointed out the administrative burden introduced by the P3 environment when monitoring

the DBE program. Participant S19 said that “one of the more time-consuming in terms of man-hours for my team is monitoring compliance,” while Participant Q17 said that “P3s require a lot more compliance. We discovered that due to our limited resources, we could not monitor compliance ... adequately.” Two of the participants emphasized that another agency has to support its DBE compliance monitoring on P3 projects. Participant K11 said that “another agency office supports the compliance monitoring on the P3 project,” while Participant VC said that “the state supports monitoring of the P3 projects when it is FHWA funded.” Two participants emphasized the need for better informed DBEs. Participant W23 said that “DBEs need to be better informed. Because they make business decisions all the time, big or small decisions, that is contrary to the contract, and people just don’t know.” Participant T20 shared that the “DBEs need to be educated; they need to be worked through the process and requirements.”

Some of the participants pointed out challenges and suggestions that could support the monitoring of the DBE program on P3 projects. Participant W23 shared, “We require the primes ... to have DBE orientations or invite them to the one we have. ... But those have been very helpful for informing DBEs.” Only Participant S19 responded that “it is important the DBE program was applied consistently across all projects.” In the response for this question, Participant O15 admitted, “We’ve struggled with achieving the DBE goals in recent years.” Participant O15 also reported mistrust of the private sector by saying, “Of course, we’re not buddies; If I turn my back, they’ll stick a knife in it; still, it’s a business relationship.” Participant O15 also shared the influence of executive-level support by saying,

Another important mechanism and helps with implementing the DBE program is that I have the support of my executive staff. ... In the past, it made no difference what I said, and nobody was listening because I didn't have executive support. ... But executive support is huge.

Only Participant J10 said,

To help keep track of who the DBEs are working for, what layer they're in, and what the contract is for, we use a spreadsheet as the tracking mechanism. ... I found that an Excel spreadsheet worked best for us because, on a P3 project, everything moves so fast.

Only Participant E5 reported the use of a P3 office to support monitoring by saying, "The agency itself has a P3 office. So, what will typically happen is the P3 office will work with the civil rights personnel." Participant M13 reported the importance of communicating the importance of meeting the DBE requirements by saying that "we have made the project managers and developers aware that meeting the DBE goal is important to the agency." The results of Interview Question 10 are summarized in Table 8.

Interview Question 11

Is your application of the Federal DBE Program on P3 projects any different from traditional design-bid-build projects?

The researcher asked this question to assess any variation to the mechanism employed to implement the DBE program on P3 projects to investigate any strength or challenges it may present. Seventeen participants reported that the federal DBE program on P3 projects is not any different from traditional design-bid-build projects. For

Table 8

Participants: Responses for Interview Question 10

Interview questions	Responses	# of Respondents	% of Respondents
10. How do you monitor whether the prime or partners comply with the Federal DBE Program on P3 projects?	Monthly or quarterly reports and forms collected	11	45.83%
	Prime designated resources	10	41.67%
	DBE team designated resources	10	41.67%
	Compliance system	8	33.33%
	DBE utilization or inclusion plan	8	33.33%
	Meetings with private partners	7	29.17%
	Liquidated damages or penalty	5	25.00%
	Site visits	4	16.67%
	Payments made to DBEs	4	16.67%
	CUF	3	12.50%
	Review subcontract agreements	3	12.50%
	Collaboration	3	12.50%
	Public sector objective	2	8.33%
	Placement of the DBE department	2	8.33%
	Consultant supports compliance	2	8.33%
	Administrative burden	2	8.33%
	State DOT monitors	2	8.33%
	Better informed DBEs	2	8.33%
	Training and orientation	1	4.17%
	DBE program applied consistently	1	4.17%
Struggled meeting DBE goals	1	4.17%	
Excel tracking	1	4.17%	
P3 office	1	4.17%	
Mistrust	1	4.17%	
Communicate importance	1	4.17%	
Executive level support	1	4.17%	

example, Participant U21 said, “It’s the same. We look at the federally funded projects and treat them the same regarding how we govern and monitor them. There are no amendments to the DBE program to fit in the P3 project, just standard application.”

Participant S19 said that “the DBE program is applied consistently across all projects.”

Participant X24 shared, “The application of the DBE program was normal on the P3 project, we did not make any changes to the program.” Five of the participants reported that with the P3 project, they experienced more private partner involvement or negotiation with the DBE program implementation, which is different from traditional design-bid-build projects. For example, according to Participant M13, “As part of the shortlisting process on larger design-build and P3 projects, which is now carved into the RFQ, we specifically require more DBE input from the developer or design-builder.” Participant O15 reported that “the proposers provide input on how we can meet our goal, especially on these larger projects where there’s potentially more opportunity or DBEs.” Participant H8 said that “the engagement is different in that P3 requires more collaboration from the private partners to fit the DBE requirements into the P3 project.” Five participants asserted that the DBE program should be applied or implemented differently on a P3 project. According to Participant I9, “The program is applied consistently, but the interpretation, in my opinion, should vary because the P3 environment is unique.” Participant R18 shared, “I think it’s new for everyone, including me ... for some DOTs, the DBE program is applied similarly, but the method of DBE attainment prescribed in most DBE programs can’t necessarily be followed.” Participant H8 said, “The DBE is applied consistently across the board but how it is implemented is different on the P3 project because of the size and nature of the P3 environment.” Five participants responded that the DBE program is applied differently on the P3 project than on other projects. For example, Participant N14 said,

Yes, it’s different ... you can set what you think ... once you start getting into the project and start developing the design ... so you kind of start off with one thing,

but then as you start to hone that project in, sometimes those numbers get changed.

Participant M13 shared that “on large P3, the DBE program will not be applied the same.” Three participants highlighted the lack of properly defined scope, and value in the P3 model presents challenges with applying the DBE program. For example, according to Participant R18,

The scopes that could be categorized as opportunities for DBES are unknown or available at the time of DBE goal-setting. ... So as opposed to a traditional project where you can outline your DB participation at the beginning of the project. ... In a P3 environment, there are so many unknowns, so setting a 20% or 30% goal at the predevelopment phase is arbitrary because you have no clue what scopes the DBEs will be available for subcontracting, nor do you know the available value of those scopes.

Only Participant B2 shared that “the DBE program tacks on stronger enforcement and consequences in the P3 environment.” Participant E5 was the only one who highlighted that private partners have a different objective from the public agency by saying,

In the P3, the private partners involvement in goal setting may limit small business participation ... the private partner is trying to get out with giving as least as possible to the DBEs, and the agency is trying to hit that maximum range and trying to get the most that they can get.

Only one participant communicated the need for designated resources in their response to this question. Participant M13 said, “We required the partners to have a dedicated person

to support the DBE program and its compliance, which is different from the traditional projects.” Participant R18 was the only one who reported the lack of experience from the DOT as a challenge to implementing the DBE program in the P3 environment:

It seems that the DOTs don’t know what they’re doing. I know that sounds harsh, but I ... say the DOTs don’t know what to do because they are trying to fit the traditional method stipulated in the federal regulation for the P3 environment.

Only Participant X24 reported the additional effort necessary in the P3 environment to implement the DBE program successfully: “I will say that, unlike other project types, extra efforts were made to attain the DBE goal.” The results of Interview Question 11 are summarized in Table 9.

Table 9

Participants: Responses for Interview Question 11

Interview questions	Responses	# of Respondents	% of Respondents
11. Is your application of the federal DBE program on P3 projects any different from traditional design-bid-build projects?	No difference in DBE program application	17	70.83%
	More private partner involvement	5	20.83%
	DBE program should be applied differently	5	20.83%
	DBE program is applied differently	5	16.67%
	Lack of properly defined scope	3	12.50%
	P3 stronger enforcement and consequences	1	4.17%
	Private partner can limit DBE participation	1	4.17%
	Prime designated resources	1	4.17%
	DOT’s don’t know what they are doing	1	4.17%
Additional effort by DBE team	1	4.17%	

Interview Question 12

What have you learned from the experience applying the federal DBE program to any of these P3 projects that will help you or others with future projects?

The researcher asked this question to gather responses that further highlight the participants' perceived strengths and challenges. The responses may also get the participants to begin thinking about lessons learned thus best practices based on their experiences.

Nine participants responded that they learned that it is important that even though the P3 utilizes private funding, the public partner needs to maintain control and oversight of the project. For example, Participant A1 shared, "It's public money, the partners just need to understand that we have other goals other than profit. That's the bottom line, so we will require compliance." Participant C3 said,

If you're giving control over to a private entity, you still have to maintain your level of control and oversight over the specific elements of the program because we are the ones that are vested with the social and economic interest around that is part of the DBE program.

Participant D4 responded, "It is incumbent upon us to make sure the private partner complies with the DBE program, and we are also following the policies governing our program." Similarly, Participant W23 said,

If it's public money, we have a regulatory responsibility to make sure the public money is distributed in such a way that the taxpayers are given the maximum ability to benefit from these public expenditures. So yeah, we stand on the DBE program. But I think as the agency ... we always have the power of the purse,

and we can always make people pay attention to what we want them to care about.

Five participants mentioned the role of collaboration or communication as lessons learned from applying the DBE program in the P3 environment. For example, Participant X24 said, “All the parties need to be on board; there needs to be collaboration.”

Participant J10 said that “the collaboration has got to happen to get things moving.”

Participant H8 commented, “We use the reports to communicate more effectively, and it is valuable for fostering collaboration.” Three participants reported the need to put in place additional monitoring mechanisms and provide resources for compliance.

Participant P16 shared, “We put together a workgroup where you’ll have an additional layer of review or compliance to ensure the private sector is doing it the right way. Right and that they’re adhering to all of the rules.” Participant G7 shared, “Once the DBE goal has been established from the compliance perspective, from my perspective, it’s been easier to help the private partners achieve the DBE goal.” Participant E5 said, “You have to make sure that you have mechanisms in place, you have people there that understand how the program is going to work. ... You have to have a good mechanism in place to track, monitor, and oversee the program.” Three of the participants shared that they learned that there needs to be more support to DBEs either in the form of legislation, outreach, or training. Participant F6 said, “There has to be an outreach effort. There has to be action that can decrease that gap for DBEs that have not been connected, know-how, or don’t have a place at the table.” Participant G7 responded, “To assist DBEs with success, we have to increase their ability to access information or knowledge. We need outreach, education, having a relationship or the opportunity to have a relationship to be

in the know.” Participant L12 said, “There needs to be more training, there needs to be more support of the DBE small businesses ability to work and partner with the larger prime contractors.” Three participants emphasized the role of the private partner objective in the P3 environment. Participant Q17 said, “The private partners have to share in your objectives at the very onset of the project and for effective adherence to your program. The lack of shared objectives can act as a challenge to the program.” Participant X24 also shared that “the private partners must buy-in to the program.” Participant L12 said,

It is important to remember that prime contractors are in—they’re in, it’s an enterprise, they’re in the business of making money. Therefore, you know, I may be going off on a tangent here. When you put out a public regulation or program that mandates, well, technically doesn’t require, it just requires you to demonstrate that you try to fulfill the program’s goals. But it runs counter to their ability to make a profit, right quickly? The whole definition of business is to make money.”

Two participants highlighted that the large or complex nature of the P3 models introduces challenges for monitoring the DBE program. Participant P16 said that “most of these P3 projects are projects that are unusual and large; they’re atypical for government, so it can be challenging.” Participant E5 shared,

They are so large and complex if you don’t get on it in the beginning, it’s going to be difficult in the middle or the end of the project. ... the projects are typically so large that you have to kind of stay on top of it to make sure. ... that makes it difficult because the project is so large.

Two participants highlighted the administrative burden in their response to this question. For example, Participant E5 said, “The P3 projects ... are a pain to be honest with you. There’s always like I say, getting everything together gets to be very time-consuming ... it’s a lot.” Participant A1 said, “There’s probably going to be some DBE requirements training necessary. ... I think it’s going to require more training; we have had issues with this.” Two participants shared that they learned the need for dedicated oversight for monitoring the DBE program on P3 projects. Participant J10 said,

We have dedicated oversight ... I’m lucky that I have consultants and full-time staff in my office that I can rely on for help. I had people to pull from; if I didn’t, it would have been a nightmare; I’d probably be working 14-hour days.

Participant E5 also said, “You need a dedicated oversight for the project. ... So you have someone there who stays on top of it continuously because so many people are involved in it.” Two participants highlighted some prime resistance adhering to the DBE program. Participant W23 said, “The primes seem to find out a way to deal with it, they grumble amongst themselves.” Participant P16A shared, “Primes still struggle when it comes to following the DBE program and everything that we’re telling them to do ... the information is all there. They’re still not doing it.”

Participant T20 emphasized the DBE department’s early involvement: “The DBE team needs to be involved early on, if they know ahead of time ... they can begin to search for qualified DBE firms ... work to get the DBE firms ready to begin networking, forming teams.” Participant S19 highlighted the importance of leadership influence: “What I think is that the programs are only going to be as successful as the commitment of the individual leadership.” Participant R18 communicated that on P3 projects, there is

limited support offered to the DBEs by the private partner: “If a DBE firm will be on a P3 project, there isn’t time to hold their hand. The expectation is that the DBE firm will perform per their contract with little to no resources provided by the private partner.” Only Participant P16 shared the importance of the DBE requirements as there would be an increase in the use of the P3 model, “I think the DBE requirement is important and necessary enough. ... I think we’re going to see larger and larger projects come under that P3 umbrella.” Participant C3 responded, “You got to make sure that they’re creating opportunities for outreach and education on the opportunities.” Participant C3 also shared, “I just think it’s important to be creative and make sure that the project can support separate goals for professional services, design, construction, etc. Got to be vigilant there.” Participant P16A highlighted the need to enforce consequences for primes that aren’t complying:

We need to show these primes that we mean business. We need to tell them this is what we need. If they don’t do it, we need to get their money ... we need to be setting more examples with the primes that aren’t complying.

Participant B2 shared that there needs to be more P3 education: “There probably needs to be some education about the differences between the delivery method when they’re setting the goal. It’s not so much the timing, but the understanding of the delivery method.” Participant N14 reported learning that it is important to match the DBE availability to the DBE goals set for the project: “A lot of times matching what DBEs you have in your area, and what specialties they have to the P3 work to make sure that they match up.” The results of Interview Question 12 are summarized in Table 10.

Table 10

Participants: Responses for Interview Question 12

Interview questions	Responses	# of Respondents	% of Respondents
12. What have you learned from the experience applying the DBE Program to the P3 projects that will help you or others with future projects?	Maintaining control and oversight	8	33.33%
	Collaboration and communication	5	20.83%
	Additional monitoring mechanism and resources	3	12.50%
	More support to DBEs	3	12.50%
	Private partner objective	3	12.50%
	Large and complex	2	8.33%
	Administrative burden	2	8.33%
	Dedicated oversight	2	8.33%
	Private partner resistance	2	8.33%
	DBE department early involvement	1	4.17%
	Leadership influence	1	4.17%
	Limited support provided to DBE by the private partner	1	4.17%
	Future increase in the use of P3 model	1	4.17%
	Create opportunities	1	4.17%
	Create separate goals	1	4.17%
Enforce consequences	1	4.17%	
Need to be educated on P3	1	4.17%	
Match DBE Availability to DBE Goal	1	4.17%	

Interview Question 13

How are the prime contractors held accountable? Are there consequences for the prime contractor if it does not comply with the program? What teeth or enforcement mechanisms does your agency have to encourage or require compliance?

The researcher asked this question to gather responses on the enforcement mechanisms to encourage compliance of the DBE program on P3 projects. The researcher anticipated that the responses to this question might make apparent any challenges to holding the private partner accountable to the DBE program and investigate if the P3 model presents any uniqueness.

All of the participants shared that their P3 contracts contained consequences or language to hold the private partners accountable. However, seven participants responded that the enforcement language needs to be strengthened. For example, Participant W23 said, “The strongest mechanism for accountability is the enforcement language included in the contract as long as the contract language is weak, resistance to the program will continue to be a challenge.” Participant S19 said,

I always struggled with the contract language; we need to figure out ways to strengthen contract language. ... The CEO and I agreed on some new initiatives, and one of those initiatives was how do we strengthen our contractual language.

Participant H8 said, “We think the enforcement language can be strengthened. ... there’s always an opportunity to strengthen the enforcement and teeth of the DBE program in the contract.” Participant B2 responded, “We don’t have a strong enforcement mechanism in the contract, so not probably the biggest hammer we have, which is money.” Six participants identified that financial penalty is a strong enforcement mechanism to hold the private partners accountable. For example, Participant P16A said, “In my opinion, to hold them accountable, it would be worthwhile to impact them by affecting their profits.” Participant Q17 communicated,

We hold the private partners’ profit for those that don’t comply ... when we have 10 percent of a private partner’s payment, that is significant. That is their profit margin ... we are wiping out your whole profit margins or making a significant dent in your profit margin.

Participant O15 responded, “There are strong mechanisms in the contract for withholding payments until the private partners address the disputes.” Three participants reported

using debarment or enjoinders as an enforcement mechanism. For example, Participant D4 said that

for the private partners violating the terms of their contract, we have a consequence called no building, which stops the private partner from doing business with the agency for a specific period. And if you get this consequence often, your company can be debarred.

Participant E5 shared that “if a good faith efforts evidence is not met on the project, we normally would have an administrative hearing, if the good faith effort is not basically met, they are enjoined from building for 90 days.” Two participants shared that they applied administrative sanctions to hold the private partners accountable. Participant U21 said, “If it’s just a shortfall, we’ll facilitate an administrative sanction or letter saying that they have to do mandatory training.” Participant L12 said, “They have to provide written document of their due diligence and good faith effort in trying to reach the goals.” Two participants responded that they utilized the DBE plan as a tool for holding the private partners accountable. Participant O15 stated, “The private partners give us the initial plan of how they will meet the DBE goal ... as the P3 project progresses, the contractors submit monthly reports; we review those reports.” Participant L12 said,

This is how I look at DBE; you set a goal. Then when you award the project, there are ... standardized federal forms or plans that the contractor must submit. Those forms include the contractor’s commitment ... you have the reporting ... whatever they commit at the time of bid they have to meet.

Two participants responded that the P3 environment introduced stakeholder influence. Participant O15 said,

On most P3s, they are such a big deal that there ends up being other people in those conversations, such as a high-level engineer executive, so it's not just me...I can solicit and receive support from the people that manage the rest of their contract.

