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Annual DBE Goal for FFY 2013-2015

Maine Department of Transportation

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Introduction

MaineDOT's Annual DBE Goal for FFY 2013-2015

Pursuant to 49 CFR 26 Maine DOT has analyzed data and has determined that the overall annual Disadvantaged Business Enterprise (DBE) attainment on Federal Highway Administration (FHWA) funded projects is 4.0%.

MaineDOT Defined Market Area:

MaineDOT defines the region of the State of Maine as its market area. MaineDOT has analyzed the in-state to out-of-state ratio of contractors awarded MaineDOT contracts as well as the ratio of subcontractors for the FFY 2010 and 2011 to gauge its market area and has found that a substantial majority of prime contracts (92%) were let to in-state contractors and a substantial number of subcontract (80%) were let to in-state firms, as shown in the graph below. MaineDOT has also found that 96 % of all contract dollars have gone to in-state contractors. (APPENDIX A)

Data Description	Total Program Awards	Amount Represented by Maine Firms	Maine Market Portion (%)
Geographic distribution of Contract \$	436,690,761.89	419,145,950.61	96%
Geographic Distribution of Participating Prime Contractor awards	266	244	92%
Geographic Distribution of all Participating subcontractors	1365	1096	80%

Goal Methodology

Step 1 - MDOT Base Goal Setting

Census Data

Pursuant to 49CFR 26.45, MaineDOT has used the following methodology to determine the **baseline figure** for its 2013-2015 DBE goal. Maine DOT has used most recent (2009) US Census data available and the MaineDOT DBE Directory to determine the percentage of ready, willing and able DBEs in the Maine market area.

Using the 2009 Census Bureau's County Business Pattern (CBP) database and DBE directory information for firms in the defined market area, MaineDOT has carefully reviewed the area of work performed by DBEs and using those NAICS codes, created an analysis of firms in those codes in comparison to the Maine DBE directory.

The Civil Rights Office also did an extensive search of potential and real DBE businesses on the Maine Women's Business Center at CEI website:

<http://www.wbcmaine.org/OnlineDirectory> Although there were 19 businesses listed as women owned "construction and remodeling" businesses the majority of these businesses would not qualify as DBEs able and ready to work on federally funded construction projects. There were some consultant related businesses that could and do bid on contracts, some in the marketing, consulting and public relations, design and landscaping. Maine also researched lists of minority owned businesses in Maine and found none listed. We did access the SBE 8(a) certification list and found businesses on that list that were minority owned and were also construction and transportation related. We included these businesses in our census search.

MaineDOT has a total of 113 DBE firms determined to be ready willing and able to work on FHWA funded projects in the defined market area. This number includes both construction and consultant firms. We also targeted 43 potential firms from the above mentioned sources. The NAICS codes for those firms yield a total of 5749 firms. By dividing 156 by 5749 we find that DBE firms makes up 2.71% of these firms.

MaineDOT Baseline goal is 2.71%.

Maine 2009 County Business Patterns - US Census

2012 - NAICS Code	Description (Consultant)	DBE	Potential	Census
531320	Appraiser	5		103
541310	Architecture Services	1	1	119
541320	Landscape Architecture	3		26
541330	Engineering Services	28		304
541340	Drafting Services	2		25
541360	Land Surveying, boundaries, site plans	2		3
541400	Professional, Scientific and Technical Services	2		101
541512	Mgmt and Information Technology Consulting	9	7	142
541600	Environmental & Geotechnical Consulting	5		512
541611	Administrative Management/General Management	6		218
541613	Marketing Consulting Services	3		81
541618	Engineering, Construction & Educational Services	2		21
541620	Environmental Consulting Services	4		64
541800	Advertising and Public Relations	3	25	153

2012 NAICS Code	(Construction) Description			
236200	Building Construction	3	7	148
237310	Highway/Street/Bridge Construction	1		99
237990	Heavy & Civil Engineering Construction	1		42
238140	Masonry Contractor/Stonework	1		154
238900	Specialty Trades Contractors	2		697
238910	Site Preparation	1		523
238990	Paving/Driveway/Parking Lots/Guardrail	1		174
332000	Welding	2		251
423300	Insulation Material Wholesaler	5		74
423840	Industrial Supplies Merchant Wholesaler	5		29
483000	Water Transportation/Tug	1		15
484200	Dump Truck Hauling, Heavy Hauling	6		417
488490	Flagging Services for traffic control	1		19
488999	General Construction, Construction Mgmt	1		6
561320	Temporary Help Services	1		97
561600	Security Guard and Patrol	1		73
561720	Janitorial Services/Site Cleaning	1		306
561730	Landscaping	1	3	607
561900	Flagger/Traffic Control Services	3		146
		113	43	5749

