

COMPLIANCE & DAILY WORK REPORT TRAINING

Disadvantaged Business Enterprise Program



June 2013



Presentation Overview

Objective

- DBE Program & Statewide Goals
- Myth Busters
- Contract Regulation Overview
- Equal Opportunity Compliance System (EOC)



Disadvantaged Business Enterprise

Program Objective

- Intended to remedy past and current discrimination against disadvantaged businesses
- To assist the development of firms that can compete successfully in the market place outside the DBE program
- Ensure a level playing field and foster equal opportunity and non-discrimination in DOT-assisted contracts

~The Florida Department of Transportation (FDOT) operates a race- and gender neutral DBE program



DBE Goals & Participation

The Florida Department of Transportation has an overall State Wide 8.6% race-neutral DBE goal.

Every Construction & Maintenance Contract is assigned a DBE Availability Goal; that may differ from the overall goal.



DBE Availability Goals

Reasons:

- Limited identified subcontracting opportunities
- Minimal contract days
- Small contract dollar amount

DBE availability goal is not a fixed contract requirement. It is a guide to inform the contractor of the work that could reasonably be contracted to a DBE.



Differences In The MBE/DBE Programs

The DBE program applies only to the FDOT, and is limited to highway and bridge construction, maintenance, and consultants involved in planning, design, right of way and construction inspection, and other federally funded contracts.



<https://www3.dot.state.fl.us/EqualOpportunityOffice/biznet/mainmenu.asp>



Myth Buster – DBE Program

Can a Prime Contractor be held in non-compliance for not meeting the DBE availability goal?

A red marker is shown writing the word "NO!" in red on a white surface. The marker is positioned to the right of the text, with its tip pointing towards the end of the word. The background is a light blue gradient.

NO!



Myth Buster – Why ?



~ *Governing Regulation 49 CFR Part 26* ~

26.47 - Can recipients be penalized for failing to meet overall goals

You cannot be penalized, or treated by the Department as being in non compliance with this rule, because your DBE participation falls short of your overall goal, unless you have failed to administer your program in good faith.



Myth Buster – DBE Program

If the Prime Contractor refuses to implement the DBE program, can the contractor be penalized?



YES



Myth Buster – Why ?



~ Governing Regulation 49 CFR Part 26 ~

26.13 – What assurances must recipients and contractors make?

Each contract you sign with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance: Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.



Myth Buster – DBE Program

Must a Prime Contractor submit their DBE commitment to The Department?



YES



Myth Buster – Why ?



FDOT Office of Construction CPPR Guidelines -
Section 9 - DBE Utilization

All contractor's are required to submit their DBE Commitment in the EOC system prior to the Preconstruction Conference (new spec going into effect on July 1)

The contractor will receive four (4) bonus points for achieving or exceeding the DBE availability percentage shown in the bid proposal.



EOC – Equal Opportunity Compliance System

The DBE commitment (formerly the Anticipation DBE participation statement) is used by contractors to report to the Department the names of DBE's, type(s) of work or specialty code(s), and the intended dollar awarded to DBE's as a subcontractor on a specific contract.



This information is the primary tracking mechanism used to measure the progress in achieving the Department's annual DBE goal.



Contractual Regulations Overview

- Federal Register - 49 CFR Part 26
 - Final rule revising the regulations for the Department of Transportation's disadvantaged enterprise (DBE) program
- Florida Administrative Code – Chapter 14-78
 - Special provisions for DBE contracts
- FDOT Standards & Specification
 - State level governing laws for all DOT-assisted contracts
- Contractors DBE Affirmative Action Plan
 - Approved, signed and dated policy statement of commitment to the DBE program. It also outlines the responsibilities for its implementation.



Contractors DBE Efforts

To achieve a DBE goal or other requirement of this part, which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.





Contractors Feedback

- This program is voluntary!!
- The DBE firms don't submit proposals/bids so I don't have to use them.
- I sent an email to a DBE firm, I'm done!
- DBE firms cost are too high
- I only use the lowest bidder
- No DBE firms in the work type I have available



Equal Opportunity Compliance

In order for the Prime Contractor to receive the credit for the DBE Participation listed submitted into the EOC, payments to DBEs are required to be entered into the FDOT Equal Opportunity Compliance System on a monthly basis, by the
Prime Contractor



DBE Supportive Services

State DBE Supportive Services Team :

- Blackmon Roberts Group (BRG)
- Southern Florida Minority Supplier Development Council (The Council)
- Construction Estimating Institute (CEI)

“Promoting Partnerships for a Higher Level of DBE Success”

Questions ??