Participant Q17 shared,

We always needed to get the owner of the project to buy in, which was hard ... we are a stand-alone agency supplier diversity. We are not the contract owners; often, the police department, the fire department, or the health department funds the contracts. When we have compliance issues, we are not signatory to the contract, which means it is not our budget. We are not the contract owners; we are putting the contract in noncompliance. So, historically we have found challenges that you know it became we had to get the contract owner, those agencies to say look this is significant issues that we see, we need you to debar. A director of another agency looking at it will say, "Well, I need this project done. I will not debar this private partner, or I will not hold their payment back because it will significantly impact how they do business."

Two participants reported that they utilized DBE training as a consequence for the prime contractors who do not comply with the DBE program. Participant U21 said, "But I've seen some cases where we just asked the prime to attend eight-hour training, which is the lesser side of penalties." Participant T20 said that "there's DBE requirements training for the private partners. ... I think they need to be educated. ... They all need to understand the consequences of not meeting the DBE requirements." Two participants

communicated the importance of collaboration and communication for holding the private partners accountable. Participant O15 shared,

More effective is setting up regular intervals of communication ... that mitigate getting to the point where you have to take money from the private partners ... this collaborative approach allows for more support and buy into the DBE program.

Participant J10 said,

I would go to the project director and say, “We’ve got this problem, and the prime is not complying.” Then the project director would let the concessionaire know that their design-builder is not in compliance, which usually works ... for most of the P3 projects, I know the players and the private partners. I know who to contact if I needed.

Two participants identified reputational influence as a mechanism for enforcing the DBE program. Participant J10 said,

I try to appeal to the primes “do the right thing” mindset. And remind them that to be able to brag about how great they are, they need more DBEs and threaten that the word will get out if they’re not in compliance and not treating their DBEs correctly. Also, I assure the primes that we want to be able to say how great they are, so they need to help us by doing what’s right.

Participant Q17 said,

By not complying with the program, the private partner is creating a history that will not look good in the future. When private partners are debarred from the city government ... we notice that ... other entities follow suit in our historical

practice. So not only do you lose business with the city, but with other government entities.

Two participants identified the importance of creating a shared objective to enforcing the DBE program. Participant N14 said, “If we can find a way to blend public administration with meeting their (private partners) objective that would kind of increase our ability to meet our goals.” Participant T20 shared, “The goal is to create opportunities for DBEs; still, it is important to maintain the integrity of the program. And getting those partners to buy into the DBE program will help with maintaining the integrity of the DBE program.”

Only Participant O15 reported adversarial impact or challenge to enforcing the consequences associated with violating the DBE requirements:

Private contractors ... can appeal to the administrative law judge. So that brings in somebody who doesn't know the DBE program ... or ... doesn't have at heart the interest of the DBEs. We're not here to beat contractors up, even though sometimes we have to. We are 100% right in fighting with a private partner for not adhering to the DBE program, but unfortunately, our fight affects the DBEs. ... The contractor is not affected because they still have 12 other contracts they're working on, so they have revenue. But the poor little guys, the DBEs, are not receiving payment and are implicated the most. So who loses? The DBEs ... So while we would be 100% right by enforcing the consequences should the private partners not adhere to the DBE program, all the stakeholders within the P3 environment, and especially those that have an issue with DBE or social equity programs, will categorize it as a hindrance to the success of the project.

Participant O15 also communicated the importance of the DBE department's early involvement in holding the private partners accountable or enforcing the DBE program:

Now my team gets involved earlier in the process, it creates ... appropriate DBE scopes, alleviating liquidated damages and stiff penalties, more and better opportunities for DBEs to participate and thrive. But this only happens if my team gets involved early and has discussions early.

Participant O15 also pointed out leadership support to enforcing the DBE program: "You can't have a successful Civil Rights Office of any kind where you don't have the executive leadership supports." Participant D4 identified the role of a compliance system to monitor and hold the private partners accountable to the BE program: "We use ... the civil rights system, and it offers various reports that we can run to understand where the primes are with compliance." Participant E5 pointed out the inconsistency in contract language:

Every P3 contract is different the language in each one, like all five of them, you look at all five of them, none of them have the exact same language, as with the punishment that they will receive ... none of them are the same that is a challenge.

Participant E5 also emphasized the role of P3 contract negotiation for enforcing the DBE program:

Negotiation is the most important part. Because ... in that negotiation, the partners ... are negotiating what they will accept, and our agency is negotiating what they are going to allow. The vendor is trying to get out with giving as least as possible to the DBE participation, and our agency is trying to hit that maximum ... and get the most that they can get.

For this question, only Participant N14 identified utilizing the financial incentive as an effective mechanism because it aligns with the private partner objective:

You know, money talks ... one of their biggest objectives is revenue driven ... so sometimes you have like incentives for them completing it by a certain time ... the contractor will move heaven and earth to complete the project on time to get their maximum bonus. But the DBE part is kind of like, "Oh, yeah, that's back there." But if you attach it to that, then it gives more, you know, incentive for them to meet that.

Only Participant Q17 emphasized the DBE department structure as an influence for DBE program enforcement and holding the private partner accountable: "Where the department sits within the agency, I am finding, can influence how the program is governed." As part of the response for this question, Participant T20 identified the critical role of designated resources: "You cannot have a DBE compliance administrator assigned a P3 project, also assigned on other projects ... also, having a DBE liaison that's in the prime's company that understands the DBE program and its requirements ... will make the whole project work smoothly." Only Participant U21 shared utilizing a tiered system of consequences as a mechanism for holding the prime accountable: "There are different levels of consequences depending on how egregious what they've done is." Participant W23 highlighted private partner resistance in the response for this question:

It's challenging ... I just think the primes or partners think of it as their money, and they think of it as this is our contract, we're doing the work. Why do we have to share? Why do we have to reduce our profit margin to include these disadvantaged businesses?

The results of Interview Question 13 are summarized in Table 11.

Table 11

Participants: Responses for Interview Question 13

Interview questions	Responses	# of Respondents	% of Respondents
13. How are the prime contractors held accountable? Are there consequences for the prime contractor if it does not comply with the program? What teeth or enforcement mechanisms does your agency have to encourage or require compliance?	Contract language contains consequences	24	100.00%
	Need to strengthen enforcement language	7	29.17%
	Financial penalty a strong enforcement mechanism	7	29.17%
	Debarred or enjoined	3	12.50%
	Administrative sanction	2	8.33%
	DBE plan or reports	2	8.33%
	Stakeholder influence	2	8.33%
	DBE training	2	8.33%
	Collaboration and communication	2	4.17%
	Reputational influence	2	8.33%
	Shared objective	2	8.33%
	Adversarial impact	1	4.17%
	DBE department early involvement	1	4.17%
	Leadership influence	1	4.17%
	Compliance system to monitor	1	4.17%
	Inconsistence in contract language	1	4.17%
	Contract negotiation influence	1	4.17%
	Private partner objective—financial incentive	1	4.17%
	DBE department structure	1	4.17%
Designated resources	1	4.17%	
Tiered system of consequences	1	4.17%	
Prime resistance	1	4.17%	

Interview Question 14

In your experience, what do you think are the strengths of implementing the DBE program in a P3 environment?

The researcher asked this question to gather direct responses from the participants regarding perceptions on the strengths of implementing the DBE program in a P3 environment. The researcher also asked this question to correspond the other perceived strengths presented as responses for the other questions.

Fifteen participants emphasized that one of the strengths of implementing the DBE program in a P3 environment is that it offers more DBE opportunities. For example, according to Participant P16A, “P3 environments offer more opportunities to DBE firms. So whereas on smaller projects, there are limited opportunities for DBEs.” Participant T20 said that “P3 is the new delivery model. I think the P3 model gives DBE firms more experience and opportunities because of the vast scope included in P3 projects.” Participant P16 posited that “P3 creates more opportunities for DBEs in the private sector.” According to Participant O15, “The economy has struggled at times, anytime there’s an investment, especially if the infrastructure it’s good for the community. It’s good for DBEs because it provides them more opportunities and revenue.” Participant M13 said, “P3s tend to be larger projects. So, in that nature, there’s more work, which could, in turn, lead to more opportunities.” Participant A1 shared,

The DBE program on P3 project allows us, despite the proposition 209 ... which doesn’t allow us to do a lot, to get contracts to DBEs. Over the last 5 years because of the DBE program. ... In the last 5 years, we’ve paid \$290 million to

DBE firms, which is a huge amount. ... If we didn't have the DBE program or a program like it, we wouldn't be able to get the level of DBE participation.

Ten participants communicated that the P3 environment builds DBEs' capacity or scales DBEs. For example, Participant H8 said, "It gives DBEs the experience to participate in a wider scale project that helps with scaling DBEs. Whereas otherwise, they wouldn't have such an opportunity on non-P3 projects." According to Participant J10, "We've had several good DBE's graduate from the DBE program because they have grown their scalability and revenue ... participating in P3 projects can be very beneficial and positive to them as they can graduate from the DBE program." Participant O15 shared that "all the P3 projects have generated more work for DBEs and opportunities to grow."

Participant R18 responded that "having the DBE program within the P3 world allows DBEs to gain capacity by employing the method of unbundling. Unbundling on P3s will give more DBEs opportunities and allow them to grow." Ten participants pinpointed that one of the strengths of implementing the DBE program in the P3 environment is that it supports social equity by demonstrating greater impact for DBEs. For example, Participant X24 said, "The magnitude of DBE participation and size of the project allowed the agency to increase its overall DBE goal." Participant L12 said,

The staff tries to comply with the spirit and the intent of the DBE program ... the strength would be that on the public-sector level, they are pushing the DBE program and the objectives of the DBE program on P3 projects.

Participant K11 shared,

I have 40 years of government experience, and I have found in the last couple of decades of my career that implementation was something seeing as having an

impact on a community seeing like the value you're bringing to quality of life or diversity or education or even economic mobility that's to me what's been rewarding.

Participant F6 shared,

In the 30 plus years that I've been in this industry, I have not worked on a single project that embraced the full components of the DBE program. When implemented on P3 projects, the full objectives of the DBE programs are achieved.

Five participants pointed out that the P3 environment offers flexibility or creativity to implementing the DBE program. For example, Participant T20 responded that "with the P3 partnership, you can be much more creative. Especially since you could have contract-specific goals." Participant R18 shared, "I would say the strength of implementing the DBE program in the P3 environment is its flexibility." According to Participant Q17, "There are initiatives afforded to DBEs due to the P3 environment we cannot do in our public works because we cannot enforce it."

Four of the participants shared that the P3 environment offers learning opportunities. For example, Participant D4 said, "They can see what other businesses are doing and maybe use that in their way of doing business. They have access to information and learn from other businesses." Participant W23 said, "In the next round of dealing with these primes or partners, this company will have more insight into working the process to their advantage." Four participants identified that a strength of implementing the DBE program in a P3 environment is that it provided an opportunity for partnerships or exposure for the DBEs. For example, Participant P16 said,

I do think that P3 creates opportunities for DBEs to have more connections. ...

Because I believe that the prime contractors on P3 projects are not typically the bidders that you're going to find on standard state-funded or standard DBE projects.

Participant P16A pronounced, "There is no other way can they get this kind of exposure."

Two participants communicated leadership influence as a strength of implementing the DBE program in a P3 environment. For example, Participant H8 said,

I think a strength of implementing the DBE program in a P3 environment is the leadership supports the program garners. ... With leadership support, the DBE program implementation becomes relatively easy because you face less resistance and have more autonomy to hold the private contractors accountable. That leadership support also influences the private partners' ... desire to meet or exceed the requirements of the DBE program or private partners are more willing to buy into the objectives of the DBE program.

Two participants pointed out that a strength of implementing the DBE program in a P3 environment is that it offers mentoring opportunities. Participant Q17 said, "Our P3 models are good areas with joint venture and mentor protégé requirements. ... On our P3 projects, we require joint ventures in certain areas, and then we require mentor proteges." Participant M13 said, "P3 offers opportunities for mentoring; I know our developer has been good at working with and mentoring the DBEs on the project." Two participants shared that they did not think any strengths existed when implementing the DBE program in a P3 environment. Participant S19 said, "Well, I don't think there are many strengths, so that's why I was struggling to be honest with you." Participant U21 remarked, "I'm

not sure how the P3 environment makes a difference. I don't see any strengths." Two participants shared that the length of time is a strength of implementing the DBE program in a P3 environment. According to Participant P16,

I think that because these projects are larger, the hope is that the projects or the contracts that the DBEs will be working on should be typically larger as well because the DBEs will be doing work that generally lasts multiple years, unlike opportunities on non-P3 projects that happen like in a 10- or 12-month cycle.

Participant B2 said,

The strength in the P3 environment is just the length of time that a DBE has to get involved in a P3 project. On a standard project, we advertise for 6 weeks. ... In a P3, you're delivering this project for years in some cases, and so the DBE has multiple opportunities to get involved in that one project.

Two participants shared that P3 projects increase the pool of DBEs. Participant B2 shared that strength of implementing the DBE program in the P3 environment is that it creates new DBEs: "In some cases, we've had success with contractors working with noncertified subcontractors to get DBE certification during the life of the contract. Therefore, we can create new DBEs through P3 or design-build type contracts."

Participant J10 shared that strength of P3 projects is that it pulls DBEs from other states: "It does draw in DBEs from other states, especially on the construction site ... it does draw in other companies to make it worthwhile. ... It's drawing in DBEs that we've never worked with before.

Participant S19 shared that instead of strengths, the P3 environment presented challenges for the DBE program:

I don't think there are many strengths. Because the DBE program doesn't have any teeth in them, they lack penalties, and so to me, if you really if you're serious about something, then you put teeth in it and they and they lack teeth and so that was my issue all along.

However, Participant S19 later added, "I've got one, some degree of uniformity from one project to the next project to the next project. ... There's some consistency in methodology." Participant A1 emphasized the necessity of the DBE program in the P3 environment:

Facilitating the DBE program is necessary because it's not going to work just to say or tell these private companies to use DBEs and expect to get participation. ... You need to develop and implement the DBE program because it assists and trains DBEs. ... Even if their experience is not a good one, even if they only find out how twisted primes or partners are ... the primes would not have done it if we hadn't asked them to.

Participant B2 also pointed out the influence of requiring primes to have designated DBE resources: "We require the partners to go out and hire a consultant specializing in this work. That seems like it's been very helpful because these liaisons already have relationships with the DBEs community ... it's been pretty successful." Participant B2 also shared,

One of the strengths of P3 is that there's some reputational harm if the partners don't meet the goal. The next time the partners go after a project, meeting the DBE goal is given some consideration and is references. I know the partners are

concerned about that because they want to pursue these types of projects. I guess reputational damage would be another form of penalty.

Participant F6 shared that strength of implementing the DBE program on P3 projects is that the DBE administrators can require a DBE plan as a way of encouraging DBE participation:

The agreement outlined a plan ... of how the DBE program requirements would be handled. We required the concessionaire to continue to do a robust plan for outreach through all phases of the P3 projects. This approach has introduced a huge success in the performance. Some of the criteria have been exceeded in new ways, so that is a real big success story.

Participant I9 identified that

one of the strengths of implementing the DBE program in a P3 environment is that it offers collaboration with all the partners. Because you can learn each partner's role, establish the lines of communication, and then come together to resolve any issues in a manner that's quicker than on other traditional projects.

The results of Interview Question 14 are summarized in Table 12.

Interview Question 15

In general, what are the challenges you are currently facing or have faced with monitoring the DBE program on P3 projects?

The researcher asked this question to gather direct responses regarding perceptions of the challenges of implementing the DBE program in a P3 environment.

The researcher also asked this question to investigate the responses received for the other questions that may be challenges of implementing the DBE program in a P3 environment.

Table 12

Participants: Responses for Interview Question 14

Interview questions	Responses	# of Respondents	% of Respondents
14. In your experience, what do you think are the strengths of implementing the DBE program in a P3 environment?	More DBE opportunities	15	62.50%
	Builds capacity or scales DBEs	10	41.67%
	Supports social equity	10	41.67%
	Flexibility or creativity	5	20.83%
	Learning opportunities	4	16.67%
	Opportunity to partnerships or exposure	4	16.67%
	Leadership influence	2	8.33%
	Mentoring opportunities	2	8.33%
	No strengths	2	8.33%
	Length of time	2	8.33%
	Increases pool of DBEs	2	8.33%
	Lack of teeth	1	4.17%
	Consistency in DBE program Application	1	4.17%
	Prime resistance	1	4.17%
	Prime designated resources	1	4.17%
	Reputational influence	1	4.17%
DBE plan	1	4.17%	
Offers collaboration and communication	1	4.17%	

Fifteen participants identified resistance to the DBE program as a challenge to administering the DBE program in the P3 environment. For example, Participant W23 said,

The number one obstacle is the resistance of the primes. ... I've been in meetings with a prime's owner, where he strongly implied that he resents supporting the social programs such as the DBE program, out of his damn mouth, he says, "these affirmative action programs."

Participant B2 reported that “the DBE program is almost an afterthought to them ... the private partner can carve out certain elements of work and a dollar factor for DBEs without embracing any of the DBEs or DBE program. So those are huge issues.”

According to Participant J10, “For the P3 project ... the P3 Procurement Office plays games with all the DBE firms, not paying any of them.” Participant L12 said, “I think the challenge is really on the private side with the prime contractors adhering to the requirements.” Eleven participants asserted that implementing the DBE program in the P3 environment introduces administrative burden. For example, Participant H8 said that “the P3 environment, due to its size and complexity, introduces administrative burden tracking prompt payment and monitoring commercial useful function.” Participant I9 commented, “Tracking DBE information is very challenging in the P3 environment because of how big P3s usually are. Due to size, sophistication, and number of DBEs on the project, the P3 project requires many resources to monitor.” Participant T20 shared that “there is a heightened level of administrative burden monitoring the DBE program within the P3 environment.” Participant J10 said,

The biggest challenge we have is that P3 projects increase the administrative burden that’s required to monitor DBE programs so much so that when I had two P3 projects going on at once, I had to use all my staff to help monitor ... because it was impossible to do it myself. Monitoring one P3 project is a full-time task but monitoring two P3 projects simultaneously is absolutely impossible ... we can’t be everywhere at once, and a lot is going on both day and night. For the \$1.3 billion project I have right now, I have three inspectors out there to cover day

and night. It just doesn't cover all we need; we are going to miss a lot of compliance violations, unfortunately, and the contractor knows it.