2.71

Baseline goal

$$(156/5749) \times 100 = 2.71\%$$

Bidders List

In accordance with requirements of the 49 CFR Part 26, Maine DOR e-mailed all Prime Contractors asking them to identify DBE and non-DBE firms that submitted quotes as subcontractors from April 1, 2011- April 1, 2012. MaineDOT opts not to use this information because it does not reflect the real availability of our DBE contractors. The DBE attainment if taken solely on the Bidders list would be above 13%, a percentage that the State has never attained.

Our short construction season creates a situation where all the work for the year must get done in the same 5 month time frame. This limits the capacity of smaller firms. Specialty work, like striping, guardrail and landscaping often happen at the end of the season and must be done in a limited time for projects statewide. Some of our smaller firms are in high demand and refuse offers but do not choose to grow their organizations, which is their prerogative. Expanding a small business is often a great challenge to owners, who do not wish to take on the added employee responsibility. Geography is also an issue, as smaller companies may find it difficult to mobilize a long distance, but may bid on a project just to ensure that they are considered.

The difficulty in quantifying these concerns makes the Bidders List a poor measure of DBE attainment for MaineDOT. For these reasons we choose not to use the Bidders List.

Step 2 - Impact to Goal:

Past Participation

Maine is in a unique situation as it relates to its DBE goal. In June 2010 the FHWA ARRA National Review Team (NRT) reviewed MaineDOT's DBE program. The NRT review found many updates were needed in our processes and in the following year MaineDOT worked hard at developing new procedures and implementing a truly race neutral program in compliance with 49 CFR 26. In June 2011 the NRT team returned to Maine and found that our processes were in compliance and that our tracking system and contracting processes were in compliance. According to FHWA's *Tips for Goal-Setting in the DBE Program*, we may use one year's worth of past participation to adjust the goal. Based on the adjustments to our program FFY 11 is the first year that the MaineDOT feels it is in full compliance with the program as it relates to awards and tracking, we are comfortable using that year only for our past participation adjustment.

In FFY 2011, Maine's annual DBE attainment was **5.18% which we have rounded to 5.2**. Using the baseline goal and FFY 2011 attainment we calculate past participation adjustment to the baseline goal to be 3.95%

$$(5.2 + 2.7)/2 = 3.95\%$$

MaineDOT has rounded this goal up to **4%**

Disparity Studies

MaineDOT has contacted major airports and Municipal Planning Organizations in the defined market area and found no disparity studies have been done.

Race and Gender-Neutral and Conscious Measures

The Department's DBE Program goal of **4 %** for FFYs 2013-2015 will be achieved entirely through race and gender-neutral means. Contract goals will not be necessary for additional attainment. If we determine that we will not achieve the goal, we will take measures to do so, which may include targeted project goals.

Use of Supportive Services Program in race neutral efforts.

In order for the MaineDOT to meet its goal through race neutral means, it has implemented a strong Disadvantaged Business Enterprise Supportive Services (DBE SS) Program in accordance with 23 CFR 230.204. The program successfully assists minority, women and disadvantaged owned firms to build strong businesses able to successfully

compete when bidding for federally funded transportation projects and consulting contracts, thus increasing equal opportunity, competition and diversity in Maine's bridge and highway construction industry.

