

## DB Section 141.55 - Diversity

**(a) Scope** - The diversity of the OTIA III State Bridge Delivery Program is one measured by which the users and observers will judge the success of the program. It is the policy of Agency that OTIA III projects will be planned and constructed with the highest regard for diversity. Agency has set DBE and MWESB Aspirational Diversity Targets, and has put forward diversity-related activities to achieve those targets and recommended responsibilities for implementing those activities. The target percentages are identified in the **DB Special Provisions**, SP 141.55(a).

Design-Builder is directed to respond to the federal contract requirements defined in the **DB General Provisions** identified in the second bullet of subsection (e), Submittals, of this Section, and also to respond with the required forms.

**(b) Crediting DBE and MWESB Participation** - A firm certified with multiple Oregon certifications, i.e., with more than one of the following certifications, DBE, MBE, WBE or ESB, shall be credited only once for contract participation towards a target or goal. The order of credit is established in the following manner: DBE, MBE, WBE, ESB.

**(c) Standards and References** - See **DB Special Provisions** for Standards or references, if any, that apply to this Section.

### **(d) Requirements**

**(1) Diversity Best Practices Baseline Program – DBE and MWESB** - Below are suggested best practices, which assist in meeting Agency policy of creating a level playing field, and maximizing opportunities towards utilization of DBE and MWESB firms at all levels. Design-Builder may perform the following actions in order to maximize the likelihood of being able to meet the DBE and MWESB Aspirational Targets for this Project specified in the **DB Special Provisions**, SP141.55(a).

**a. List of Certified DBE's and MWESB's** - Obtain a list of certified DBE and MWESB firms from Agency's DBE and MWESB Directory or the State certification list by categories consistent with anticipated subcontracting opportunities.

Proposers may contact OMWESB at (503) 947-7976 or at website:

<http://www.cbs.state.or.us/external/omwesb/index.html>

**b. DBE and MWESB Representative** - Designate a qualified individual (DBE and MWESB Representative) to manage all DBE and MWESB matters. Design-Builder's DBE and MWESB Representative shall have detailed knowledge of construction scopes of Work and of the availability of DBE and MWESBs' to perform those functions. The DBE and MWESB Representative's responsibilities as they relate to the Plan are as follows:

DB 141.55(d)(1)b.1.

1. Developing and maintaining bidder lists of DBE and MWESBs from all possible sources
  2. Ensuring that procurement packages are structured to permit DBE and MWESBs to participate to the maximum extent possible
  3. Assuring inclusion of DBE and MWESBs in solicitations for products or services that they are capable of providing
  4. Reviewing solicitations to remove statements, clauses, etc., which may tend to restrict or prohibit DBE and MWESB participation
  5. Reviewing the bid documents reasons for not selecting bids submitted by DBE and MWESBs
  6. Ensuring the establishment and maintenance of records of solicitations and subcontract award activity
  7. Attending or arranging for attendance of company Project Managers at Business Opportunity Workshops, Minority Organizations/ Chambers, Trade Fairs, etc.
  8. Monitoring attainment of proposed targets
  9. Preparing and submitting periodic subcontracting reports required, including the gathering and assembling of all reports from large business Subcontractors (regardless of tier) and submission of those reports to Agency PM
  10. Coordinating the conduct of Design-Builder's activities involving its DBE and MWESB subcontracting and workforce OJT / Apprenticeship plan development and implementation
- c. New Firms** - Designate 40% of Work subcontracted to DBE and MWESBs by dollars to new firms. A new firm is one Design-Builder has not contracted with within the last 3 years.
- d. Advertisement** - Advertise at least 30 Calendar Days in advance of the bid/proposal due date in local and minority-owned newspapers with regard to all subcontracting and potential DBE and MWESB opportunities.
- e. Solicit Interest** - Solicit the interest of certified DBE and MWESBs for two (2) consecutive weeks to allow DBE and MWESBs to respond to the solicitation. Design-Builder should solicit through all reasonable and available means, including mailing and faxing information on subcontracting opportunities to all or some firms on the State-certified list and to all other interested DBE and MWESBs, advertising in local minority-owned newspapers and attendance at pre-proposal meetings. Design-Builder should use CS<sup>3</sup> concepts to solicit DBE and MWESBs.

**f. Provide Project Information** - Provide interested DBE and MWESBs with adequate information about the Plans, Specifications, and other Contract requirements in a timely manner to assist them in responding to a solicitation.