Eight participants pointed out that limited DBE availability presents a challenge for implementing the DBE program in the DBE environment. For example, Participant S19 shared, "There's just a lack of availability. ... I think one of the biggest challenges we face is ... there's a real dearth of minority firms that are available to compete on a national basis." Participant R18 said, "There are areas of service where there are no DBEs available ... it is very challenging to find DBEs willing to accept the risk and do good work." Participant N14 commented,

One issue we've had is just the availability of DBEs in certain specialties ... like right now we have a P3 project, that majority of the project is a bridge, and so finding DBEs who can do the elements of the bridge because that's where the highest dollar value is ... a challenge for us.

Participant C3 said, "The complaint is—there's all these other firms, the vast majority of minority firms are micro-businesses. There is a limited pool." Eight of the participants identified that a challenge to administering the DBE program in the P3 environment introduces greater risk for DBEs. For example, Participant M13 said, "P3 environment introduces more opportunities for DBEs to lose their company potentially." Participant H8 said, "On a P3 project or contract, the size of the project could hurt them tremendously and ultimately lead them to go out of business." Participant R18 shared,

There's a high risk for DBE's, which sometimes makes it very difficult for DBEs to participate. DBEs that participate in P3 projects are taking on many risks

because they don't necessarily know the full scope of the project either it hasn't been designed yet.

Participant K11 said, "DBEs working on these P3 projects there's also risk for them too, because now if there is something that goes wrong, it's a big risk item too ... the highly regulated environment puts a certain level of risk." Seven participants reported the private partner profit-focused objective is a challenge in the P3 environment. For example, Participant F6 said,

When we get into one P3 project, every contractor is in business to maximize the profit. ... Often, they're on opposite ends of the spectrum with the public agency, most contractors will not give you the precise amount of quality because they want to squeeze out every bit of profit, Its challenging.

Participant I9 said,

One of the challenges ... is the private partners' main objective. Private partners are only interested in doing business and making money. They are in business to deliver the project and make revenue. So, it is merely business to them. Whereas we are trying to be good stewards of taxpayer money by ensuring equity and fairness.

Participant Q17 said,

The developers are primarily focused on profit, that can, of course, implicate the program's intention because they are looking for ways to make more money. It is a challenge. The developers' focus on profit and ways to maximize profit is a challenge that implicates the program's intention.

Seven participants pointed out private partners' unfamiliarity or lack of understanding of the DBE program as a challenge. For example, Participant A1 emphasized that "the issue is with the more private related companies unfamiliar with the DBE program and goals ... it's still like, they don't get it, because they probably haven't dealt with this type of program before." Participant F6 communicated that "many private partners don't know a lot about a DBE program and don't know about the objective ... when you get to the monitoring phase when the contract has been executed, that is kind of not a good time to start learning about the DBE program." Participant O15 said, "The private partners they sometimes don't understand the importance and relevance of the DBE program and using DBE firms; they often ask, What's the big deal?" Participant M13 shared, "The one challenge I see is if we had a developer that isn't familiar with the agency's DBE program." Six participants identified that the scope ambiguity in the P3 environment presents a challenge for administering the DBE program. For example, Participant B2 said,

You have a general understanding, but none of the details because you don't have plans, you don't have quantities. There's a lack of detail to set an accurate DBE goal. ... For traditional construction projects ... we have all the information we need to set the DBE goal for the project. For P3, we don't have a high level of design to understand what the subcontracting potentials are.

Participant D4 shared, "It was challenging to come up with a DBE goal for the P3 project because it's hard to determine the scope of work to allocate for DBEs when the design has not been complete yet." Participant N14 said,

One of the key things that I've seen for DBE on a P3 is there's a lot of unknowns as to what the work entails and so sometimes trying to identify a DBE to fulfill the work that's needed, it takes some time to do that. ... So that's one of the things that I think is a disadvantage.

Six participants identified communication or collaboration as a challenge to facilitating the DBE program in the P3 environment. For example, Participant H8 responded that "one of the most challenging elements of the P3 environment for governing the DBE program is determining the lines of communication ... and also challenging getting everybody to come together periodically to meet and discuss DBE-related issues." Participant I9 said that "another challenge that influences DBE program tracking and monitoring is communication because things change rapidly on P3 projects. It is challenging to keep track of the changes and guarantee that our team receives communication from the private partners." Participant O15 shared, "P3s ... there are so many moving parts. If you don't have a supportive and collaborative relationship with all the stakeholders, it challenges the ability to govern the DBE program." Six participants identified several barriers to DBE participation as a challenge in P3 environment. For example, Participant E5 said, "The challenge is they are not going to allow you to work on something that you not bonded enough to be able to satisfy the requirements. So, part of the requirement is you had to be certified and pre-qualified." Participant P16 shared, "These firms experience discrimination that prevents them from accessing capital so that they can grow their firms at the same rate as some of our majority or White-owned firms. I mean, that isn't good, they're still grappling with all of

these issues, in terms of being bonded for these extra-large projects, getting financing.

Participant S19 communicated, “You got to have the line of credit, you have to have the experience, you have to have the bonding capacity, all of those become limiters as to who you can work with.” Five participants emphasized the lack of a central website or information for DBEs in the P3 environment as a challenge. For example, according to Participant B2,

For design-bid-build, we advertise these projects for six weeks; the DBEs know what website to go to to find the plans and the specs. When the DBEs are trying to bid on the P3 projects, there’s no central website that they can go to to find plans and specs. That’s probably the biggest challenge.

Participant C3 shared, “But it’s all about the information that folks need to achieve the goal, that’s challenging for DBEs.” Participant G7 said, “The challenge is DBE don’t have access to the details of the P3 projects until after the project has commenced.” Five of the participants communicated that the financial resources necessary act as a challenge for administering the DBE program in the P3 environment. For example, according to Participant C3, “You require more contract monitoring and management and that eats into construction dollars because you have to pay for it somehow.” Participant D4 said, “Although it may be challenging, we may need to allocate more funding to continue to train the staff.” Participant L12 shared, “It’s more intense in the administration; we know it will be more costly. ... I think the level the amount of oversight and administrative burden drives up project costs.” Four participants reported that DBEs’ lack of P3 contract understanding is a challenge for facilitating the DBE program in a P3

environment. For example, Participant H8 said, “It is important to note that often DBEs don’t understand P3 contracts thoroughly, so they don’t grasp the consequences of doing something incorrectly.” Participant M13 shared,

On P3 projects, the DBEs are unfamiliar with the contract language because it often changes in ways DBE companies don’t have time to follow or don’t realize it’s happening and can cause problems, which can be detrimental to the DBE.

Five participants responded that DBEs lack the capacity to support P3 projects. For example, Participant P16 shared,

I found that having a DBE as one of the P3 partners ... is problematic because some DBEs have an issue being the lead on these types of projects because they lack the capacity in terms of financing in terms of infrastructure.

Participant R18 said, “DBEs may not scale to the magnitude necessary for the project, leading to their failure. ... DBEs may not have the capacity to support the scope successfully on P3 projects.” Participant O15 shared,

It is challenging because in the P3 environment, offering \$5 million worth of work to a DBE firm whose biggest project prior to the P3 project was \$500,000 is detrimental to the existence of that DBE firm. The DBE firm may accept the \$5 million work because it looks like a goldmine, they think they can perform the scope, but the truth is they can’t do the scope to the necessary capacity needed because they may not know how to scale up to the necessary magnitude.

Three participants pointed out that the lack of consequences for not complying with the DBE program is a challenge. For example, Participant J10 said, “We don’t have any consequences such as holding an estimate to dangle or help hold the prime

accountable.” Participant Q17 shared that “the developer goofs up or acts up towards the end because they realize there are no consequences.” Three participants emphasized that DBEs lack of P3 experience or relationship is a challenge for facilitating the DBE program. For example, according to Participant B2, “I would say if there’s any impediment, it’s with the DBEs themselves. ... The DBEs are used to design-bid-build, but for P3 projects. ... DBEs typically are not quite as sophisticated ... to develop those relationships during the procurement.” Participant E5 shared that “a lot of DBEs may not have the experience to navigate through the P3 process.” Three participants alleged that the mixtures of funding apparent in the P3 environments make it challenging to administer the DBE program requirements. For example, Participant E5 shared,

A lot of times, they don’t break the project down on exactly how much their money is federal, so you have to try to slice it through to determine or find out what the actual federal amount. So that’s where the difficulties come with the P3 is reporting just that federal participation amount.

While Participant K11 said that “it’s just having to track and account for separate funding sources. That is the challenge,” three participants asserted that the lack of DBEs’ involvement in the early or planning phase of the P3 project introduces challenges for administering the DBE program. For example, Participant F6 said,

It’s challenging that most times if not all, there is no DBE involvement in that initial rush to get ahead of the game or form the team ... traditionally when these projects are even in the air, large businesses are aware, but DBE firms are not involved.

Participant T20 commented,

Another challenge is that the actual DBE firms are not included at the table. ... As opposed to waiting till the P3 project has been advertised, which now puts them at a disadvantage because now they are competing with pools of firms, some larger than the DBE firms.

Two participants shared the role of leadership influence in their response to this question.

Participant S19 said, “If you don’t have clear un-equivocated real authentic passionate leadership around these types of programs, then you are pissing in the wind as we say in the navy. You’re wasting your time,” while Participant W23 shared,

I’m frankly amazed that they couldn’t figure out how to dismantle the DBE program in the 4 years of the Trump administration. If they had any, they might have tried harder if they knew more. It was just too complicated to figure out how to hamstring it. They’re good at getting the government not to function, and they just didn’t have enough time to find the levers of control to get that, but they gutted a lot of other things. Many primes and partners don’t like it, and maybe if we had leadership who believe as Trump believes that this is giving away money to undeserving people, I’m sure they will try to do the same.

Two participants expounded on the unique challenge of implementing the DBE program in the P3 environment on private partners’ willingness to participate in partnerships with the public. Participant K11 said,

The requirements are fairly difficult to meet in the P3 environment and can be burdensome. Not all of them ... making more regulations is not to a good idea because it will just make a lot of people get just exhausted, in a sense from being

in a regulatory world, and being in the world were even now ... it impacts competitiveness, which is often a concern within public agencies. Because when you start to erode how many firms can compete for a project, it limits your bargaining power.

Participant L12 shared, “Whenever we have a P3 project, a primary objective is to get the project built ... tacking on DBE program requirements, make it a little more difficult to crack the egg, get into the public, and become a qualified contractor.”

Only Participant T20 surmised in response to this question that the DBE department’s lack of early involvement in the P3 projects creates a challenge: “The challenge is getting the DBE department at the table when the P3 project is in predevelopment, planning phases, or as they are developing whatever their tool is going to be to deliver that project.” Participant T20 also commented that the internal stakeholders’ perception of the DBE program could also hinder the administration of the program in the P3 environment:

A lot of the time, the procurement department views the DBE team as another department that is delaying the P3 projects and its ability to meet the project deadlines and deliverables ... if the procurement team doesn’t support the program or doesn’t see the DBE team as an equal partner, they can delay the progress that needs to be done and even delay what the DBE community needs in reference to that P3 project participation.

Participant X24 reported not having any challenges and attributed that to having designated resources to administer and monitor the DBE program on P3 projects:

“Because of dedicated liaison officer it made compliance seamless, we had no challenges

it wasn't challenging because dedicate staff review.” Participant C3 highlighted that minority-owned firms aren't utilized:

The DBE program is essential, but I think it's very limited. One of the things that we've noticed here is that as soon as the firm loses that value of being able to provide DBE credit, minority firms don't necessarily get contracted and do not win bids.

Participant H8 highlighted the challenge of determining who is responsible for the DBE program in the P3 environment: “The challenge was deciding who amongst the various partners in the P3 had which DBE responsibilities.” Participant Q17 asserted that a challenge of implementing the DBE program in the P3 environment is the apparent lack of bargaining power for the DBEs: “On a P3 project, DBEs may not have bargaining power because they are competing with a wide pool of DBEs to get on the P3 project. ... This is something we don't see on the other project types.” The results of Interview Question 15 are summarized in Table 13.

Interview Question 16

In general, are there components of the federal DBE program challenging to apply to P3 Projects?

The researcher asked this question to determine if there are elements of the DBE program that were challenging to implement because of the P3 model. The responses to this question make additional challenges in implementing the DBE program in the P3 environment apparent.

Four participants responded that there are no particular components of the DBE program difficult to implement on P3 projects. For example, Participant X24 said,

Table 13

Participants: Responses for Interview Question 15

Interview questions	Responses	# of Respondents	% of Respondents
15. In general, what are the challenges you are currently facing or have faced with monitoring the DBE program on P3 projects?	Resistance to the DBE program	15	62.50%
	Administrative burden	11	45.83%
	Limited DBEs availability	8	33.33%
	Private partner objective—profit	8	33.33%
	Greater risk for DBEs	7	29.17%
	Lack understanding of the DBE program	7	29.17%
	Scope ambiguity	6	25.00%
	Communication and collaboration	6	25.00%
	Barriers to DBE participation	6	25.00%
	Lack of central website or information for DBEs	5	20.83%
	Financial burden	5	20.83%
	DBE lack of capacity	5	20.83%
	DBEs don't understand P3 contract	4	16.67%
	Lack of consequences	3	12.50%
	DBEs lack of experience or relationship	3	12.50%
	Mixtures of funding makes goal setting and tracking difficult	3	12.50%
	Lack of DBEs early involvement	3	12.50%
	Leadership influence	2	8.33%
	DBE Burdensome requirements	2	8.33%
	Lack of DBE department early involvement	1	4.17%
Internal department perception of the DBE program	1	4.17%	
Designated resources	1	4.17%	
Minority firms not used	1	4.17%	
Determining responsibilities	1	4.17%	
DBEs lack bargaining power	1	4.17%	

The implementation of the DBE program was treated the same on the P3 project like it is on every other federally funded project; we did not change anything.

Properly implementing the DBE program to manage 200 DBEs on the P3 project was a learning curve, but the program itself was not difficult to implement.

Four participants surmised that they experienced challenges administering the DBE reporting for P3 projects. For example, Participant C3 shared,

As a person that's responsible for managing and monitoring the program, it does lead to some concerns about reporting because the information can be misleading because you're reporting a whole commitment on a project, but the whole thing is not even scoped out or designed. And the rest of our projects are done that way. So, it just tends to deflate our numbers artificially.

Four of the participants responded that there was not enough guidance in the DBE regulation to govern the goal-setting element on the P3 project. For example, Participant O15 said, "There is barely a paragraph for goal setting on a negotiated procurement, so that doesn't offer DBE teams support for setting goals on P3 projects, seeing that they are often negotiated procurements."

Three participants communicated that the regulation's DBE pricing introduces challenges in the P3 environment. For example, Participant I9 said,

The regulation on pricing and contract modification exemplifies that there are elements of the DBE program challenging to implement in the P3 environment. Because even though pricing shouldn't be a factor for selection, in true nature, it could be a factor, depending on the P3 budget. The private partner has set in

place funds for that particular scope of work, which ultimately influences the overall budget of the project.

Three participants responded that administering the DBE goal or GFE modifications is difficult in the P3 environment. For example, Participant O15 said,

Yes, there are a few. ... For example, the DBE program regulation stipulates that any change in the contract cycle—up or down—or any contract modification made to the contract be applied to the DBE goal. This requirement is not feasible in a P3 environment.

Three participants asserted that there are portions of the regulations challenging to apply on P3 projects. For example, Participant R18 said,

The regulations as they stand works to an extent. ... Some of the processes in 49 CFR Part 26 are not necessarily applicable to P3 projects. How the regulations are applied or interpreted for traditional projects can't be applied similarly to P3 projects.

Three participants expressed apprehension about asking FHWA to revise the regulations. For example, Participant L12 said,

FHWA seems like whenever a change is needed ... they only come up with more stringent regulations and more requirements, and all that does, in my opinion, drives up costs. All it does is drive up administration costs. ... It is not by coming up with more regulation and tighter regulations. ... It's going in the opposite direction. I think the feds often come up with too much regulation. ... It takes longer to deliver and administer P3 projects, and it is sliding in the opposite

direction. ... Any additional regulation you add reduces the potential for enterprises to grow. You're reducing the pool of qualified enterprises.

Two of the participants shared that the DBE program needs new mechanisms for monitoring requirements. For example, Participant P16A said, "We need to develop some new mechanisms, for example, the whole trucking part ... there needs to be a better system to handle them because of how they operate" Two participants specifically pointed to the DBE classification as a component difficult to apply in the P3 environment. For example, Participant U21 shared,

One area that creates a challenge is the NAICS codes by which DBE firms are certified are not specific ... the NAICS codes are vague and don't identify the DBE firm's capabilities and specific areas of services. And in particular, they are problem classifications or codes that need reviews and change.

Two participants identified the trucking component of the DBE program as a challenge to apply on P3 projects. For example, Participant P16A said, "The entire program or regulations on trucking needs to be revamped. There needs to be a federal regulation just for trucking." Two participants shared that the FHWA needs to issue guidance for governing the DBE program in the P3 environment. For example, Participant D4 said,

I wish the FHWA would issue a memorandum for best practices implementing or governing the DBE program on P3 projects. Because when this P3 project first came at me, I scoured the internet looking for guidance and information. ...

FHWA needs to get together an issue some type of guidance to the state agencies, that would be tremendously helpful. ... In a perfect world, we would have 49 CFR

Part 26 V (a supplement to the original regulation) that only covers implementing the DBE program in the P3 environment.

Participant P16 reported that “there is a lot that isn’t covered in the DBE federal regulations.” Only Participant J10 mentioned that the component of the DBE program governing subcontract agreement is unrealistic to govern in the P3 environment:

Special provisions covering the DBE program states that the subcontract agreement has to be submitted 14 days prior to a DBE firm beginning work. The thing is that is not realistic; you can’t work off that. ... Those kinds of requirements are becoming ridiculous, and the DBE program auditors eat that kind of stuff alive.

Participant J10 was also the only administrator to share that the DBE requirements on joint checks is a challenge in the P3 environment: “Moving forward, we no longer allow joint checks; I don’t care what FHWA says. It just created a huge nightmare on the regular projects.” Participant O15 pointed out the difficulty of applying the DBE program regulations on sharing equipment on the P3 project by saying that “the most significant part of the regulation that needs to change is sharing equipment; it is outdated and needs to be changed. It’s ridiculous. It is impractical, and it inadvertently handicaps DBEs.” Participant Q17 was the only administrator who emphasized the challenge of the DBE regulation on retainage in the P3 environment: “In the P3 model, retainage becomes a challenge. I’d recommend that the project owner hold retainage at all times. At this time, the city has no leverage because the P3 project has been fully funded.” Participant C3 shared that the DBE program needs to be expanded:

While I believe in the DBE program, I think there's an opportunity to create some real room for folks to grow. I think what if you can grow to a size where a DBE can be a prime on its own? And they can be a prime bidder.

