

The Increasing Role of Disadvantaged Business Enterprises in Transportation Projects

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Disadvantaged Business Enterprises or DBEs are programs unique to the U.S. Department of Transportation (USDOT) and are administered locally by state transportation departments. As defined by 49 Code of Federal Regulations Part 26, Disadvantaged Business Enterprise or DBE means a for-profit small business concern --

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.¹

It is the policy of the Florida Department of Transportation (FDOT) that Disadvantaged Business Enterprises (DBEs)² shall have an opportunity to participate in the performance of Department contracts in a nondiscriminatory environment in accordance with regulations of the U. S. Department of Transportation (USDOT), 49 CFR Part 26.³

The FDOT's Equal Opportunity Office was created to administer the Department's DBE Program, Title VI Program (Nondiscrimination in State and Federal Programs and Activities), and Internal and External Equal Employment Opportunity/Affirmative Action Program (Title VII).

Specifically, the FDOT's DBE Program is intended to remedy past and current discrimination against disadvantaged business enterprises by helping to remove barriers to participation, creating a level playing field, fostering equal opportunity and non-discrimination in DOT-assisted contracts, ensuring firms fully meet the eligibility standards, improving the

¹ <http://www.fhwa.dot.gov/HEP/49cfr26.htm>

² As defined by *49 Code of Federal Regulations Part 26*.

³ <http://www.dot.state.fl.us/equalopportunityoffice/files/DBE%20Utilization%20policy.pdf>; The Department has received federal financial assistance from the U.S. Department of Transportation (USDOT), and as a condition of receiving this assistance, the Department has signed an assurance that it will comply with 49 CFR Part 26.

flexibility and efficiency of the DBE program, reducing burdens on small businesses, and assisting in the development of a firm so it can compete successfully outside of the program.

To this end, the FDOT's grant recipients, contractors, consultants, and suppliers are all required to take the necessary and reasonable steps to ensure that DBEs have an opportunity to compete for and perform the contract work of the Department in a nondiscriminatory environment. Essentially this means that no grant recipient, contractor, consultant, or supplier can discriminate on the basis of race, color, sex, or national origin in the award and performance of its contracts.

Likewise, the FDOT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract on the basis of race, color, sex, or national origin.

To be certified under the FDOT's DBE Program and achieve DBE status, a business must be minority or female owned. The individual must own a minimum of 51% of the company, have day-to-day control of operations, possesses an expertise in their work specialty, and have an investment in their company. To certify as a DBE, the business owner cannot have a net worth that exceeds \$750,000 (excluding the owners business and primary residence).⁴

In accordance with governing statutes the Department has 90 days to process a completed application. The assessment process includes a review of all files submitted, a request for additional information as needed, an onsite review, and the evaluation process. Only businesses which meet the criteria can be certified. The Florida Department of Transportation primarily solicits businesses that do work in road, highway, or bridge construction and related professional services.⁵

Additionally, the Department maintains a Bid Opportunity List, which is a database of all firms that are doing business with or seeking to do business on DOT-assisted contracts. The list includes all firms that bid on prime contracts or bid or quote subcontracts on DOT-assisted projects, including both DBEs and all other subcontractors.⁶

The Department also maintains a separate DBE directory of DBE firms and also tracks DBE utilization by Contractors and Consultants, including utilization of a DBE grading scale to compare data on the success of DBE participation in DOT-assisted contracts.⁷ The directory lists the firm's name, address, telephone number, date of most recent certification, and the type of work the firm has been certified to perform as a DBE. In turn, the directory is revised and updated on a monthly basis.⁸

⁴ <http://www.dot.state.fl.us/equalopportunityoffice/dbecertification.shtm>

⁵ Id.

⁶ <http://www.dot.state.fl.us/equalopportunityoffice/dbeprogram.shtm>

⁷ <http://www.dot.state.fl.us/equalopportunityoffice/>

⁸ <http://www.dot.state.fl.us/equalopportunityoffice/files/dbeplan.pdf>

The overall goal for the FDOT's DBE program for federal-funded highway contracts is established on an annual basis. The overall goal for federal fiscal year 2010 has been set at 8.18% utilizing the methodologies described in 49 CFR Part 26.⁹

In addition, for the federal fiscal year 2010 the FDOT has established a goal of .01% of the amounts received for federally assisted transit projects under the Transportation Efficiency Act – 21, or any subsequently enacted federal laws with small business concerns owned and controlled by DBEs. It is the intent of the Department that this expenditure will be achieved through a race and gender neutral program.¹⁰ The FDOT does not use quotas in any way in the administration of this DBE Program.

Undoubtedly, the inclusion of DBEs in transportation projects is a major goal of FDOT and the federal government. By helping to remove barriers to participation in transportation projects, FDOT and the federal government are not only increasing the role of DBEs in transportation projects, but are also ensuring a more level playing field for small and disadvantaged businesses to be successful in the future.



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⁹ <http://www.dot.state.fl.us/equalopportunityoffice/DBEProgram/Proposed%20Highway%20DBE%20Goal%20for%202009-2010.pdf>

¹⁰ <http://www.dot.state.fl.us/equalopportunityoffice/DBEProgram/Proposed%20Transit%202010%20DBE%20Race%20Neutral%20Goal.pdf>