

WSDOT's Overall Disadvantaged Business Enterprise Goal and Disparity Study

Q: WHAT IS THE DISADVANTAGED BUSINESS ENTERPRISE PROGRAM?

A: The purpose of the Disadvantaged Business Enterprise (DBE) program is to ensure a level playing field and foster equal opportunity for firms owned and operated by disadvantaged individuals on United States Department of Transportation (USDOT) financially-assisted contracts and procurements. Washington State Department of Transportation (WSDOT) is required to implement the DBE program on projects that include funds from Federal Highway Administration (FHWA), Federal Transit Administration and Federal Aviation Administration.

Q: WHY DID WSDOT CONDUCT A DISPARITY STUDY?

A: To be in compliance with federal regulations, WSDOT must conduct a disparity study which analyzes whether a disparity (differences) exist between the number of specified individuals or groups that are available to participate in contracting opportunities, and those that actually do participate. WSDOT's disparity study began in 2012 and is not connected to or a result of the recent FHWA findings related to the Alaskan Way Viaduct project's use of DBEs.

Q: WHY DID WSDOT'S OVERALL DBE PARTICIPATION GOAL CHANGE?

A: There are a number of factors that contribute to the change in WSDOT's overall DBE goal. Most importantly, the previous overall DBE goal was based on information from a 2005 disparity study. That information is now out of date. The present study reflects current transportation market trends.

Q: HOW WILL CAUCASIAN WOMEN-OWNED BUSINESSES BE IMPACTED BY THE DISPARITY STUDY?

A: Women-owned DBEs are not being removed from WSDOT's DBE Program. The disparity study showed Caucasian women-owned firms are not statistically facing discrimination; therefore, WSDOT is required to request a waiver to only include minority male- and minority female-owned DBEs in the race-conscious portion of its DBE Program. As indicated in the table above, Caucasian women-owned DBEs are still eligible to participate in other programs. If FHWA approves a waiver for Caucasian women-owned DBEs, WSDOT will continue to encourage prime contractors to use qualified women-owned DBEs as subcontractors. The intent of the Federal DBE Program is for prime contractors to build relationships with DBEs and to use them even when there are not any DBE contract goals to meet.

Contracting Equity Program Within WSDOT	Participation by Race, Ethnicity and Gender of DBE Owner		
	Caucasian Female Owned DBEs	Minority* Female Owned DBEs	Minority* Male Owned DBEs
DBE Race-Conscious Efforts (Condition of Award Goals)	No	Yes	Yes
DBE Race-Neutral Efforts	Yes	Yes	Yes
DBE Support Services (free plans, manuals, networking events, training, etc.)	Yes	Yes	Yes
Minority and Women's Business Enterprise Program	Yes	Yes	Yes
Small Business Enterprise Program	Yes	Yes	Yes

* Minorities are defined by the federal rules as African Americans, Hispanic Americans, Native Americans, Asian-Pacific Americans, and Subcontinent Asian-Americans.

Q: ARE ALL CAUCASIAN WOMEN-OWNED DBES BEING REMOVED FROM THE DBE RACE-CONSCIOUS MEASURES?

A: Yes, the data shows that WSDOT's implementation of the Federal DBE Program has been very successful with regard to the participation of Caucasian women-owned DBEs. Caucasian women-owned DBEs, as a group, received more contract dollars from WSDOT than what would be expected given their availability for that work. Because of that outcome, WSDOT must request a waiver that, if approved by FHWA, will deem Caucasian women-owned DBEs as ineligible for our DBE contract goals program. Doing so ensures that WSDOT's implementation of the Federal DBE Program is constitutional and consistent with federal rules and relevant court decisions.

Q: WHY IS WSDOT'S OVERALL DBE GOAL LOWER THAN SOUND TRANSIT'S OVERALL DBE GOAL?

A: Both WSDOT and Sound Transit based their overall DBE goal calculations on analyses of the availability of minority- and women-owned businesses for their contracts. Those analyses were tailored to each agency's contracts and relevant geographic market areas. WSDOT and Sound Transit award different types

of contracts of different sizes. WSDOT operates across the entire state of Washington whereas Sound Transit only operates in the Seattle metropolitan area. Therefore, the availability of minority- and women-owned businesses for WSDOT contracts — and thus, WSDOT's overall DBE goal — is different from that of Sound Transit.

Q: IS THERE ANY REASON FOR WOMEN-OWNED FIRMS TO KEEP THEIR DBE CERTIFICATIONS?

A: Yes, there are other benefits from being DBE certified, even if FHWA approves a waiver for Caucasian women-owned DBE participation. Contract goals for DBEs are just one of many components of the Federal DBE Program. For example, being DBE certified automatically makes a firm Small Business Enterprise certified, which qualifies it for many of WSDOT's race- and gender-neutral program measures, as well as those of other local agencies. In addition, minority women-owned DBEs will still be eligible for all of the measures that WSDOT uses as part of its implementation of the Federal DBE Program, including DBE contract goals.

If USDOT approves a waiver for women-owned DBEs, WSDOT will closely monitor the effects that the waiver has on Caucasian women-owned DBEs. If the waiver has substantial, detrimental effects on the overall use of Caucasian white women-owned DBEs, WSDOT will take swift corrective action. For those affected firms, maintaining DBE certification will help WSDOT with its monitoring activities. Should WSDOT determine that revoking the waiver is appropriate, women-owned DBEs would again become eligible for our DBE contract goals program.

Q: THERE'S CONCERN THAT WITH THE WAIVER, PRIME CONTRACTORS WON'T BE ABLE TO MEET DBE CONTRACT GOALS, DUE TO A LACK OF DBE AVAILABILITY. HOW WILL WSDOT ADDRESS THAT?

A: The goal setting process for individual contracts will account for the availability of underutilized DBEs, in this case minority female- and male-owned DBEs, for relevant work areas associated with the project. Any DBE contract goal that WSDOT sets will reflect the effects of a potential waiver for Caucasian women-owned DBEs and the availability of underutilized DBEs that can perform the type of work required for the contract. In addition, WSDOT's DBE contract goals allow for flexibility. If prime contractors are unable to meet the goal through subcontractor commitments with DBEs, then they can submit good faith efforts indicating that they attempted to subcontract with DBEs.

Q: PRIME CONTRACTORS HAVE SPENT A LOT OF TIME AND EFFORT BUILDING RELATIONSHIPS WITH WOMEN-OWNED DBE SUBCONTRACTORS. DOES THIS MEAN THEY CAN'T USE THOSE SUBCONTRACTORS NOW?

A: WSDOT encourages prime contractors to continue using Caucasian women-owned DBEs as subcontractors. The purpose of the DBE Program is for prime contractors to build relationships with DBEs and to use them, even on contracts that do not include DBE contract goals. However, in order to meet DBE contract goals, prime contractors will also have to build relationships with new DBEs as well and use them as subcontractors, or submit adequate good faith efforts to do so.

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