For this question, only Participant G7 emphasized the need for the DBE program to be discussed early on in the P3 project: "I just think the DBE program ... it introduces the need for the DBE program to be discussed and examined very early on." Participant R18 expounded on the challenge that DOT seems resistant to changing its method of applying the DBE program to fit the P3 environment:

How the DBE program is being interpreted and what that implementation looks like is where there's conflict. Sometimes you get a very forward-thinking person who can work and move with the times; that makes a difference. But if you get somebody else on FHWA ... who is resistant to change or unadaptable and unwilling to understand that P3 procurements are very different and should be interpreted differently, especially the DBE program, it creates a difficult situation. ... But, unfortunately, people don't like change, especially DOT, because they can be very set in their ways.

The results of Interview Question 16 are summarized in Table 14.

Table 14

Participants: Responses for Interview Question 16

Interview questions	Responses	# of Respondents	% of Respondents
16. In general, are there components of the federal DBE program challenging to apply to P3 projects?	DBE reporting to FHWA	4	16.67%
	No challenges	4	16.67%
	DBE goal setting	4	16.67%
	DBE pricing	3	12.50%
	DBE goal or GFE modifications	3	12.50%
	Resistance asking FHWA to revise the regulations	3	12.50%
	Need new monitoring mechanisms	2	8.33%
	Portions of the regulation difficult to administer	3	12.50%
	FHWA needs to issue guidance	2	8.33%
	NAICS codes	2	8.33%
	DBE trucking	2	8.33%
	Federal regulation missing sufficient guidance	1	4.17%
	Subcontract agreement	1	4.17%
	Joint checks	1	4.17%
	DBE program in need of growth	1	4.17%
	DBE program to be discussed early on	1	4.17%
Sharing equipment	1	4.17%	
P3 retainage	1	4.17%	
DOT resistance to change	1	4.17%	

Interview Question 17

What are the best practices in your program that you wish to share with other states?

The researcher asked this question to ascertain the participants' responses on best practices based on their experiences and lessons learned. The responses varied immensely.

Twelve participants responded that facilitating DBE training is a best practice. For example, Participant B2 said,

The best thing that we can do for DBEs, just in general, is more education. ...

Training is helpful. ... DBEs typically are not quite as sophisticated, and any kind of training on any process is very helpful to them, and they appreciate it.

Participant P16A shared, “I think training would be the first step ... training is always good. ... But, training is key, and the more that we tell the primes, hopefully, the more they’ll listen.” Participant D4 communicated that “a dedicated DBE program training for the private partners interested in participating in this P3 project; I think that’d be great.” Participant N14 responded that “training for the private partners. ... Just so they know about the program and so on and, of course, its impact to the community.”

Ten participants shared that a best practice includes requiring the private partners to obtain a DBE liaison. For example, Participant U21 said, “It would help to make a DBE liaison officer mandatory on P3 projects; it would make a difference. ... I think it could because there are many different services within the P3 project, so it could help.”

Participant R18 responded that “on P3 projects, another best practice is to require the private partners to have a designated or dedicated DBE program administrator or team to track, monitor, and ensure the private partners’ compliance with the DBE program.”

Participant O15 shared, “Request that the private partners have a dedicated DBE program administrator or officer to facilitate the requirements of the DBE program on the project and help hold the private partners accountable.”

Seven participants shared requiring the private partners to have DBE outreach events as a best practice. For example, Participant M13 said, “We did some outreach. ...

I think that it's good to get the DBEs connected with the developer teams or the contractors early in the process, even during the procurement process." Participant J10 commented that "conducting DBE outreach at the beginning of the P3 project is very important." Participant C3 said, "You got to make sure that they're creating outreach opportunities ... for the project."

Seven participants pointed out having DBE requirements as part of the contract or contract deliverable as a best practice. For example, Participant S19 shared that "the other part or best practice of that was we also included equity as part of the RFP." Participant T20 said, "Another thing, we created and private partners signed an agreement. This agreement included a shared mission statement and objectives, so all the players committed to the DBE requirements because we all collectively created and gave input." Participant P16 responded that "making sure that the DBE requirements are made a contract deliverable. I think that's exceedingly important because then it's not just lip service; there is a contract deliverable, you can always say it's in your contract."

Six participants reported the use of an automated system as a best practice. For example, Participant I9 said that "the automated system is a best practice, it alleviates the challenge of tracking DBE information on P3 projects." Participant H8 shared,

We use software called CADAC. With the DBE program, a lot of documents are required and maintained. ... CADAC helps us tremendously with monitoring the DBE program on P3 projects ... the system saves us a lot of time, and it also helps with increasing accuracy and responsiveness from the private partners.

Participant U21 reported, "We recommend the online reporting system. We're using B2G now ... that's made monitoring P3 projects very much easier than it was before ...

easier to manage.” Six participants acknowledged FHWA support as a best practice. For example, Participant I9 said, “Some of our success has been contingent upon having quick responses from FHWA, and they have been very supportive. I think that level of collaboration has been a success point for implementing our DBE program on P3 projects.” Participant H8 said,

I think FHWA plays a major role ... their support is crucial. We invite them so they have the pleasure to engage to the level of their choosing. I think we also have good communication with FHWA, which always comes invaluable whenever we need their support. So that’s a best practice.

Five participants identified the use of consultants to support DBE program implementation as a best practice. For example, Participant J10 said, “Use consultants to support the implementation of the DBE program and facilitate the activities necessary to monitor compliance.” Participant D4 shared, “We do have DBE Support Services consultants. These consultants have continuous webinars, training, roundtable discussions, resources to scale and grow DBEs. The consultants are adequate to support the DBEs through the P3 project. And is a best practice.” Participant I9 responded, “We would say that ... consultants is a best practice. The consultants can’t approve anything, but they are the eyes and ears on the P3 project and conduct the compliance reviews.”

Four participants responded with a collaborative approach as a best practice. For example, Participant Q17 said, “Collaboration is really important for the success of the DBE program in the P3 environment. Collaboration between the departments and private partners and collaboration early on.” Participant R18 shared that “the DBE compliance team, on both the owner and the developer side, should be a team; it should be a

collaboration. They shouldn't be adversarial. We should all have one objective, that is a best practice." Participant T20 communicated that "there needs to be collaboration between the DBE team and all the P3 partners or key players."

Four participants asserted that the project owner maintaining oversight is the best practice. For example, Participant K11 said, "It is key for the state or the government entity implementing the DBE program to have oversight over the P3 project itself." Participant L12 shared that "with public funds, private partners need to be held accountable; the public agency needs to be able to follow the money."

Four participants pointed out the maintaining public and private accountability as a best practice. For example, Participant G7 said,

The only thing I would add is just making sure that there is accountability on both ends. You've got to make sure that all aspects ... on both ends of the table, both public and private, that they're meeting their obligations.

Participant X24 shared, "Making sure that all the parties are on board and held accountable with making the DBE program successful and meeting the requirements of the DBE."

Four participants shared that requiring a DBE plan from the private partners is a best practice. Participant M13 said, "Just require a DBE Plan from the primes," while Participant C3 said, "I believe that there should be some ... consideration of a firm's commitment to the DBE program. Their DBE plan and goal is considered, or given some preference."

Four participants identified leadership support as a best practice for implementing the DBE program in a P3 environment. For example, Participant D4 said, "Also

important is support from the executive level. I'm not an executive level, but I'm going to get the support to do what I need to do to ensure the success of our program.”

According to Participant U21,

Leadership is important. When the CEO is leading the charge, it makes the buy-in and support of the DBE program trickle down. If the CEO or whoever's on the top supports the program, it'll make it much easier for everybody else because everyone's just on board.

Four participants emphasized communicating the DBE requirement early on and often on P3 projects as a best practice. For example, Participant K11 said, “It is obligatory for the government entity managing these P3 projects to clarify the DBE requirements and have it happen early and often.” Participant P16 responded that “communicating the program's objectives with the private partners and making sure that they understand. Make sure from the start that the partners on these P3 projects understand the expectation surrounding DBE participation.”

Four of the participants identified setting larger or multiple goals on P3 projects as a best practice. For example, Participant P16A said, “I recommend setting larger DBE goals on federally funded contracts to meet or to assist with meeting your overall goal.” Participant R18 shared that “another best practice on a P3 project is setting multiple goals, not just have one single goal.”

Three participants indicated the importance of familiarizing the DBEs with the P3 model, project, and contract requirements. For example, EM said, “Making sure your DBEs are well informed with P3s and DBE requirements ... the information in the hands of the DBEs is very powerful. Without being informed, the DBEs may not come to

realize they have rights.” Participant O15 shared that “familiarize the DBE companies with the P3 model and contract language. But we have contract training, which is helpful to DBEs in P3 environments.”

Three participants identified the use of strong enforcement mechanism as a best practice. For example, Participant Q17 said, “Strong enforcement languages and consequences give you more tools to ensure accountability ... it is a best practice,” while Participant S19 shared,

Very straightforward I mean, it’s not rocket science, it’s just like I said, he said, you going to do 18% and god damn it you are doing 18%? And if you’re not, then what are you doing to address it so you can get to the 18%. We need more teeth and enforcement mechanisms.

Three participants pointed out requiring the private partners to unbundle the P3 scope as a best practice. For example, Participant J10 “insists that the private partners unbundle the scope packages so that more opportunities can be afforded to the DBE community.” Participant R18 shared, “I would also include focus procurements as a best practice. Focus procurements are a way to maintain the program’s intent, maximizing the utilization of DBE firms. This shows that unbundling works and effectively builds the DBE capacity and scale.”

Three participants commented on the necessity of requiring ongoing DBE goal and GFE tracking throughout the project. For example, Participant H8 said,

I want to emphasize that good faith effort reporting throughout the project’s life is a best practice. Also, the monthly civil rights workgroup meetings is a best

practice because it keeps all the partners on the same page regarding DBE program compliance.

Participant Q17 shared, “Ongoing progress tracking, make sure at any point in the P3 project, you know how the private partner is doing against the goal because you don’t want any surprises at the end.” Three participants pointed out supporting DBEs with facilitating relationships with private partners as a best practice. For example, Participant M13 communicated to “provide partnering sessions with DBEs. For example, during the procurement phase specifically, we had sessions where we connected our DBE companies with proposers, and we helped facilitate that relationship. This is necessary, especially in the P3 world.” Participant O15 responded that “the DBE department needs to take the initiative of matching the DBEs with ... facilitating their relationship with the primes.”

Three participants expressed that DBE department placement with the agency is a best practice. For example, according to Participant D4, “For the DBE team or program to be successful, where the department sits in the agency is very important and influential.” Participant T20 shared, “I subscribe to DBE office being attached to the procurement office or the contracting office for social equity to maintain a priority, especially for P3 environments.”

Three participants emphasized creativity as a best practice. For example, according to Participant S19, “You have to come up with very creative ways to get it done,” and participant H8 “the agencies need to be creative in their approaches to implementing the DBE program on P3 projects.”

Two participants shared the importance of including and communicating with the DBEs early in the process. According to Participant M13, “I would say early communication with the DBEs,” while Participant F6 said that “to increase the value of the DBE program, it is important to communicate with the DBEs and make DBEs true partners from the inception of the process.”

Two of the participants recommended the DBE team having designated P3 resources as a best practice. According to Participant T20, “One of the red flags that need to be avoided by the DBE program administrators or offices in a P3 environment is not having a dedicated staff to implement and monitor that P3 project.” Participant P16A said,

You want a designated compliance officer, and if these P3 are as large as they could be, you want to maybe two or three compliance officers. The officers need to be designated to the P3 project alone and not have other projects because it gets overwhelming at times.

Two participants identified evaluating the primes’ historical DBE performance. According to Participant C3, “I believe that there’s some value in including, as a part of the evaluation, the bid evaluation some measure of a firm’s historical performance on meeting DBE goals.” Participant G7 said that “our agency has included, to a degree, a review of its proposers’ approach to fulfilling the DBE requirements, and history with DBE participation can now be used as a factor for evaluation.”

Two participants communicated that the DBE department should be involved early. According to Participant O15, “Get involved as early as possible in the planning phases of the P3 project. Get an idea of what the work will be.” Participant P16 shared “planning and the DBE team being involved at onset.” Only Participant Q17 suggested

using a standard reporting template as a best practice for implementing the DBE program in the P3 environment: “Those DBE reports should be on a standard template that the developer must use don’t allow any amendments to this template by the private partner.” Participant Q17 also suggested holding retainage as a best practice: “Hold retainage, the retainage would hold the private partners accountable to do what is right throughout the term of performance, even towards the end.” Participant D4 suggested seeking support from advocacy organization to push the program: “Use outside organization. Fortunately, we have a very good working relationship with our Association of General Contractors, we have presented on a good amount of their meetings. I also speak with their executive director all the time.” Only Participant R18 emphasized setting DBE goals based on availability or subcontractable items as a best practice for this question:

The goal should be set based on the contract value that could be subcontracted or adjusted the goal based on the cost that will never be subcontractable. ... As a best practice, you got to do a deeper dive into the NAICS codes to ensure adequate DBE availability against the scope of work before setting goals.

The results of Interview Question 17 are summarized in Table 15.

Interview Question 18

What innovations or initiatives have you put in your program that you wish to share with other states?

The researcher asked this question to ascertain further any additional practices that could support implementing the DBE program in the P3 environment. Some of the participants offered several insights.

Table 15

Participants: Responses for Interview Question 17

Interview questions	Responses	# of Respondents	% of Respondents
17. What are the best practices in your program that you wish to share with other states?	Facilitate DBE training	12	50.00%
	Require DBE liaison	10	41.67%
	Require DBE outreach	7	29.17%
	DBE requirements in contract or contract deliverables	7	29.17%
	Use automated compliance system	6	25.00%
	FHWA support	6	25.00%
	Communicate DBE requirements early on & often	6	25.00%
	Use consultants to support program implementation	5	20.83%
	Employ collaborative approach	5	20.83%
	Maintain public and private accountability	5	20.83%
	Project owner should maintain oversight	4	16.67%
	Require DBE plan	4	16.67%
	Leadership support	4	16.67%
	Set larger or multiple goals	4	16.67%
	Familiarize DBEs with P3 model, project, and contract	3	12.50%
	Use strong enforcement language and consequences	3	12.50%
	Require unbundled scopes	3	12.50%
	Ongoing DBE goal & GFE tracking	3	12.50%
	Support DBEs with facilitating relationships	3	12.50%
	DBE department placement in agency	3	12.50%
	Employ creative mechanisms	3	12.50%
	Early communication with the DBEs	2	8.33%
	Dedicated P3 resources	2	8.33%
	Evaluate historical DBE performance	2	8.33%
	Early DBE department involvement	2	8.33%
	Set justifiable DBE goals	1	4.17%
	Use standard reporting template	1	4.17%
Hold private partner retainage	1	4.17%	
Seek support from advocacy organization	1	4.17%	

Seventeen participants reported that they had nothing to add or share for this question. For example, Participant C3 just communicated, “I don’t have any innovations to share, but the best practices I provided earlier”; the other 16 participants shared a similar response. Participant E5 responded that developing a solid reporting and compliance mechanism is an initiative to support DBE implementation on P3 projects:

If you are going to get into P3 project; have an outline of how you’re going to do your reporting ... because without the proper monitoring and reporting, it’s going to be very difficult ... you have to have a good compliance mechanism ... make sure that they are well versed in the language of the contract.

Participant E5 also shared using a designated compliance administrator,

Make sure you have good compliance overseer of the project, and you have someone there to kind of understand the reporting aspect ... make sure that you have the people ... that are experienced in managing you know large projects or P3 projects.

Participant E5 also suggested maintaining documentation by saying,

I emphasize, ensure that the documentation is there ... those projects are on a strict timeline ... there has to be a call that is made whether this project is going to proceed. you kind of in a tough situation because management doesn’t want the project to be slowed down because of the paperwork.

Participant N14 offered the metro protégé program as an innovative initiative to employ by saying, “We’ve been using like the mentor protégé program, and that’s been helpful for DBEs, that don’t have their pre-qualification.” Participant J10 shared encouraging the

graduation of DBE firms and the development of new DBE firms as an initiative to support administering the DBE program on P3 projects:

Perhaps 5 years out of graduation program, maybe they the prime would get the pay-per-cent credit for using as a firm that just graduated as a DBE. He wants them to graduate well. That would be an incentive. Perhaps to graduate, the prime can still take advantage of it. But one of the things that would be our 16th year, if not further, is a career fair for high school students, where we introduce engineering and construction fields and, of course, as an employee for the most part or career development. But we also make a big deal about starting a business, and we have a table just for that, so we're trying to expose students by telling them, "Hey, you can still make money, even if you don't graduate from college, by starting your own business."

Only Participant S19 communicated considering joint venture models:

It was ultimately formulating what became known as the model. That's now being taught as a case study at the Kennedy School and Harvard Business School. So, we went from basically JVs, you get a large experience firm, to join with a smaller firm, minority firm, and a JV not a prime subprime relationship, but a joint venture relationship. That way, the smaller partner gets to expand their experience, build their capacity, build their bonding, range, and capacity, and now next time around, they're in a position to say, you know what? I built a half-billion-dollar hotel. They'll have that experience, and they'll have that bonding capacity. That was innovative because that's how you build capacity, how you build.

Participant U21 responded with that they began a small business prime program to supplement the efforts of the DBE program:

We launched the Small Business Prime Program for nonfederally funded P3 projects. We created a SB prime program, an extension of the DBE program that is race-neutral. This program allows DBE firms to compete with just other DBE firms on qualifying projects. This program enables DBE more opportunities to experience projects as primes while allowing them to build their capacity. This program has definitely been a big help for the DBE firms here and provid[es] a lot more work to small and minority businesses. That's probably the most significant innovation that I see that other agencies don't have.

Participant H8 offered the community involvement and visibility approach:

On the P3 projects, we reached out to citizens and businesses in the areas affected by the P3 projects to keep them in the loop. The roundtable initiative was received very positively by the community. The community liked that measure of inclusion that we offered. So it was a very successful model ... engaging the community. It keeps the private partners accountable because there is visibility from the community. It positively influences how much the private partners prioritize the DBE program and meeting their DBE goal. It also positively influences the actions they take towards maintaining compliance because they may have to answer to the community.

