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Civil Rights Disadvantaged Business Enterprise DBE Contract Goals

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Agencies are required to help meet Disadvantaged Business Enterprise goals on Federal-aid projects



Every three years, State departments of transportation, or State DOTs, are required to establish an annual overall Disadvantaged Business Enterprise, or DBE goal. Establishing these goals helps ensure that DBEs have the opportunity to participate on DOT- assisted contracts. Each State must meet its annual goal each year within the three-year cycle. If you accept Federal-aid funds, through your State DOT, you are required to help meet that goal and report DBE participation on your Federal-aid contracts to the State DOT.

Overall goals are stated as a percentage of the Federal-aid funds expended by your State DOT. For example, an overall DBE goal is stated as, "4.15 percent or 12.5 percent."



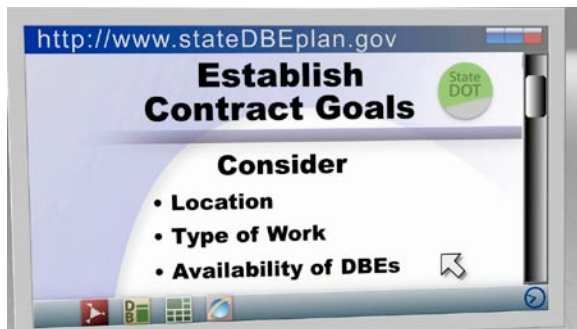
To help your State DOT meet its overall goal, agencies set DBE contract goals on Federal-aid contracts, as appropriate. It's essential that your local public agency, or LPA, understand how contract goals are established and what it can do to ensure good faith efforts are made to meet the goals.

Let's take a look at how your LPA might establish, monitor and enforce DBE contract goals, and report DBE participation.



Any contract on a Federal-aid project that has subcontracting possibilities, such as a project that includes landscaping or guardrails, is a good candidate for a DBE contract goal. When establishing contract goals, your LPA will follow your State's DBE plan unless directed otherwise. Some State DOTs set contract goals for their LPAs.

While there is no prescribed goal amount or method, factors to consider in setting contract goals include the location, type of work, and availability of DBEs that perform the type of work involved in the contract.



Once established, agencies publish the contract goal in an advertisement to all bidders. When a contract has a DBE goal, only a bidder that demonstrates adequate good-faith efforts to meet the goal qualifies to be awarded a federally funded contract.

The bidders that respond to your solicitation will list the DBE firms that will participate on the contract and the amount of the participation. This is typically referred to as a commitment. After the award, the LPA is responsible for verifying that the listed DBE firms were used as described—for example, that the firms identified as subcontractors have subcontracts and are performing the work. As part of its monitoring efforts, agencies might review project documents and accounting records, and visit the project site to verify DBE participation.



LPA monitoring uncovers discrepancies in the proposed and actual use of DBE firms, LPAs are required to take administrative action. Your State DOT's DBE plan will include the types of sanctions available, such as the withholding of progress payments.

Let's see how DBE contract goal setting and monitoring work in practice.

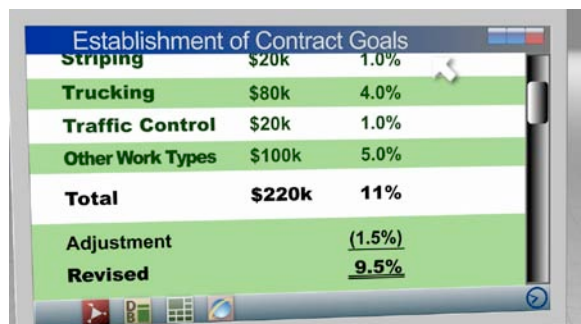
Our example involves a \$2 million contract to widen a one-mile stretch of city street.

The LPA procurement team identifies several subcontracting possibilities—including striping, trucking, and traffic control—totaling \$220,000, or 11 percent of the contract value.