**g. Document Solicitations** - Document in writing DBE and MWESB solicitations. List all DBE and MWESBs solicited.

**h. Establish Contract Packages** - Break out Contract items into economically-feasible units and, where possible, identify rotation opportunities so that DBE and MWESB participation is maximized. Design-Builder is encouraged to utilize small contract packages as necessary to maximize DBE and MWESB participation as described below.

**i. Subcontracting Allocations** - Make efforts to allocate these and other subcontracting opportunities to a broad range of qualified DBE and MWESB firms to maximize the number of contracts in the following ranges:

- \$10k - \$50k
- \$50k - \$100k
- \$100k - \$250k
- \$250k - \$500k
- \$500k - \$1million

**j. Negotiation** - Negotiate in good faith with interested DBE and MWESBs. As part of the documentation to demonstrate that good faith efforts have been made, include the names, addresses, and telephone numbers of the DBE AND MWESBs that were contacted.

**k. Unqualified DBE and MWESB's** - Not reject any DBE and MWESB as unqualified without a thorough investigation of its capabilities. Work with a technical assistance provider to determine the qualifications of any potentially unqualified DBE and MWESB.

**l. Make efforts to assist interested DBE and MWESB'S** in obtaining insurance, and/or software as required by Design-Builder. Make efforts to assist interested DBE and MWESBs in obtaining the necessary Equipment, supplies, or related assistance or services needed for a competitive bid/proposal.

**m. Bids / Proposals** - Follow up with all competitive bids/proposals from DBE and MWESB firms to clarify any questions that may arise. If DBE and MWESB proposals are not utilized, document in writing the reasons for this decision.

**n. Make Use of Services Available** - Use the services of available minority/women community organizations; minority/women Design-Builders' groups; local, State, and federal minority/women business assistance offices; Agency DBE and MWESB Directory; and other organizations and resources to provide assistance in the recruitment and placement of DBE and MWESBs.

**(2) On-The-Job Training / Apprenticeship Policy Statement** - Take all necessary and reasonable steps to ensure that apprentices/trainees have the opportunity to work

and train on federal and state-funded Highway construction projects and to develop as journey-level workers through a State of Oregon registered apprenticeship program in the type of trade employed.

**(3) Equal Employment Opportunity** – Agency established aspirational workforce diversity targets to ensure the viability of Agency’s comprehensive transportation solution and the diversification of the heavy Highway construction labor force. Because the Project involves federal funding, Agency’s Aspirational Targets do not apply. However, Agency desires to encourage the highest possible participation of minority and women to achieve the Aspirational Targets stated below.

Agency has established the following statewide Aspirational Targets:

Covered Areas	
Area	Aspiration
ODOT Region 1	Women 14% - Minority 20%
ODOT Region 2,3,4,5	Women 14% - Minority 14%

Design-Builder is encouraged to make systematic and direct recruitment efforts through public and private sources, which are likely to yield minorities or females available for apprenticeship and training.

**(4) Workforce Diversity Actions** - Design-Builder shall respond to the OJT/Apprenticeship goals for construction set forth in the federal requirements in **DB General Provisions**, Subsection 171.60 and shall respond with the required forms.

To achieve the Aspirational Diversity Targets, Design-Builder may use the following:

**a. Developing relationships with recruitment resources** - Possible recruitment sources: high schools, trade schools, junior colleges, and colleges with high minority enrollment; community-based programs; union halls. A list of resource centers is on located at: <http://www.odot.state.or.us/civilrightspub/onthejobtraining.html>

Establish a schedule for identifying, contacting, and setting up relationships with appropriate recruitment sources. Recruit broadly and consistently for all job openings.

Contact local ODOT Regional Workforce Alliance to access Qualified Pool list of diverse employees. The Qualified Pool is operated to be race and gender natural.

**b. For union employers** - Call unions prior to starting large jobs to discuss company needs for both a diverse workforce and, if applicable, apprentices. Stay in constant contact with union halls to ensure availability of minority and female workers.

**c. Developing relationships with the community** - Initiate community relations and community involvement activities to promote your firm's image as an employer in minority communities.

**d. Defining jobs** - Develop a program to ensure that job descriptions are current, that they accurately reflect the job as it is performed, and that they meet the requirements if applicable.

**(5) Recruiting Diversity**

**a. Outreach** - Recruit from the minority community: post notices in minority community gathering places and at college campuses located in minority communities; recruit on Indian reservations and in minority communities in other parts of the State.