Participant L12 shared using an incentive-based approach to implement the DBE program on P3 projects:

If you're able to somehow make it more of an incentive-based program, where contractors may make an additional profit if they select the DBE subcontractor ... make the incentive-based instead of a punitive-based approach. You have to incentivize the prime contractors to select them, so the primes don't keep going back to their reliable network. ... Perhaps in future P3, you have the public agency dangle the money and say, "Okay, if you reach this DBE goal, you will earn an additional 5% to your contract," or something like that. Or a sliding scale. If you hit this participation, you'll earn this much if you hit this participation or goal. I think that may be an alternative approach. ... I think the best way is to incentivize them ... if you want to make progress with the program, you have to get into the heads of the contractors and dangle financial incentives in front of them and say, this is how you can make more money."

The results of Interview Question 18 are summarized in Table 16.

Table 16

Participants: Responses for Interview Question 18

Interview questions	Responses	# of Respondents	% of Respondents
18. What innovations or initiatives have you put in your program that you wish to share with other states?	Nothing to add	17	70.83%
	Develop solid reporting and compliance mechanism	1	4.17%
	Designated compliance administrator	1	4.17%
	Maintain the documentation	1	4.17%
	Mentor protégé models	1	4.17%
	Encouraging DBE graduation and developing new DBEs	1	4.17%
	Joint venture model	1	4.17%
	SB prime program	1	4.17%
	Community involvement and P3 visibility	1	4.17%
	Incentive-based approach	1	4.17%

Interview Question 19

Any additional comments about P3 projects' implications on the DBE program?

The researcher asked this question to gather any further information the participants wanted to include that they did not mention in the previous responses or if they had not had an opportunity to regurgitate any responses.

Eight of the participants had nothing further to include. For example, Participant Q17 said, "I think you've captured all my comments; I don't have anything else to add, just everything I said already," and seven other participants shared a similar response. Three participants reemphasized that P3 projects provided more opportunities for DBEs. For example, Participant B2 said,

On a lot of P3 projects, you don't just have the construction work. There are also opportunities for the franchise period. ... And these scopes span like 30 years. ... These are new opportunities that aren't available on design bid-builds or design-build projects. So, I think there's a lot of opportunity for a DBE on P3 projects.

Three participants shared that there is some internal resistance of the DBE program. For example, Participant W23 said,

One of the biggest resistances we get is from the project management (internal) people ... they believe the urban legends that they hear from the primes, and when we ask them to provide documentation of what they're talking about, they never do.

Two participants asserted that the P3 model needs to be clearly defined; according to Participant K11 "I think there needs to be some clarity to P3, I think it needs to be clearly defined," while Participant L12 said, "I think it needs to be clearly defined.

Private-public partnerships, always the phrase is good. But you have to be careful.” Two participants emphasized that the public agency should maintain oversight. Participant W23 said,

The primes and project managers will continue to be driven by other incentives. ... We are a major recipient of federal funds; the compliance officers are in the driver’s seat. ... As the public agency, holding the purse strings is the only thing that ultimately makes the primes accountable. ... We are the gatekeepers to that money.”

Participant P16 said,

The P3 partners should not be allowed to say, “Well, we advertised the \$20 million project, but none of the DBEs in this area were capable of handling that size project.” ... A lot of P3 partners don’t want to do that [DBE program] because that means they have to think about it a little bit more. But my answer to that is always so what?

Two participants expounded that the implication of implementing the DBE program on P3 projects is it creates the loss of DBEs. According to Participant J10,

The DBE program is in trouble because we don’t have new DBE firms ... because of the limited availability. So that’s the downfall of using up a lot of the DBEs on P3 projects. ... But we are trying to salvage the industry that is only dying from lack of people, but not from lack of work. ... I’ve been working on it for 16 years, trying to figure out how to get people in this business.

Participant R18 said, “Participating in the P3 project can lead to a DBE graduating from the program. But now, you can no longer use that firm to meet the DBE goal because

they graduated from the DBE program.” Two participants highlighted political influence in response to this question. Participant W23 shared, “There has to be political support because it’s public money; if you’re the guardian of the public trust, it’s just what you’re supposed to do,” while Participant R18 said, “I always say P3 is ... not a political partnership ... but, a lot of times, politics gets in the way, and that’s not good ... politicians need to understand the dynamics of a P3 project.”

Participant X24 emphasized that the private partners’ buy into the DBE program influences success:

The primes are key to the success of the program. So if you have primes that are committed to the program, then it will be successful. But if you have primes that are reluctant, then that will make the DBE program challenging to implement.

Participant A1 pointed out that it’s challenging when the private partners are foreign because of their unfamiliarity with the DBE program. According to Participant A1,

When we have foreign companies from Canada or wherever, bidding on our stuff, they don’t understand it. So, they don’t fill out the paperwork correctly, and then it’s a non-responsive issue. ... These private companies need to be trained and connected with available resources to learn more about the DBE program and its requirements.

Participant W23 also communicated about implementing the DBE program on P3 projects, “It’s just a somewhat adversarial process ... private business is not interested in how public money serves the public. That’s just not their interest.” Participant H8 reemphasized that implementing the DBE program in the P3 environment “just simply requires a great deal of DBE program oversight from the beginning to the very end of the

P3 project.” Participant L12 regurgitated the incentive-based approach as an efficient mechanism that should be considered, saying that

if you want to have DBE ... you have to provide an incentive for the private entities to achieve those goals. You should focus on rewarding those who achieve the goals and not focus on punishing those who do not achieve a goal.

Participant M13 shared that there is a greater risk for DBEs on P3 projects:

With liquidated damages and unavailability, I know the risk on a P3 project is higher than on a traditional design-bid-build contract. So, if that risk is pushed down from larger contractors to their subcontractors like DBEs, and things don't go well, the DBEs may not be able to absorb that risk as well as some of our larger contractors could ... it's a lot of risks.

Participant O15 recommended that “the regulation should be revisited, and engineers, DBEs, DBE practitioners, and project managers should be invited for feedback, so the regulation is practical and feasible for implementation in a P3 environment.” Participant P16 emphasized the importance of requiring the private partners to unbundle the scope: “The primes should be required to break that scope down into smaller chunks or into various smaller projects to make sure that they maximize the opportunities for participation.” Participant R18 communicated that the P3 projects build DBEs' capacity and scale by saying that “firms that were only given one little opportunity now can happily maximize their opportunities or jump into other work opportunities. It allows DBEs to get work or broaden their capacity and scalability.”

The results of Interview Question 19 are summarized in Table 17.

Table 17

Participants: Responses for Interview Question 19

Interview Questions	Responses	# of Respondents	% of Respondents
19. Any additional comments about any implications P3 projects may have on the DBE program?	Nothing more to add	8	33.33%
	More DBE opportunities	3	12.50%
	Internal resistance	3	12.50%
	Political influence	2	8.33%
	P3 needs to be clearly defined	2	8.33%
	Project owner should maintain oversight	2	8.33%
	Loss of DBEs	2	8.33%
	Foreign private partners unfamiliarity with DBE program	1	4.17%
	Prime buy-in	1	4.17%
	Private partner resistance	1	4.17%
	Requires a great deal of oversight	1	4.17%
	Incentive approach	1	4.17%
	Greater risk for DBEs	1	4.17%
	Revision of the DBE regulation	1	4.17%
Unbundling of scopes	1	4.17%	
Builds capacity or scales DBEs	1	4.17%	

Participants' Responses Explication

Research data ascertained from the interview responses were arranged into units of general meaning after the researcher thoroughly reviewed the written transcription of the 24 participants that described their perceptions of implementing the DBE program in the P3 environment. The researcher first coded the participants' responses to each interview question. The researcher combined the individual codes based on relationships and similarities to form 93 units of general meaning. The units of general meaning were then organized into 16 subthemes and four major themes (Table 18). The researcher arranged the data according to major themes and subthemes.

Table 18

Composite Summary

Central themes	Clusters of meaning
Conceptualizing DBE program in the P3 environment and best practices	Communication and collaboration Control and oversight DBE goal setting DBE application Noncompliance ramifications strategies for ensuring compliance System for monitoring DBE program
DBE compliance outcomes on P3	Status of DBE goal Status of good faith effort
Perceived strengths of implementing the DBE program in a P3	Benefits for DBEs Contribution toward DBE program intent
Perceived challenges of implementing the DBE program in a P3	Contract related challenges DBE challenges DBE implementation challenges Financial and administrative challenges Prime contractor challenges

The prime’s obligation on projects with the DBE program implemented is to either meet the DBE goal set on the P3 project or demonstrate that it made good faith efforts to meet the DBE goal. It was important to ask questions that explored the application of the DBE program in the P3 environment to sufficiently answer the research questions. The interview questions explored the DBE goal-setting methodology, enforcement mechanisms to hold partners accountable, involvement of the DBE team in planning and executing P3 projects, resources available to manage compliance, and the influence of the binding contract. The interview questions investigated a comprehensive picture of the DBE program administrators’ expectation of the prime’s accountability to the DBE program on P3 projects.

Based on the responses to Interview Questions 1 through 4, all of the participants in the study expressed having experience implementing the DBE program on at least one P3 project. The participants reported at least one P3 project either in the planning phase, active, or completed, implying that all the participants on this research had experience implementing the DBE program in the P3 environment. The data explication was categorized into the corresponding research question

Research Question 1

What are the DBE compliance administrators' perceptions of whether the DBE goals are met on P3 projects?

The first research question was largely answered by Interview Question 8, which directly asked if the primes were meeting the DBE goals. The major theme that emerged from the data analysis was “DBE compliance outcomes on P3 projects.” The central theme comprises two clusters of relevant meanings. The first cluster is the status of DBE goal, and it reflects two major units of general meaning: private partners met the goal and not sure if private partners met the goal.

The study revealed a significant finding that 70.83% of the administrators perceived that the P3 project contractors met the DBE goals on the projects; 12.50% of the participants responded that they could not answer whether the primes met the DBE goal on their P3 projects (see Table 19).

Table 19

Research Question 1: Perceptions of Whether the DBE Goals Were Met

Major theme	Subtheme	Units of general meaning	# of Times the code appears	Interview question with code	# of Respondents	% of Respondents
DBE compliance outcomes on P3 projects	Status of DBE goal	Met the goal	1	8	17	70.83%
		Not sure	1	8	3	12.50%
		Did not meet the goal	1	8	2	8.33%
		Too early to determine	1	8	1	4.17%

Research Question 2

What are the DBE compliance administrators' perceptions of whether P3 Project contractors demonstrate good faith efforts (GFE)?

The second question was largely answered by Interview Question 9, which directly asked if the primes demonstrated GFE. Notably, according to the DBE program, the primes must meet the DBE goals or demonstrate adequate GFE, which means they are making aggressive efforts to meet the DBE goal.

The major theme that emerged from the data analysis was “DBE compliance outcomes on P3 projects” as the second cluster of relevant meanings: status of good faith effort. The second cluster reflects two major units of general meaning. The study revealed a significant finding that 79.17% of the participants perceived that the primes demonstrated adequate GFE; 12.50% of participants were unable to report whether the GFE was demonstrated (see Table 20).

Table 20

Research Question 2: Perceptions of Whether GFE Was Demonstrated

Major theme	Subtheme	Units of general meaning	# of Times the code appear	Interview question with code	# of Respondents	% of Respondents
DBE compliance outcomes on P3 projects	Status of good faith effort	Demonstrated GFE	1	9	19	79.17%
		Not sure	1	9	3	12.50%
		Did not demonstrate GFE	1	9	1	4.17%
		Equal	1	9	1	4.17%

Research Question 3

What are the perceived strengths of implementing the DBE program in a P3 environment?

The third research question was primarily answered by Interview Question 14, but Interview Questions 7, 9, 10, 12, and 19 yielded some responses. The major theme that emerged from the data analysis was “perceived strengths of implementing the DBE program in P3.” This central theme comprises two clusters of meaning: benefits for DBEs, and contribution toward DBE program intent.

The researcher found that 70.83% of participants perceived that the P3 projects create more opportunities for DBEs to acquire contracts. The participants shared that one P3 project’s strength is that it gives DBEs more opportunities to participate, engage, or receive contracts, unlike traditional projects. According to the participants, P3 allows DBEs to have the opportunity to engage in more publicly funded projects because P3 naturally offers more subcontracting opportunities. Of the participants, 45.83%

perceived that the P3 environment supports DBEs by increasing capacity and business scaling because the P3 projects yield high-grossing subcontracting opportunities, unlike other types of projects. The participants communicated that in the P3 environment, DBEs are provided an opportunity to perform on a wider scale, increasing their business growth, competitiveness, and opportunities for other engagement. The researcher found that 25% of the administrators perceived that P3 projects, unlike other project types, offer unique learning opportunities for DBEs by giving DBEs technical or operational avenues to learn from other firms. The participants presented that in the P3 environment, DBEs could learn valuable lessons on doing business and have access to business functioning information they are unable to obtain on traditional projects. Also, the P3 environment offers mentoring opportunities, which gives DBEs educational opportunities to learn directly from bigger organizations. Of the administrators, 20.83% perceived that the P3 environment allows DBEs to forge collaborations or form strategic partnerships for future projects. The participants expounded that the P3 environment offers DBEs an opportunity to connect with other businesses or business types to develop strategic relationships and venture into different marketplaces. The 20.83% of the participants perceived that the P3 environment successfully increases DBE participation because, unlike other project types, it allows room for flexibility and creativity for DBE program application. The participants emphasized that in the P3 environment, the administrators could use creative mechanisms to increase DBE participation. Usually, these methods would be considered unfeasible or unallowable on traditional projects.

Another strength made apparent in the data analysis was that 58.33% of the administrators perceived that implementing the DBE program on P3 projects significantly

contributed toward inclusive growth and advancing social equity. The participants communicated that the P3 environment advances and supports social equity objectives or goals more than other project types because of the opportunity and visibility it provides DBEs and its impact on disadvantaged communities. The participants offered that implementing the DBE program on P3 projects extends the DBE program’s reach and influence because the DBEs, communities, and private partners become aware of the policies and regulations governing public projects and intent to advance social equity (see Table 21).

Table 21

Research Question 3: Perceived Strengths of Implementing the DBE Program

Major theme	Subtheme	Units of general meaning	# of Times the code appears	Interview question with code	# of Respondents	% of Respondents
Perceived strength of implementing the DBE program in a P3	Benefits for DBEs	Creates opportunities	4	7, 12, 14, 19	17	70.83%
		Builds capacity	2	14, 19	11	45.83%
		Learning opportunities	1	14	6	25.00%
		Forge collaboration	2	14	5	20.83%
		Flexibility or Creativity	1	14	5	20.83%
	Contribution toward DBE program intent	Impact on social equity	3	9, 10, 14	14	58.33%

Research Question 4

What are the perceived challenges of implementing the DBE program in a P3 environment?

Several interview questions contributed to the findings for the fourth research question. Most of the responses were primarily derived from Interview Question 15, but Interview Questions 7, 9, 10, 11, 12, 13, 14, 16, and 19 also received responses. The major theme from the data analysis was “perceived challenges of implementing the DBE program in P3.” The central theme comprises five clusters of meaning, namely contract-related challenges, DBE-related challenges, DBE implementation-related challenges, financial- and administrative-related challenges, and prime contractor-related challenges.

The researcher found that 50% of the participants perceived the P3 contract language as inadequate and lacking the enforcement language or consequences necessary for DBE program compliance. The participants highlighted the inadequacy of the P3 contracts as participants expressed that it either left loopholes, was not strong enough, or lacked consequences to ensure compliance. The participants vehemently articulated that the P3 contracts lacked the teeth to enforce the DBE requirements. The participants described that the inconsistency in contract language from one P3 contract to another and private partner’s contract negotiation against public agency expectations creates enforcement challenges.

The study found that 45.83% of participants perceived that implementing the DBE program in a P3 environment is challenging because a significant pool of DBEs are technically and operationally uninformed with P3s. The participants shared that one of the challenges of implementing the DBE program in the P3 environment is that DBEs

have limited knowledge about P3s and information pertinent to performing on P3 projects. The participants highlighted that DBEs lack sufficient knowledge of the P3 contracts. Of the participants, 29.17% perceived that the P3 environment takes greater risks for DBEs to lose their business, reducing the number of DBEs willing to participate in P3 projects. The participants communicated that the P3 environment introduces greater risks for DBEs and opportunities for them to compromise their business and, at times, even jeopardize its existence. Participants mentioned that the overall penalties included in the P3 agreement are more egregious than in other types of contracts, making them detrimental risks for DBEs. Of the participants, 16.67% perceived that the DBE's inexperience, scarce relationship with larger private partners or primes, lack of bargaining power, and absence in the planning phase challenges the DBE program's success in the P3 environment.

The majority of the participants, 54.17%, perceived that certain DBE regulation elements are challenging to apply in the P3 environment. The participants expounded that several components of the DBE regulation are challenging or impractical to apply in the P3 environment. The participants identified at least eight sections in the regulation as difficult to implement on P3 projects. The respondents shared their views about the additions or revisions required in the regulation of the DBE program to overcome the challenges. Half of the participants, 50%, perceived that DBE goal setting is challenging in the P3 environment because of the lack of defined detailed scope of work and associated value. The participants emphasized that the P3 environment makes it difficult to identify the subcontractable scope of work and the estimated value, making it challenging to set a defensible DBE goal. Of the participants, 33.33% perceived that

internal resistance by project managers or agency engineers served as a challenge to implementing the DBE program on P3 projects. The participants highlighted that the internal misconceptions of the DBE program limit or impede the DBE team's invitation or early involvement in the P3 process. Of the participants, 33.33% also perceived a limited pool of DBEs ready, able, and willing to participate in P3 projects. The participants accentuated that the absence or shortage of DBEs in certain specialties necessary on P3 projects introduces difficulty in implementing the DBE program. The study found that 33.33% of the participants perceived that there is not sufficient federal guidance or clarity on applying the DBE regulation in the P3 environment, specifically with the program's components that are difficult to implement. But some of the participants revealed that they did not want to ask FHWA to revise the regulations because they believed any revisions might introduce more challenges for DBE administrators. Of the participants, 29.17% perceived that the scale, rapid nature, and presence of multiple players on P3 projects invite difficulty with communicating and collaboration, thus making it a challenge for implementing the DBE program. The participants expounded that it is difficult to identify the lines of communication and communicate project changes and segment changes with all the different partners. Of the participants 12.50% perceived that the lack of a consistent and clear definition of the P3 model makes it challenging for the administrators to implement the DBE program. The participants communicated that P3 needs to be clearly defined in the DBE environment as its true definition is missing, and administrators lack a uniform understanding of the meaning of P3. Of the participants 12.50% identified that the mixture of funding sources on P3 projects makes the DBE program's governance arduous. The DBE program, in

most cases, is only applied to the federal portion of the P3 project, and it is tasked to parse out what portions of the project are FHWA funded then implement the DBE program accordingly.