The team searches the State DOT's database of certified firms and identifies several DBE firms that are certified to perform these work items.

The LPA also considers the location of the project and the availability of DBE firms to do the work which may increase or decrease the 11 percent. Based upon this analysis, the LPA believes that a contract goal of 9.5 percent is appropriate.

This goal is published in the notice to all bidders. The LPA awards the contract to Prime Construction, Inc. The company meets the 9.5 percent contract goal by subcontracting striping, trucking, sidewalk, and landscaping services to DBE firms.

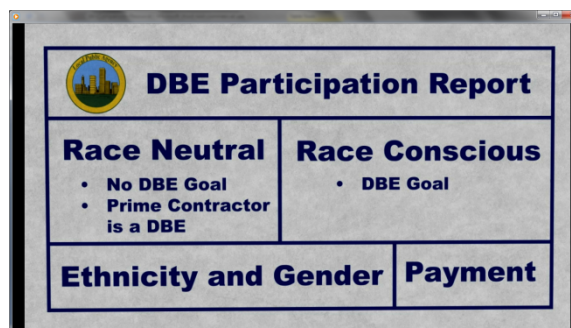


Establishment of Contract Goals		
Striping	\$20k	1.0%
Trucking	\$80k	4.0%
Traffic Control	\$20k	1.0%
Other Work Types	\$100k	5.0%
Total	\$220k	11%
Adjustment		(1.5%)
Revised		9.5%

It is the LPA responsibility to monitor the prime contractor to ensure that all the DBEs listed are being used. As part of the LPA's monitoring efforts, the project engineer visits the project site. The project engineer notes that the trucks used to haul the aggregate belong to the DBE firm. The project engineer also interviews the truck drivers, work crews and supervisors, and confirms they are all on the DBE firms' payrolls.

At the end of the project, the project engineer reviews the project receipts and confirms that the payments to the DBE firms equal the amount identified in the subcontracts and in the prime contractor's original commitment. No enforcement actions are necessary.

LPAs follow a standard format to report DBE participation on contracts with and without goals. DBE participation is reported as race conscious when the contract has a DBE goal. DBE participation is reported as race neutral when the contract does not have a DBE goal or when the prime contractor is a DBE. The report provides a breakdown of subcontracts by ethnicity and gender and summarizes the payments made to prime contractors and DBE firms.



DBE Participation Report	
Race Neutral - No DBE Goal - Prime Contractor is a DBE	Race Conscious DBE Goal
Ethnicity and Gender	Payment

Agencies that receive Federal-aid funds contribute toward the attainment of their State DOT's annual overall DBE goal.

Achievement of the goal is a statewide effort, and as we have just seen, it requires thoughtful contract goal setting, proactive monitoring and enforcement.

To help your LPA succeed in its DBE participation, your State DOT has developed a DBE plan that provides guidance and direction. LPA personnel must be familiar with the DBE program requirements. The State DOT will review your DBE reports. From an analysis of the results, the State DOT may provide additional guidance to ensure DBE opportunities to participate on your Federal-aid contracts.

Additional Resources

- Guidance from FHWA's general counsel for setting DBE goals
http://www.osdbu.dot.gov/documents/pdf/dbe/Tips_for_Goal.pdf
- The electronic DBE reporting form
<http://www.osdbu.dot.gov/documents/pdf/dbe/Final%20Reporting%20Form.pdf>
- Regulations addressing the U.S. DOT's DBE program
<http://ecfr.gpoaccess.gov/cgi/t/text/text-idx?region=DIV1;type=boolean;c=ecfr;cc=ecfr;sid=14e071f96d5d61cb9d2410ed56c59d3d;q1=dbe;rgn1=Section%20Heading;op2=and;rgn2=Section;op3=and;rgn3=Section;view=text;idno=49;node=49%3A1.0.1.1.20;rgn=div5#49:1.0.1.1.2>

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This Companion Resource is the script content for the video production of the same name.