Develop a standard fax form that can be sent to minority and women's organizations as well as unions and other sources, when your firm is seeking applicants. Such a form will simplify your efforts and underscore your commitment to a diverse workforce.

**b. Design** – make contacts with Oregon community and 4-year colleges minority organizations for internships.

**c. Advertising** - Advertise job opportunities in the minority press and in women's publications: targeted advertising, particularly with a strong EEO message, is one effective method for attracting women and minorities.

**d. Applications** - Set up an applicant tracking system to trace the progress of an applicant through the selection process. This may help you identify particular components of your firm's selection process that have an adverse impact on minority, women, and disadvantaged applicants.

**e. Internal resources** - Encourage employees from underutilized groups to refer potential job applicants: conduct a workshop with these employees, enlist their assistance as recruiters, and ask them to provide additional ideas for increasing your firm's employment of underutilized groups.

**f. Interviewing/Hiring** - Ensure that accurate, job-related job descriptions are available to those conducting interviews.

**g Internal training** - Make reasonable attempts to keep OJT or apprentices working, and train them in all work processes described in your standards or apprenticeship standards.

**h. Documentation** - Document all diversity actions taken and have documentation readily available for review.

**(6) Design and Construction Monthly Reporting** - Design-Builder shall identify a Diversity Representative, who shall also serve as the DBE liaison with Agency Diversity Manager, with coordination, implementation, and reporting responsibilities regarding the Subcontracting Management Plan and specifications. The representative shall have authority to act on behalf of Design-Builder and subcontractors and take corrective action if needed.

**(7) Workforce Monitoring and Compliance** - Design-Builder shall identify a Diversity Representative, who shall also serve as the EEO liaison with Agency Diversity Manager, with coordination, implementation, and reporting responsibilities regarding the Subcontracting Management Plan and specifications. The representative shall have authority to act on behalf of Design-Builder and Subcontractors and take corrective action if needed. Agency will monitor Design-Builder's compliance with this Section regarding:

- Employment of apprentices/trainees
- Hours worked by all employees
- Maintenance of the Project Records and submission of required reports
- Prevailing Wage Rate Payroll/Certified Statements (weekly)
- Actual training provided, for consistency with approved training program(s)

Agency will also hold monthly meetings to review subcontracting and workforce reports for compliance.

If Subcontractors participate in the OJT/Apprenticeship Program, Design-Builder shall be responsible for the subcontractor's compliance with the requirements of this Section.

**(e) Submittals** - Design-Builder shall submit to Agency PM the following, and shall meet with Agency PM as required:

- All weekly Prevailing Wage Rate Payroll/Certified Statement Forms
- A Draft Diversity Plan within 30 Calendar Days of NTP and a Final Diversity Plan within 75 Calendar Days of NTP. The Diversity Plan shall address both Workforce Diversity and Subcontracting. The Diversity Plan shall include, at a minimum, the federal contract requirements defined in the following **DB General Provisions**:
  - **DB General Provision**, Subsection 171.20 - Disadvantaged Business Enterprise Program Provisions
  - **DB General Provision**, Subsection 171.10 - On-Site Workforce Affirmative Action Requirements for Women and Minorities
  - **DB General Provision**, Subsection 171.40 - Equal Employment Opportunity
  - **DB General Provision**, Subsection 171.60 - Federal On-the-Job/Apprenticeship Training)
- Design-Builder's designated DBE and EEO representative shall meet monthly with Agency PM to review diversity submittals, including prevailing wage rate payrolls/certified statement, DBE, MWESB, MEAUR, OJT/Apprenticeship and take corrective action if needed
- Design-Builder shall submit monthly report 4B and others specified in **DB General Provisions**, Section 171
- Design-Builder Design Mobilization Meeting (See **DB General Provisions**, Section 155 and Subsection 180.42)
- Reporting - Design-Builder shall deliver the following information at the Design Mobilization Meeting:
  - The name of the DBE liaison officer who will administer Design-Builder's DBE program

- Design-Builder's Baseline Progress Schedule showing the subcontract commencement date and estimated completion date for each DBE Subcontractor
- DBE Work Plan Proposal Form for all DBE Subcontractors and Sub-Subcontract Work Plan Proposal Form (shall be submitted in concert with the DBE submittals)

Design-Builder shall submit all monthly Project Records in hard copy. If directed by Agency PM, Design-Builder shall also submit Project Records electronically in the format requested by Agency PM.

All Reports shall be submitted to Agency PM no later than the fifth (5<sup>th</sup>) Business Day of each month.