Of the participants, 75% perceived that implementing the DBE program in the P3 environment introduces administrative and financial burdens. The participants also communicated needing to facilitate more DBE training in the P3 environment. The participants emphasized that monitoring the DBE program in the P3 environment is costly, resource intensive, and time-consuming. Participants expressed that they required more contract monitoring, resources, and management after creating P3 DBE subcontracts, which eats into the dollars. Of the participants, 20.83% perceived that their agency lacked the necessary resources to adequately monitor DBE compliance in the P3 environment. The participants highlighted that they lacked the personnel and tools to adequately monitor and track the DBE requirements in the P3 environment. Participants communicated needing a new or revamped monitoring mechanism, resources, and tools to implement the DBE program, which is costly.

The researcher identified a significant finding that an overwhelming majority of the participants, 70.83%, perceived private partner resistance to the DBE program in the P3 environment. The participants highlighted the primes reluctant to utilize DBEs, submit the required documentation, prioritize the DBE scopes, limited support to DBEs, and other actions to circumvent the DBE requirements. Participants identified that primes find means to manipulate or bypass the DBE program requirements, so there is mistrust of the private partners from the administrators. The participants pointed out that the prime was unwilling to support social equity unless obligatory. The data analysis

demonstrated that 50% of the participants perceived that the private partner objective presents challenges in implementing the DBE program in the P3 environment. The participants emphasized that the private partner's focus on maximizing profit is a continuous challenge implementing the DBE program in the P3 environment. The prime often wants to extract profit, jeopardizing the program's intent. Of the participants, 37.50% perceived that the prime's lack of DBE program understanding introduces more noncompliance of the DBE requirements and increases the need for DBE program training. The participants identified that P3 projects welcome out-of-state contractors, which is challenging because the private partners are often unfamiliar with the DBE program requirements (see Table 22).

Perceived Best Practices for Implementing the DBE Program

Although exploring best practices was not listed as a research question, it was one of the study's aims. Alongside investigating the effects of the P3 model, the study set out to derive best practices for implementing and monitoring DBE compliance on P3 projects. The major theme that emerged in the data analysis was "conceptualizing DBE program in the P3 environment and best practices." This central theme comprises seven subthemes: (a) communication and collaboration, (b) control and oversight, (c) DBE goal setting, (d) DBE application, (e) non-compliance ramifications, (f) strategies for ensuring compliance, and (g) system for monitoring the DBE program.

Table 22

Research Question 4: Perceived Challenges of Implementing the DBE Program

Major theme	Subtheme	Units of general meaning	# of Times the code appear	Interview question with code	# of Respondents	% of Respondents
Perceived challenge of implementing the DBE program in a P3	Contract-related challenges	Inadequate contract language	5	7, 9, 13, 14,	12	50.00%
	DBE related challenges	Lack of informed DBEs	3	10, 12, 15	11	45.83%
		Greater risk for DBEs	3	13, 15, 19	7	29.17%
		DBEs lack of experience or relationship	1	15	4	16.67%
	DBE implementation-related challenges	Portions of the DBE regulation	2	7, 16	13	54.17%
		Scope ambiguity	5	6, 7, 11, 15, 16	12	50.00%
		Internal resistance	4	6, 13, 15, 19	8	33.33%
		Limited DBEs availability	2	15, 19	8	33.33%
		Missing sufficient guidance	2	11, 16	8	33.33%
		Communication & collaboration	2	15, 16	7	29.17%
		P3 needs to be clearly defined	3	7, 12, 19	3	12.50%
		Funding Mixtures	1	15	3	12.50%
	Financial and administrative-related challenges	Administrative or financial burden	6	7, 10, 11, 12, 15, 19	18	75.00%
		Lack of necessary resources	4	9, 12, 15, 16	5	20.83%
	Prime contractor-related challenges	Private partner resistance	7	7, 9, 10, 12, 13, 14, 15	17	70.83%
		Private sector objective	5	7, 11, 12, 13, 15	12	50.00%
		Understanding of the DBE program	2	7, 9, 15	9	37.50%

Interview Question 17 targeted best practices and derived the most answers. The participants also identified best practices throughout the interview for Interview Questions 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 18, and 19. Of the participants, 41.67% perceived that in the P3 environment, it is best practice for the public partner to collaborate with private partners in implementing the DBE program, unlike other project types. Of the participants, 41.67% offered monthly meetings with the private partners as a best practice for maintaining collaboration. The participants shared that monthly meetings are critical to executing the DBE program on P3 projects, supporting the value of collaboration and communication with the private partners on P3 projects. Of the participants, 41.67% suggested communicating the DBE requirements to the private partners, including the DBE community, early and often, so the requirements resonate and are planned accordingly.

Of the participants, 50% perceived that the project owner upholds responsibility for DBE compliance oversight on P3 projects as a best practice. The participants accentuated that even though the private partner partially funds the P3 project, it is incumbent upon the public partner to require compliance from the private partner and oversee the private partner's compliance. Of the participants, 20.83% perceived that the project owner has to hold private and public partners accountable to their DBE program roles on the P3 projects. The participants pointed out that the DBE program's entity should hold both the public and private agencies accountable to its responsibilities, as spelled out in the DBE program.

A majority of the participants (70.83%) reported using the same DBE goal-setting methodology on P3 projects as they did on other project types. The participants outlined

that the DBE goal-setting methodology employed for its P3 projects did not differ from the methodology employed on other federally funded projects. Of the participants, 62.50% identified only setting one DBE goal, similar to other types of procurements. However, 50% perceived that a best practice would be to set multiple DBE goals on P3 projects, specifically for construction and design. Of the participants, 33.33% perceived that the DBE goal-setting process on P3 projects should be different from other project types to account for the nuances of the P3 environment. Of the participants, 25% outlined that the administrators must adjust and plan their DBE goal-setting process for the prime's input. P3 DBE goal setting often necessitated the private partners' contribution, which differed from the process employed for other procurement types.

An overwhelming amount of the participants, 83.33%, emphasized that the DBE department has to be involved in the planning phase of the P3 projects. The participants highlighted the criticalness of the DBE's early involvement in applying for the DBE program in the P3 environment as sufficient time is needed to assess the scope, value, and opportunity. Of the participants, 70.83% shared that there was currently no difference in implementing the DBE program on P3 projects. The participants shared that their application of the DBE program on P3 projects is not different from other projects. The participants applied the DBE program requirements similarly on the P3 projects as they did on other project types. However, 41.67% of the participants perceived that the DBE program would be best applied differently on P3 projects.

The administrators emphasized that although at the time of this study, there was no difference, there should be consideration given to implementing the DBE program differently in the P3 environment because its characteristics vary from other procurement

types. For example, the participants offered that there needs to be an effort made to create shared goals or objectives because, unlike traditional projects, the buy-in of the primes influences the DBE program's success on P3 projects. Of the participants, 37.50% perceived that having leadership's commitment and support of the DBE program is a best practice as it is vital for the involvement and success of DBE application in the P3 environment. Of the participants, 33% offered that as a best practice, the FHWA should be solicited to guide the implementation of the DBE program and involve the DBE community in the planning phase of the P3 project as P3s are often highly public. There is some level of visibility and public and political influence. Of the participants, 25% emphasized that a best practice for implementing the DBE program in the P3 environment is to employ creative and innovative mechanisms for the application that incentivize prime's participation and lessen the socioeconomic challenges. The participants identified specific strategies to support the application of the DBE program or reduce the current implementation challenges or shortcomings presented by the P3 environment. Of the participants, 20.83% perceived that where the DBE department is placed in the agency influences its facilitation. The participants suggested that the DBE department be placed where it has support.

All of the participants, 100%, perceived that the DBE program language and some degree of consequences be included as part of the P3 contract to institute enforcement and ensure that the primes maintain DBE compliance. Of the participants, 66.67% emphasized that the P3 contracts obtain strong DBE enforcement language and consequences as they are more likely to yield compliance from the primes in the P3 environment. Of the administrators, 45.83% reported using liquidated damage, financial

penalty, and administrative sanction as noncompliance remedies and recommended these as best practices because they were the strongest or most effective mechanism for holding the primes accountable. The participants perceived any financial penalty as the most effective mechanism and best practice for enforcing the DBE program in the P3 environment because a financial penalty directly affects the private partner's major goal—profit. Of the participants, 29.17% perceived that the DBE requirements would be a best practice to be included extensively in the contract as a deliverable. Should there be noncompliance, it would be a violation or breach of the contract. Of the participants, 16.67% communicated using debarment or enjoinder to enforce the DBE program because that impacts primes' future contracting opportunity and profitability.

Of the DBE administrators, 58.33% recommended facilitating DBE training for the private partners, including the DBEs on P3 projects, as training supports compliance. Of the participants, 54.17% suggested ongoing compliance reviews as a best practice for ensuring compliance in the P3 environment. The participants suggested reviewing subcontract agreements, conducting a commercially useful function (CUF) review, reviewing payments to the DBEs, developing a GFE committee to track DBE goal or GFE continuously.

Of the participants, 50% suggested requiring the private partners to submit a DBE plan at the beginning of the P3 project, facilitating DBE outreach events, and regularly submitting DBE reports as best practices for ensuring compliance. Of the participants, 29.17% highlighted that evaluating the historical performance, then using a reputational influence mechanism is a best practice for ensuring DBE compliance because the primes are likely to be compliant so as not to jeopardize future award of contracts. Of the

participants, 16.67% recommended requiring the primes to unbundle the scope of their contract to produce more and feasible opportunities for DBEs as a mechanism for ensuring compliance. Of the participants, 16.67% presented assessing a reasonable DBE goal based on availability, subcontractable items, scope availability, and solid tracking mechanisms. Of the participants, 12.50% suggested supporting the DBEs with facilitating relationships with larger organizations or potential primes as a best practice for ensuring DBE compliance in the P3 environment.

The majority of the participants, 79.17%, perceived that a best practice is to have designated P3 resources with the public and private organizations for implementing the DBE program. The participants emphasized that it is critical to designate DBE liaisons or administrators to manage the DBE program on P3 projects within private and public partners or organizations. The respondents alleged that not having a designated liaison makes it difficult to monitor DBE program requirements. Of the respondents, 45.83% recommended utilizing user-friendly compliance information systems to collect data as the best mechanism for validating the primes' performance and monitoring DBE compliance in the P3 environment. Of the participants, 25% suggested that compliance administrators solicit external consultants to support their DBE program implementation. The participants shared that consultants are used as supplemental resources to govern the DBE program in P3 projects because of the limited resources available with the public agency (see Table 23).

Table 23

Perceived Best Practices of Implementing the DBE Program

Major theme	Subtheme	Units of general meaning	# of Times the code appear	Interview question with code	# of Respondents	% of Respondents
Conceptualizing DBE in the P3 environment and best practices	Communication and collaboration	Collaboration with private partners	2	12, 17	10	41.67%
		Monthly meetings	4	7, 9, 10, 13	10	41.67%
		Communicate DBE requirements early and often	4	7, 10, 13, 17	10	41.67%
	Control and oversight	Project owner maintain compliance oversight	3	12, 17, 19	12	50.00%
		Project owner maintain accountability	1	17	5	20.83%
	DBE goal setting	Currently no difference in DBE goal setting	1	5	17	70.83%
		One DBE goal	1	5	15	62.50%
		Create separate DBE goals	3	5, 12, 17	12	50.00%
		Different goal setting process	1	5	8	33.33%
		Private partner input	2	5, 11	6	25.00%
DBE application	DBE department early involvement	4	6, 12, 13, 17	20	83.33%	
	Currently no difference in implement	3	7, 10, 11	17	70.83%	
	DBE program should be applied differently	2	11, 13, 19	10	41.67%	
	Leadership commitment	8	7, 9, 10, 12, 13, 14, 15, 17	9	37.50%	

Table 23 (continued)

Major theme	Subtheme	Units of general meaning	# of Times the code appear	Interview question with code	# of Respondents	% of Respondents
		FHWA support	3	5, 17, 19	8	33.00%
		Creative and innovative mechanisms	3	17, 18, 19	6	25.00%
		Placement of the DBE department	4	7, 10, 13, 17	5	20.83%
	Non-compliance ramifications	Contract language contains consequences	2	13, 17	24	100.00%
		Strong enforcement languages and consequences	7	8, 9, 10, 11, 12, 13, 17	16	66.67%
		Liquidated damages, financial penalty or administrative saction	3	8, 10, 13	11	45.83%
		DBE contract deliverable	1	17	7	29.17%
		Debarred from agency	2	9, 13	4	16.67%
		Strategies for ensuring compliance	Facilitate DBE P3 training	7	6, 7, 8, 9, 10, 13, 17	14
	Ongoing compliance reviews		3	7, 10, 17	13	54.17%
	DBE plan		8	6, 7, 8, 9, 10, 13, 14, 17	12	50.00%
	DBE outreach		3	7, 9, 17	12	50.00%
	DBE reports		4	7, 8, 9, 10	12	50.00%
	Evaluate historical influence		5	9, 13, 14, 17	7	29.17%
	Unbundle scope		2	17, 19	4	16.67%
	Develop solid goal and compliance mechanism		2	7, 12, 17, 18	4	16.67%

Table 23 (continued)

Major theme	Subtheme	Units of general meaning	# of Times the code appear	Interview question with code	# of Respondents	% of Respondents
		Support the DBEs with facilitating relationships	1	17	3	12.50%
	System for monitoring DBE program	Designated P3 resources	10	10, 13, 17, 18, 11, 12, 14, 7, 8, 9	19	79.17%
		Automated compliance system	5	13, 17, 10, 7, 9	11	45.83%
		Consultant support	2	10, 17	6	25.00%
		Advocacy organization	1	17	1	4.17%

Summary

It is essential to understand the DBE program within the P3 environment so that as more transportation agencies encourage the use of the P3 model, they maintain accountability and promote social equity. The findings contribute to the literature on the effects of the P3 model when implementing the DBE program. By interviewing the administrators of the DBE program, the study gained a sense of the primes' DBE compliance, and the perceived strengths and challenges of the P3 model. The researcher examined the findings based on the study's procedures and the data results. The data analysis highlighted responses from DBE program administrators and offered detailed answers to the research questions. During the coding process, units of general meaning emerged in the transcribed interview data; the data codes were arranged into four major themes and 16 subthemes. The major themes that emerged from the response data are conceptualizing DBE in the P3 environment and best practices, DBE compliance

outcomes on P3 projects, perceived strength of implementing the DBE program in a P3 environment, and perceived challenges of implementing the DBE program in a P3 environment. The subthemes include the status of DBE goal, the status of GFE, benefits for DBEs, contribution toward the DBE program, contract-related challenges, DBE challenges, DBE implementation challenges, financial and administrative challenges, prime contractor challenges, communication and collaboration, control and oversight, DBE goal setting, DBE application, noncompliance ramifications, strategies for ensuring compliance, and system for monitoring the DBE program.

CHAPTER 5: FINDINGS, CONCLUSIONS, AND RECOMMENDATIONS

Public contracting has a history of discrimination because of the contracting process employed. Thus, the U.S. federal government mandates that each public agency receiving federal funding facilitate some variation of the DBE program and maintain information to support their compliance. Every year, this information is reported to the relevant transportation agency as the Annual Uniform Report. By focusing on FHWA funding recipients, the study addressed the implications of P3 projects on governance and compliance of the DBE program, a social equity program mandated by the DOT to address past and continuing discrimination by private contractors and lenders. With the increased use of P3 in the transportation sector, maintaining compliance with the DBE program is crucial to ensure contracting fairness and to continue receiving DOT-assisted funding.

The researcher explored the implications of the P3 model when implementing the DBE program from the DBE compliance administrators' perception. The study focused on the administrators' experience facilitating the DBE program in the P3 environment and the implications they recollected the P3 model could have on the primes' accountability and encouragement of social equity. The study aimed to alleviate the ambiguity surrounding implementing the DBE program in the P3 environment by collecting data from the FHWA compliance administrators. Specifically, the study investigated the effects of the P3 model on DBE goals or GFE and analyzed any strengths and challenges made apparent in the P3 environment. The study also derived best practices from FHWA-funded P3 projects DBE compliance administrators for implementing the program and monitoring compliance. The results of examining the

implications of the P3 model governing the DBE program could significantly influence contract and policy development, implementation of P3, and formalization of enforcement practices to maintain compliance and ensure that organizations meet their social equity goals. The study results contribute to existing literature, DBE training, and conference topic focus or discussions. The study focused on addressing four research questions: the compliance administrators' perception of the primes' DBE goal attainment and GFE status, and the perceived strengths and challenges of implementing the DBE program in the P3 environment.

The study employed a phenomenological research design and collected data from DBE compliance administrators. The researcher identified 40 agencies within the relevant population. The researcher identified the compliance administrators responsible for monitoring the DBE program for the agencies and then invited them for in-depth interviews. The researcher conducted one-on-one in-depth semistructured interviews with 24 participants responsible for monitoring the DBE program compliance on P3 projects. The researcher employed a script and interview template that maintained consistency among participants. The interviews were listened to repeatedly and transcribed. The transcriptions were coded for themes, subthemes, and units of general meaning using NVivo, a qualitative analysis software, and an Excel spreadsheet for organizing the analysis. The study employed a research methodology that allowed categories and themes to be generated based on the participants' interview transcriptions. The interview transcriptions and notes served as the raw data for the study.

Major Findings

The results of this study were exclusively limited to the implementation of the DBE program in the FHWA-funded P3 environment that adhered to 49 CFR Part 26, the federal regulations governing the DBE program. The researcher obtained results to determine the implications of the P3 model when facilitating the DBE program by exploring the compliance administrators' experiences to help future facilitators and influence policy development. The key findings are discussed as follows.

Research Question 1

What are the DBE compliance administrators' perceptions of whether the DBE goals are met on P3 projects?