The following services are offered through MaineDOT's supportive services program with specific programs targeted for instruction. Tuition reimbursement for successfully completed classes taken by small business owners to grow and/or improve their business in the Federal-aid bridge and highway construction industry will also be allowed. This program:

- Provides technical and resource assistance with financial and business planning including accounting, invoicing and auditing practices, business planning, marketing/networking, and setting and achieving goals. Assistance with bonding, financial assistance, lease agreements, taxes, fringe benefits, and payroll. Assure capability to comply with all FHWA requirements and paperwork regarding personnel, EEO, Title VI, DBE, AA, training and Davis Bacon and related Acts.
- Provides Technical and general assistance with awareness, process, estimating, and submitting quotes for MaineDOT federal aid contracts. Survey and report the bid items DBEs are capable of completing and share this information on the web and with Prime contractors. Offer guidance to DBEs regarding MaineDOT project plans and website to keep up to date with contract opportunities in their business areas.
- Development of lists of DBEs and non-DBEs willing to participate in a mentoring program. Development of goals for mentoring and specific topics to cover. Assignment of willing prime contractors/consultants to formally mentor willing DBE contractors/consultants. Monitoring of the effort. Facilitate meetings as necessary.
- Provides technical support for computer systems, particularly CADD translation to Micro-station to be compatible with MaineDOT files and electronic bidding assistance (using the web and using BIDEX). Also, hardware/software technical support and webpage development as related to bridge and highway construction.
- Provides technical support and education regarding partnering with other consultants/contractors/agencies and how to create and deliver products or services under a joint venture. Small businesses participating will have new tools to improve or expand their business capabilities.
- Provides technical assistance and education regarding reading, writing and understanding construction contracts and subcontracts. Legal assistance in ensuring contracts and subcontracts protect the interest of the DBE, include all phases of the work, and contain all needed language for compliance when working on a FHWA funded projects.

- Widely distributes an information guide and brochure regarding the DBE program. Update, print, and distribute new materials as needed. Continue to educate contractors and consultants, as well as MaineDOT personnel, about the purpose of the program and their obligations under Federally Funded contracts. Continue opportunities to present workshops, briefings and training sessions statewide. Educate the SBA's Small Business Development counselors and other entities about the DBE program.
- Holds Networking/Conference in conjunction with the Maine SBA Office and other partners. Matchmaking session between DBEs and prime consultants and contractors. Networking time for DBEs to meet with civil rights staff and each other, and other activities to promote DBE growth and quality. Educational seminars.

The MaineDOT DBE SS consultant uses a variety of methods to assess a firm's current qualifications. These include, but are not limited to:

- One-on-one business review at the DBE's home office
- Feedback from primes and from MaineDOT requesting assistance for a firm
- Requests from the DBEs themselves for assistance

The MaineDOT DBE SS consultant uses industry business standards and MaineDOT prequalification standards, as well as feedback from the primes and others to determine what each DBE should have for comparable skills and qualifications. This is done on a case by case basis as each company delivers a unique set of products and services.

Public Participation

Maine DOT works closely with Eastern Maine Development Corporation (EMDC), which contracts with us to implement our DBE Supportive Service Program and the work to counsel women and minority owned businesses on the DBE program. The DBE goal methodology was shared with them and they in turn sent it to all Maine DBE firms. EMDC is a Small Business Development Center and is also a small business lender.

MaineDOT consults on a regular basis with Women Unlimited, Inc. a non-profit agency that recruits, educates and provides assistance to women and minorities seeking employment in construction trades.

MaineDOT meets with AGC and Maine Asphalt Paving Association and Associate Building Contractors of Maine. MaineDOT Civil Rights Office (CRO) provided training to members of ABC in October 2011 and CRO was on the December 2011 AGC agenda and spoke specifically to DBE issues and also is in conversation with AGC staff on questions pertaining to Civil Rights issues.

Public Notice of Goal

On June 8, 9 and 10, 2012 a public notice will be printed in The Kennebec Journal, the State's newspaper of record for legal advertisements. It will also be printed in the Portland Press Herald, the newspaper serving the largest population in Maine as well as the Bangor Daily News which serves the northern and eastern area of the State.

On June 8, 2012 a link to the methodology will be placed on MaineDOT's Contractor Information webpage as a "Notice" which remained active for the entire comment period.

Several interested stakeholders were notified directly by e-mail of the goal publication, including all Maine certified DBEs, Associated General Contractors of Maine, Maine Asphalt Paving Association, Maine Better Transportation Association and American Council of Engineering Companies of Maine. Public comment will be accepted for 45 days following the last date of publication.

Included in the public notices was an invitation to participate in a public meeting which will be held on June 28, 2012 at 9 A.M. and a call in number was included in the printed public notice.

Public Comment

Industry