Based on Chapter 4's analysis, the researcher concluded that most of the administrators perceive that the primes on P3 projects meet the DBE goal. Although only two participants communicated that the primes on average did not meet the DBE goals on the P3 projects, this is worth noting. Based on the multiple forums the researcher attended that discussed the prime's inability to meet the DBE goals on P3 projects, the researcher was surprised to find the proportion of participants who reported the DBE goals being met. The researcher suggests that future studies, alongside an interview, review the closeout reports that include the primes' final DBE goal attainment.

Research Question 2

What are the DBE compliance administrators' perceptions of whether P3 project contractors demonstrate good faith efforts (GFE)?

According to the DBE program, the primes must meet the DBE goals or demonstrate adequate GFE, which means they are making aggressive efforts to meet the

DBE goal. Based on Chapter 4's analysis, the majority of the DBE compliance administrators perceived that the primes demonstrated adequate GFE. Like the DBE goal, although only one participant reported that the primes did not demonstrate GFE, the closeout reports need to be reviewed to determine their correspondence with the administrators' perception.

Research Question 3

What are the perceived strengths of implementing the DBE program in a P3 environment?

Based on Chapter 4's analysis, most participants shared that the P3 environment, unlike other projects, creates more contracting opportunities and financial impact for DBEs. The participants also perceived that P3 projects have the most impact on social equity because of their magnitude, high visibility, and community and public influence. The participants perceived that implementing the DBE program on P3 projects drives social equity. The participants also perceived that on P3 projects, DBEs can widen their business scale, learn from other businesses, especially the larger organizations or primes, and form strategic partnerships or networks with other businesses to go after contracting opportunities. The administrators also perceived that the P3 environment allows for more flexible or creative mechanisms for providing more opportunities for DBEs and encouraging primes to utilize DBE firms.

Research Question 4

What are the perceived challenges of implementing the DBE program in a P3 environment?

Based on the data analysis, all of the participants perceived challenges in implementing the DBE program in the P3 environment. The majority of the participants perceived that the P3 contract language is inadequate and needs improvement. The analysis showed that the administrators perceived portions of the DBE regulation as challenging to implement in the P3 environment. The administrators perceived that the apparent scope of ambiguity in the P3 environment makes it challenging to set DBE goals. Most participants perceived that the P3 projects identified resource constraints such as cost and time, making it difficult to implement and monitor the DBE program on P3 projects adequately. An overwhelming number of participants perceived private partner resistance to the DBE program and the private sector objective as a challenge to implement the DBE program in the P3 environment. Some administrators perceived that the primes inept DBE program understanding becomes a challenge for implementing the DBE program in P3 projects. The participants also perceived the lack of informed DBEs, internal resistance, limited DBEs' availability, lack of necessary resources, and insufficient guidance as challenges to implementing the DBE program on P3 projects. The participants also perceived that the risk and lack of experience serve as a challenge in DBEs' ability to participate in P3 projects. Some participants perceived challenges with communication, collaboration, P3 definition, and mixtures of funding. The perceived challenges make it difficult for DBE program facilitators to manage the program adequately, increase resistance to program adherence, and encourage noncompliance in the P3 environment.

Perceived Best Practices for Implementing the DBE Program

Alongside investigating the effects of the P3 model, the study set out to derive best practices for implementing and monitoring DBE compliance on P3 projects. Based on the experiences of the compliance administrators, the data analysis revealed the administrators' perceived best practices for implementing and monitoring the DBE program in the P3 environment.

The participants emphasized collaborating and communicating with the private partners more than expected on other project types. Some of the participants perceived that in the P3 environment, it is a best practice for the public partner to collaborate with private partners in implementing the DBE program. The participants offered monthly meetings and regular communication with the private partners regarding the DBE requirements.

Half of the participants perceived that the project owner is responsible for DBE compliance oversight on P3 projects as a best practice. The participants perceived that the project owner has to be the principal and hold the private and public partners accountable for their DBE program roles and responsibilities on the P3 projects.

Although the majority of the participants reported using the same DBE goal-setting methodology on P3 projects as they did on other project types and identified only setting one DBE on its current DBE projects, half of the participants perceived that a best practice would be to set multiple DBE goals on P3 projects, specifically one for design another for construction. Some participants also perceived that the DBE goal-setting process on P3 projects should be different from other project types.

An overwhelming number of participants emphasized that the DBE department must be involved in the planning phase of the P3 projects to set the appropriate precedent. Although the participants shared that there was currently no difference in the agency's implementation of the DBE program on P3 projects, a significant number of participants perceived that it would be best for the DBE program to be applied differently on P3 projects. Especially with the private partner's increased input, there should be an effort to create shared objectives. A significant number of participants perceived that having leadership's commitment and FHWA guidance or a collaborative revision of the DBE program on P3 projects is a best practice. The participants encouraged the use of creative and innovative mechanisms to encourage DBE compliance and further the objectives of the DBE program on the P3 projects. A good number of participants communicated that a best practice is to place the DBE department where it has support.

A significant number of participants perceived that it would be a best practice for the DBE contracts to obtain strong DBE enforcement languages and consequences as it is more likely to yield compliance from the primes' requirements. The participants suggested that as a best practice, the DBE requirements be included in the contract as a deliverable, so should there be noncompliance, it would be a violation of the contract language. The administrators recommended liquidated damage, financial penalty, and administrative sanction as noncompliance remedies. The participants perceived financial penalty as the most effective mechanism and best practice for enforcing the DBE program in the P3 environment. The participants also suggested the use of debarment to enforce the DBE program.

The DBE administrators recommended facilitating DBE training and ongoing compliance reviews as a best practice for ensuring compliance in the P3 environment. A significant number of the participants repeatedly recommended requiring the private partners to submit a DBE plan at the beginning of the P3 project, facilitating DBE outreach events, regularly submitting DBE reports, and unbundling the scope as best practices for ensuring compliance. The participants offered that evaluating the historical performance of the primes, then using a reputational influence mechanism is a best practice for encouraging DBE compliance because the primes are likely to be compliant and not jeopardize the future award of contracts. The participants suggested supporting the DBEs with facilitating relationships with the larger organization or potential primes as a best practice for encouraging DBE compliance in the P3 environment by lessening the challenge DBEs have in the P3 environment. The participants suggested that DBE administrators put solid, attainable DBE goal and compliance mechanisms to track the performance of the prime as best practice on P3 projects.

The administrators perceived that utilizing designated resources to implement and monitor the DBE program is a best practice. The participants offered automated compliance information systems to measure the primes' progress of the DBE program. The participants perceived that a best practice in the P3 environment is soliciting external consultants to support the DBE program implementation and monitoring.

Conclusions

The transportation sector has received backlash in the past for its complacency in the discrimination of minority-owned firms. As a result, the transportation sector incorporated social equity as a core pillar of public administration by developing the

DBE program. It mandated that agencies that received funding from the U.S. DOT modes of transportation enforce the DBE program. One such mode is the FHWA, and as a condition of receiving funding, project sponsors must implement the DBE program on their projects. FHWA has increased its use of the P3 model to fund and execute its projects. A distinct element of the P3 model is that it allows the public sector to supplement funds from the private partners, allowing for risk sharing between the public and private organizations. Critics are concerned that the P3 model may influence the public sector's oversight and ability to maintain or require accountability of the private organizations. Pula (2016) discussed the "loss of public control and flexibility, compromising private profits at the public's expense, loss of future public revenues, and lack of specific contract terms, accountability and transparency" as elements challenged by the P3 environment (p. 8). The transportation division has been criticized for its negligible outreach to minority communities, ineffective mechanisms to ensure compliance and accountability of the public and private organizations, and the lack of minority inclusion into contracting planning phases (Sanchez et al., 2003). Specifically, critics have alleged that minority discrimination continues to be a challenge in joint developments such as P3. There is a general concern that the privatizing services and development characteristics of the P3 model may compromise social equity (Erhardt, 2007).

The principal-agent theory (P-A theory) is a framework used in the study for understanding P3s because it offers insight into the roles and responsibilities of private and public organizations. The P-A theory focuses on two problems in a partnership: moral hazard and adverse selection. Moral hazard asserts that there is no way the

principal can guarantee that the agent will complete the expected product or outcome, which can lead to adverse selection because the principal does not have enough information to select the best agent to complete the task. The P-A theory posits that the private sector does not share all of the public sector's objectives or definition of success. The literature emphasizes enforceable contracts with strong consequences, identified processes, resources, and mechanisms for monitoring the partnership as an effective method for eradicating the challenges of the P-A relationship (Braun & Guston, 2003; De Palma et al., 2009; Dewatripont & Legros, 2005; Subedi, 2020; Williamson, 2002). The P-A framework emphasizes utilizing a system or mechanism that holds the agent accountable to inspire the desired outcomes. The FHWA's P3 environment can be characterized as a P-A relationship with the project sponsor as the principal and the private partner as the agent. According to the P-A framework, the relationship requires mechanisms to safeguard accountability because although the main objective is for "private sector participants in a P3 arrangement to maximize their profits over the contract life," project sponsors must uphold their principles (Vining & Boardman, 2008, p. 152). The FHWA will continue to utilize the P3 model. The transferred or shared power makes it necessary to understand how the principal holds the agent accountable and gives tools for sanctions in implementing the DBE program (Lindberg, 2013).

The literature review indicates that one of the mechanisms used to encourage the successful implementation of the DBE program is creating or utilizing effective enforcement and accountability measures. One of those measures is setting DBE goals on P3 projects and assessing primes' adequacy demonstrating GFE. Another such measure is having systems and strategies for ensuring compliance. As explained by the

P-A framework, the community's scrutiny and FHWA's commitment to ensuring social equity necessitate accountability measures between the public and private organizations. The framework also dictates investigating challenges that influence the DBE program's implementation on P3 projects. With the increased use of the P3 model, reviewing the strength of the P3 model on implementing the DBE program will add to the existing literature. Also contributing to the existing literature is the contribution of best practices by experienced DBE administrators to implement and monitor the DBE program on P3 projects.

One of the study's focuses was evaluating the primes' accountability of the DBE program implemented in the P3 environment. This study investigated P3's implication on social equity by assessing the DBE program's outcome on P3 projects. The researcher measured the primes' accountability to the DBE program by measuring its goal attainment and demonstration of GFE. The researcher examined the administrators' perception of whether the DBE goals were met and whether the P3 project contractors demonstrated GFE to assess the utilization of DBE firms and primes' compliance to the DBE program. The agencies interviewed reported applying DBE goals to their P3 projects representing that the agency maintained the regulation and safeguarded equity by applying DBE goals and requirements. The findings demonstrate that the primes on the P3 projects are perceived to be meeting the DBE goals and demonstrating GFE. The study results refute the notion that minority inclusion is not achieved on P3 projects or underutilization of DBEs. As supported by the P-A theory, the researcher can conclude that the project sponsors are holding the primes accountable in the P3 environment by

putting in place measurable outcomes, and the administrators perceive that the private partners comply.

The researcher also focused on contributing to the existing literature on the implications of the P3 environment to the DBE program by investigating the perceived strength that the P3 model may offer. The administrator shared similar perceptions on the strength of implementing the DBE program in the P3 environment. The participants shared that the P3 projects offer significant benefits to the DBEs in several ways that further their financial and operational growth, which other project types may not present. The participants also perceived that, unlike other project types, the P3 environment significantly supports the DBE program because it drives social equity by providing opportunities to advance minority-owned firms in the communities that bear the impact of the P3 projects. This finding supports the literature review and FHWA's assertion that P3 supports increased capacity and resource capability because it seemingly presents the same benefits for the DBEs performing on the P3 projects.

The study investigated the perceived challenges of implementing the DBE program in the P3 environment. According to the findings, although primes are meeting the DBE goals and demonstrating GFE, the program facilitators perceived several challenges when implementing the DBE program. A conclusion from these findings is that the participants perceived challenges with the contract and enforcement language in the P3 contracts as they considered it inadequate. The findings also revealed that the administrators perceived DBE-related challenges attributable to the DBEs' lack of sufficient experience, knowledge, and ability to take risks in the P3 environment. The findings also revealed that the participants perceived the DBE regulation elements as

impractical or difficult to implement in the P3 environment and the difficulty the P3 environment presents in DBE goal setting among other DBE program implementation challenges. The participants also perceived the financial and administrative resources necessary to implement and monitor the DBE program as challenging in the P3 environment. The researcher concluded that the P3 environment incites a significant administrative and financial burden. At the same time, some administrators perceived that their agency lacks the necessary resources to implement and monitor the DBE program on P3 projects. Another conclusion from these findings was that the administrators perceived that the resistance presented by the private partners and the prime's focus on profit served as a significant challenge to implementing the DBE program on P3 projects. During the interview, the administrators' nonverbal cues (eye rolls, increased voice inflections) indicated their frustration with this challenge.

The research finding on challenges supported the literature review by highlighting the importance of some of the themes that emerged. For example, Forrer et al. (2010) asserted that P3's "interface is contractual" (p. 476), so public administrators must ask the critical questions in a P3 relationship. One of those questions they must ask include, "Are the terms of the contract useful and do the resources necessary for oversight exist," but "the relationship is based on vendor compliance with contract specifications" (Forrer et al., 2010, pp. 476 and 481). Forrer et al. suggested that the P3 contract specifies the partners' expectations and includes enforcement mechanisms to hold the partners accountable. The findings warrant the critics' concern that the privatizing services and development characteristics of the P3 model may compromise social equity. For example, Forrer et al. (2010) emphasized,

The terms and conditions of this involvement deserve scrutiny and understanding by public officials, before entering a PPP, as private partners enter into these arrangements for different reasons than governments. While governments work to serve the public in capital investment projects, private partners are understandably “focused on recouping [their] investment and on generating a profit. (p. 477)

The findings also supported the assertion that “the open-ended nature of the contractual terms creates challenges for governing P3, which can make them a less straightforward decision for adoption” (Boyer & Scheller, 2018, p. 7). The research findings, also supported in the literature review, highlighted the burden and administrative resources introduced by P3. For example, FHWA (2017) pointed out that even though the P3 model offers significant benefits, it does present an administrative and oversight burden. The DBE program implementation requires “significant resources of personnel and time for the DOT” to ensure compliance with the DBE program (Orndoff et al., 2011, p. 135).

The perceived challenges found on scope ambiguity and DBE regulation contribute to the literature on implementing the DBE program in the P3 environment. As the literature review posited, and supported by the research finding, scope ambiguity is a challenge on P3 projects because “limited design in the procurement stage creates challenges in enlisting specific DBEs in the proposal” (Zhang & Cui, 2020, p. 125). The scope ambiguity makes setting the DBE goal on P3 projects difficult. The impracticality of the DBE regulation language in the P3 environment makes it problematic to implement and monitor.

The P-A theory supports the challenges found in the research. The P-A theory emphasizes that accountability in the P3 environment is the ability of the principal to judge the performance of agents based on an agreed-upon agreement (Gailmard, 2012). Making the contract, one of the most important enforcement elements on P3 projects, and any inadequacies apparent in the contract will make implementing the DBE program challenging in the P3 environment. The P-A theory also supports the finding that the private sector may not share all of the public sector's project goals resulting from the difference in objectives and definition of project success (Shrestha et al., 2019). According to Braun and Guston (2003), "Actors are self-interested and thus seek to maximize their welfare" (p. 303), often, this self-interest can lead to deception, appropriation, and manipulation at the expense of the other actor. The researcher deduced that the difference in objective demonstrates the imbalance between the principal and agents and their commitment, explaining the administrators' perception of private partner resistance. The P-A theory stresses the implication of tools or systems for holding the agent accountable and encouraging favorable reactions. The researcher can infer that any lack of resources can challenge DBE program implementation on P3 projects. The P-A theory implies the need for administrative and financial resources to monitor compliance.

The literature review emphasized that future studies research and document the "effective monitoring and steps to ensure consistency with federal regulations on P3 contracts projects" (Keen et al., 2015, p. 4). The study contributes to the literature by ascertaining effective practices for implementing the DBE program on P3 projects from DBE compliance administrators with experience to guide the DBE community. The

researcher found that the best practices provided by the administrators for implementing and monitoring the DBE program in the P3 environment are the following:

- Communication and collaboration.
- Control and oversight.
- DBE goal setting.
- DBE application.
- Noncompliance ramifications.
- Strategies for ensuring compliance.
- System for monitoring DBE program.

The best practices found are supported by the literature review and P-A theory.

Ferrer et al. (2010) emphasized that in a P3 arrangement, the partners exercise open collaboration and accountability by clarifying responsibilities. On P3 projects, oversight is crucial to ensure compliance because the dynamics of P3s are distinct from traditional projects. After all, the private partners are part of the project's decision making and delivery (Ferrer et al., 2010). The P-A theory extrapolates that "if the public sector succeeds in aligning its primary objective to the private sector, the principal-agent relationships serve very well for P3s" (Subedi, 2020, p. 2).

The researcher emphasized the need for an accountability tool for DBE goals since the scope is unclear and because "the project design and the scope of construction are yet to be determined as of contract award best practices typically require the developer to submit a DBE Participation Plan" (Smith et al., 2019, p. 77). The researcher also found other tools to encourage participation, ongoing GFE, and DBE compliance. The literature review supports the early DBE application on P3 projects: "the capacity

and know-how to balance various economic, political, and social factors when designing and monitoring the operations” (Forrer et al., 2010, p. 479). Research provided earlier supports the findings on utilizing contracts with strong enforcement languages and consequences to protect its legitimacy by assuring that accountability and equality are upheld in its practices (Vining & Boardman, 2008). The P-A theory also supports a contractual agreement to hold the partners accountable for their responsibilities. The literature also supports the need for strategies and systems to monitor the DBE program; necessary are “effective monitoring and steps to ensure consistency with federal regulations on P3 contracts projects” (Keen et al., 2015, p. 4).

Implications for Action

The findings from this study could help the FHWA, the project sponsor, the DBE compliance administrators, and the DBE community. One of the takeaways from the study is that the administrators provided best practices for implementing and monitoring the DBE program on P3 projects. These practices can be considered by agencies new to implementing the DBE program on P3 projects. The best practices provided in the study can guide the formalization of enforcement practices to maintain compliance and ensure that organizations meet their social equity goals.

While the study informs the strength of implementing the DBE program on P3 projects, another implication for DBE program facilitators is that this study highlights the DBE program facilitators’ challenges in the P3 environment. Understanding these challenges can influence policy development because it determines which initiatives the agencies must focus on or prioritize. The study’s findings also explain problem areas and risks that a DBE team needs to mitigate before and while implementing the program on

P3 projects. The study also identified challenges introduced by the regulation (49 CFR Part 26) governing the development and implementation of the DBE program, which means that part of the issue may arise from the inability to implement the DBE program in the P3 environment adequately. This study provides insight for FHWA by urging the revisitation of the DBE program to provide relevant updates or guidance for implementing the program in the P3 environment. The study ultimately identifies the implications of the P3 environment on the DBE program by highlighting both the strengths and the challenges it offers.

One of the participants pointed out that FHWA will continue to utilize the P3 model. There is anticipation that it will continue to grow as the go-to procurement model within the transportation industry because it circumvents the funding shortcomings of the public sector. The P-A theory emphasizes that accountability in the P3 environment means the ability of the principal to judge the performance of agents based on an agreed-upon agreement. And based on the findings, the primes are maintaining accountability because the primes are meeting the outcomes. But the question that FHWA needs to ask is whether they have any responsibility to social equity, which means that the primes outside of the specific DBE program requirements have successfully embedded social equity in core business objectives or practices.

On the one hand, the P3 environment is unlike any other type of project. When the DBE program is implemented adequately, it can advance social equity (for example, by providing more contracting opportunities for DBEs, and building the capacity or business scale for DBEs). However, on the other hand, this study shows that the P3 environment can impede the advancement of social equity. For example, if the private

partners continue to resist the DBE program, more primes may not meet the DBE goals or demonstrate adequate GFE. More specifically, because P3 warrants the funding contribution of private enterprises, more initiatives need to arise to get their collaborative governance or support of the DBE program. There need to be more initiatives that encourage private partners' responsibility to social equity. For example, developing criteria that evaluate private partners' responsibility to social equity in the communities they operate. According to Keil (2005),

The alliance between public and private sector requires actors from each sector to embrace each other's characteristics and point of view. Public sector actors would need to think and behave like entrepreneurs, and private sector actors would need to carefully consider the public interest and expect greater public accountability. (p. 5)

The results from the study are important for policy development because the increased use of P3 necessitates sufficient guidance from FHWA and input from the private partners to equip DBE program administrators to continue to safeguard social equity. The results contribute to the existing literature and can be discussed on several P3 platforms, such as the annual FHWA civil rights conference to influence the revision of the federal regulation, DBE program training, and best practices for implementing the DBE program in the P3 environment.

Recommendations for Further Research

The results of this study were solely based on the 24 DBE program administrators' accounts and what they were willing to share of their P3 experience.

Future research should include a document review approach to its methodology. The following are recommendations for additional research in future studies:

1. Explore the DBE goals established on P3 projects in comparison to other non-P3 projects with equal value to determine if the goals are higher or lower.
2. Solicit more DBE program administrators and agencies for participation to increase the ability to generalize the findings.
3. Investigate why the agencies that received FHWA grants did not implement the DBE program.
4. Explore 49 CFR Part 26 to investigate components of the regulation that could be challenging to implement in the P3 environment. Investigate whether the DBE regulation should be altered to fit the P3 environment.
5. Interview the FHWA's DBE program directors to understand their perceptions of how the P3 environment influences the DBE program.
6. Explore the DBEs' and the DBE program administrators' definition and understanding of the P3 model.
7. Explore the DBE firms' perception of the effectiveness of the DBE program and its implementation in the P3 environment.
8. Define the influence of nonfederal affirmative action contracting programs, such as the SBE or DVBE program, in advancing social equity and its effectiveness in the P3 environment.
9. Inquire about the primes' perception of the DBE program and how it impacts their willingness to participate in P3 projects. Future work could also explore the influence of incentives on the private partners' DBE participation.

10. Investigate the P3 phenomenon and implementation of the DBE program within other transportation agencies, such as the Federal Transit Administration, Federal Aviation Administration, and Federal Railroad Administration.

Concluding Remarks and Reflections

I, the researcher, appreciate the participants who accepted the invitation to participate in the study. I applaud their time and openness to discuss their experiences. The respondents were transparent and prepared to share their experiences, the good and the bad, and in return, they asked for their name and agency to be withheld. I was surprised to find that the majority of the administrators perceived that the primes met the DBE goals and demonstrated GFE. I was not surprised to learn the DBE compliance administrators shared similar strengths or challenges of implementing the DBE program in the P3 environment. The responses from the participants contributed to the current literature and future conversations on implementing the DBE program in the P3 environment. The administrators' experiences helped explain the phenomenon and contribute to future policy development and implementation. The findings also presented best practices for DBE program facilitators on P3 projects.

Social equity is a core pillar of public administration, and as such, public stewards need to ensure that the core is maintained. Within FHWA, DBE administrators are responsible for driving elements of social equity and making sure the parties involved in contracting are held accountable. P3s have huge impacts on the community, and public administrators must maintain social equity. The insight from the DBE administrators highlights the strengths and weaknesses related to implementing the DBE program in the P3 environment. The discussion is also crucial because it can help future facilitators

understand their challenges and put mechanisms to mitigate them. The findings from the study need to be discussed on a wider platform with the project sponsors and FHWA. As the use of P3s is encouraged within the FHWA, strategies need to be developed to promote the strengths and safeguard the challenges found in the research. FHWA must also support the administrators by guiding regulation interpretation and collaborative governance to ensure DBE program success within the P3 environment.

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APPENDICES

APPENDIX A

INFORMED CONSENT FORM

Participant Informed Consent

Study Title: Implications of Public-Private Partnerships on Enforcing the Disadvantaged Business Enterprise Program within the Federal Highway Administration (FHWA)

Researcher: XXXX

Dear Prospective Participant,

I am a student at California Baptist University, and I am doing a research study about Public-Private Partnership Models and their implications on enforcing Disadvantaged Business Enterprise Programs. For this study's purpose, I will be discussing with the Contract Administrator to understand the implementation of the DBE program on P3 projects. I am reaching out to you because you've been identified as a Contract Administrator; as such, your participation would be invaluable.

Information should you choose to participate in this study

- Your participation will involve an in-person interview or an online interview in which you will get an opportunity to provide your candid response to 20 interview questions.
- The discussion will be allocated for 60 minutes or less/more at your discretion.
- Your participation is entirely voluntary, and the discussion can be stopped at any moment. You are welcomed not to answer any questions as there are no negative ramifications.
- Protocols are in place to protect your participation and offer confidentiality; thus, there would be no linkage to your responses.
- The interviews will be recorded for accuracy and future reference. Your recorded interview will be kept confidential and only be accessible to the researcher. Code names will be used to refer to the participant and interview response.
- The researcher will destroy all electronic and paper trails of the documents five years after publishing the literature.
- Although you will not be financially compensated for your participation, you will be provided a \$10 Starbucks gift card as my way of thanking you. The gift card will be emailed to you at the end of the interview.

There are no foreseeable risks or consequences to your participation in this study; however, should you become uncomfortable or hesitant to participate, please contact the CBU Counseling center or me at 951-689-1120.

Please keep in mind that your participation in this research will contribute to the current literature by adding insight into the P3 model's possible implications on enforcing DBE programs and influencing possible policy development to strengthen governance.

The researcher is Rita Ohaya, and the Chair overseeing this research is Dr. Elaine Ahumada. Please feel free to contact one or both if you have questions, concerns, complaints, or relevant feedback.

This research has been reviewed and approved by the Institutional Review Board at California Baptist University (IRB # XXX-XXXX-EXP). IRB can be reached by emailing irb@calbaptist.edu if your questions, concerns, or complaints are not answered by the research team, if you want to talk to someone besides the research team, or you have questions about your rights as a research participant.

Next steps once you choose to participate in this study

The researcher will require a signed Statement of Consent that consents that you have received information from the researcher regarding this research's purpose and the intended outcome.

- Once the researcher receives the signed Statement of Consent, the participant will receive an email with a doodle pool link to establish an interview date and time.
- The participant acknowledges that the researcher will ask questions regarding P3 projects and their implications on enforcing the DBE program.
- The participant accepts that all interviews will be audio-recorded and consent that all audio recordings will be used only for research purposes.
- The participant acknowledges that their responses will be kept confidential and coded for protection.
- The participant understands that their agency and name will not be associated with the findings of the study.

By signing this form, the participant acknowledges that he/she has read the informed consent, understands the study's purpose and intention, and consents to the audio recording of the interview. The researcher also asserts that there are no potential risks to the participant, and the participant's responses will be maintained confidentially. Your signature on this form acknowledges that you give your permission voluntarily to serve as a participant in the study described.

Please sign here if you consent to participate in the study

Please email this form back to the researcher if you agree to participate.

Thank you for your consideration.

Rita Ohaya

APPENDIX B

EMAIL TO PARTICIPANTS

Good morning/afternoon XX,

My name is Rita Ohaya, and I am a student at California Baptist University and an American Contract Compliance Association member with a CCA designation. I am studying Public-Private Partnership (P3) Models and their implications on governing Disadvantaged Business Enterprise Programs for my doctorate. For this study's purpose, I will be discussing with DBE program administrators and Contract Compliance agents to understand the implementation of the DBE program on P3 projects. Hence I found your information based on the P3 project profile on FHWA's website. I hope I can have an hour (or less) interview with you to understand your perspective on possible ways P3 projects can influence the implementation of the DBE program.

Please respond to this email letting me know if you'd participate in an interview with me. If yes, please see attached consent form for your review and approval, and provide me with your availability and I will schedule accordingly.

PURPOSE OF THE STUDY

The purpose of the study is to investigate the effects of the P3 model on DBE goals or GFE, analyze any strengths and weaknesses that may be made apparent by the P3 environment, and derive best practices or strategies to monitor compliance on a P3 project. This study focuses on the DBE Contract Administrators' perception of the DBE program's inclusion into the P3 environment and how that influences DBE compliance hence accountability and encouragement of social equity achieved by the contractors on P3 projects. Ultimately, the study aims to alleviate some of the ambiguity surrounding implementing the DBE program in the P3 environment by collecting data from the FHWA Compliance Administrators.

Information should you choose to participate in this study

- Your participation will involve an online interview in which you will get an opportunity to provide your candid response to 20 interview questions.
- The discussion will be allocated for 60 minutes or less/more at your discretion.
- Your participation is entirely voluntary, and the discussion can be stopped at any moment. You are welcomed not to answer any questions as there are no negative ramifications.
- Protocols are in place to protect your participation and offer confidentiality; as such, there would be no linkage to your responses.
- The interviews will be recorded for accuracy and future reference. Your recorded interview will be kept confidential and only be accessible to the researcher. Code names will be used to refer to the participant and interview response.
- The researcher will destroy all electronic and paper trails of the documents five years after publishing the literature.
- Although you will not be financially compensated for your participation, you will be provided a \$10 Starbucks gift card as my way of thanking you. The gift card will be emailed to you at the end of the interview.

APPENDIX C

INTERVIEW QUESTIONS

Question 1	About how many FHWA P3 projects has your state agency completed since 2021?
Question 2	About how many other FHWA P3 projects has your state agency initiated (including pre-award) that are not yet complete?
Question 3	How many P3 projects have you monitored?
Question 4	Were DBE contract goals set for any of the P3 Projects?
Question 5	What is your general methodology for setting goals for P3 projects? Is it any different from traditional construction contracts? Do you set a goal at the beginning that covers the entire project? Different goals for design, construction, or maintenance phases?
Question 6	Thinking about your current or recent experiences, what point in the project planning process is the DBE Program's application considered and DBE Program staff involved? (At the very beginning, when need to set a goal, etc.) In your opinion, when should it be applied?
Question 7	What has been your personal experience with monitoring the DBE program on P3 projects?
Question 8	Do you find that an average of your P3 contracts meets the DBE Goals? Do you think, in general, DBE goals are met on P3 projects?
Question 9	Do you find that an average of your P3 contracts makes adequate Good Faith Efforts? Do you think, in general, P3 project contractors demonstrate Good Faith Efforts?
Question 10	How do you monitor whether the prime or partners comply with the Federal DBE Program in the course of the P3 projects?
Question 11	Is your application of the Federal DBE Program on P3 projects any different from traditional design-bid-build projects? If so, how? If not, do you think it should be different? How?
Question 12	What have you learned from the experience applying the Federal DBE Program to any of these P3 projects that will help you or others with future projects?
Question 13	How are the prime contractors held accountable? Are there consequences for the prime contractor if it does not comply with the program? What teeth or enforcement mechanisms does your agency have to encourage or require compliance? (e.g., contract remedies such as liquidated damages)
Question 14	In your experience, what do you think are the strengths of implementing the DBE program in a P3 environment?

Question 15	In general, what are the challenges you are currently facing or have faced with monitoring the DBE program on P3 projects?
Question 16	In general, are there components of the Federal DBE Program that are challenging to apply to P3 Projects?
Question 17	What are the best practices in your program that you wish to share with other states?
Question 18	What innovations or initiatives have you put in your program that you wish to share with other states?
Question 19	Any additional comments about any implications P3 projects may have on the DBE program?
Question 20	Is there anyone else at your agency we should reach out to to learn more about the DBE program on these P3 projects (And please provide contact information, including phone number and email.)

APPENDIX D
CITI CERTIFICATE



Completion Date 22-Jan-2021
Expiration Date 22-Jan-2024
Record ID 39160659

This is to certify that:

Rita O. Ohaya

Has completed the following CITI Program course:

Social and Behavioral Responsible Conduct of Research
(Curriculum Group)
Social and Behavioral Responsible Conduct of Research
(Course Learner Group)
1 - RCR
(Stage)

Under requirements set by:

California Baptist University

Not valid for renewal of certification through CME.



Collaborative Institutional Training Initiative

Verify at www.citiprogram.org/verify/7w822f84c3-e510-4541-b948-4e9ab2ca1eee-39160659

APPENDIX E

INTERVIEW SCRIPT

Interview Protocol & Script

Study Title:

Date & Time of Interview:

Name of State Agency:

Years with State Agency:

Position Title:

The following provides a guide to the interview process for the participant

GREETING

Good (Morning/Afternoon) and thank you for your participation in my research study on Public-Private Partnerships' implications on Enforcing the Disadvantaged Business Enterprise Program within the Federal Highway Administration (FHWA). As mentioned in the email, my name is Rita Ohaya. I am a doctoral candidate at the California Baptist University, Online and Professional Studies. I am working on a doctorate in public administration. You have acknowledged and signed the Informed Consent letter that explains the study's intent and the authorization form to audiotape this interview. I will ask you twenty questions regarding the implications of P3 projects on the DBE program. Today's interview will be conducted within a 60 minutes' timeframe. When we get close to the end time of the appointment, I will let you know. Unless you consent to go beyond the time designated, we will maintain the 60 minutes' commitment. Also, please keep in mind that your participation is voluntary, and at any point, you can refuse to participate. Also, there are no incorrect responses, and should you not feel comfortable answering any of the questions, please feel free to say so. Keep in mind that I will be taking notes alongside the audio recording. Finally, there are no foreseeable risks to your participation today, and your responses will not be shared with anyone within the agency and will only be used for academic purposes.

BACKGROUND

The Federal Highway Administration (FHWA) is one of the modes of transportation that has significantly increased its use of P3s. FHWA uses P3s for capital improvements, operations and maintenance, and infrastructure development. Although the P3 is widely accepted and used, there is a limited review of its characteristics and implications. As such, they are introducing more resistance and fear for DBE practitioners because of its ambiguous nature, which exposes the need for further research around the P3 environment to ensure that administrators of the DBE programs are equipped with the accurate and most efficient tools or strategies to implement and monitor the Program.

PURPOSE

The purpose of the study is to investigate the effects of the P3 model on DBE goals or GFE, analyze any strengths and weaknesses that may be made apparent by the P3 environment, and derive best practices or strategies to monitor compliance on a P3 project. This study focuses on the DBE Contract Administrators' perception of the DBE program's inclusion into the P3 environment and how that influences DBE compliance hence accountability and encouragement

of social equity achieved by the contractors P3 projects. Ultimately, the study aims to alleviate some of the ambiguity surrounding implementing the DBE program in the P3 environment by collecting data from the FHWA Compliance Administrators.

INTERVIEW QUESTIONS

Question 1	About how many U.S.DOT-funded P3 projects has your state DOT completed since 2021?
Question 2	About how many other U.S.DOT-funded P3 projects has your state DOT initiated (including pre-award) that are not yet complete?
Question 3	How many P3 projects have you monitored?
Question 4	Were DBE contract goals set for any of the P3 Projects?
Question 5	What is your general methodology for setting goals for P3 projects? Is it any different from traditional construction contracts? Do you set a goal at the beginning that covers the entire project? Different goals for design, construction, or maintenance phases?
Question 6	Thinking about your current or recent experiences, at what point in the project planning process is the DBE Program's application considered and/or DBE Program staff involved? (At the very beginning, when need to set a goal, etc.) In your opinion, when should it be applied?
Question 7	What has been your personal experience with monitoring the DBE program on P3 projects?
Question 8	Do you find that an average of your P3 contractors meet the DBE Goals? Do you think, in general, DBE goals are met on P3 projects?
Question 9	Do you find that an average of your P3 contractors make adequate Good Faith Efforts? Do you think, in general, P3 project contractors demonstrate Good Faith Efforts?
Question 10	How do you monitor whether the prime or partners are complying with the Federal DBE Program in the course of the P3 projects?
Question 11	Is your application of the Federal DBE Program on P3 projects any different from traditional design-bid-build projects? If so, how? If not, do you think it should be different? How?
Question 12	What have you learned from the experience applying the Federal DBE Program to any of these P3 projects that will help you or others with future projects?
Question 13	How are the prime contractors held accountable? Are there consequences for the prime contractor if it does not comply with the Program? What teeth or enforcement mechanisms does your agency have to encourage or require compliance? (e.g., contract remedies such as liquidated damages)

Question 14	In your experience, what do you think are the strengths of implementing the DBE program in a P3 environment?
Question 15	In general, what are the challenges you are currently facing or have faced with monitoring the DBE program on P3 projects?
Question 16	In general, are there components of the Federal DBE Program that are challenging to apply to P3 Projects?
Question 17	What are the best practices in your Program that you wish to share with other states?
Question 18	What innovations or initiatives have you put in your Program that you wish to share with other states?
Question 19	Any additional comments about any implications P3 projects may have on P3 projects?
Question 20	Is there anyone else at your agency we should reach out to learn more about the DBE program on these P3 projects (And please provide contact information, including phone number and email.)

DEBRIEFING

Thank you so much for granting me this discussion. The responses you provided today will remain confidential as I will only share this information with CBU. Also, your name and agency will not be included in the dissertation. For the fun part, I will be sending you an electronic Starbucks card via your email for your enjoyment.