



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

Ohio Division Office  
200 North High Street  
Columbus, Ohio 43215

October 2, 2008

Mr. James Beasley, P.E., P.S., Director  
Ohio Department of Transportation  
1980 West Broad Street  
Columbus, OH 43223

**RECEIVED**

In Reply Refer To:  
HDA-OH

OCT 06 2008

**OFFICE OF CONTRACTS  
DBE SERVICES**

Dear Mr. Beasley:

In accordance with the provisions of 49 CFR §26.45, we have reviewed the overall goal submitted by the Ohio Department of Transportation (ODOT) in connection with your Fiscal Year 2008 Disadvantaged Business Enterprise (DBE) program. For the federal-aid highway program in 2009, ODOT submitted an overall goal of 7.7% (1.7% of which it projects to meet through race-neutral means and 6% through race-conscious means). Our review considered the overall goal as well as the description of the data and methodology used in arriving at your overall goal. It included (1). the base figure calculation and evidence supporting the calculation; (2). adjustments, if any, made to the base figure and the evidence supporting these adjustments; (3). a summary of the relevant evidence in your jurisdiction; (4). the projection of the portion of your overall goal that you will meet through race-neutral as opposed to race-conscious means; (5). the basis for your projections; (6). and the evidence of public participation in establishing your overall goal.

After reviewing this information, we have determined that the goal-setting methodology you have employed is consistent with the requirements of 49 CFR § 26.45 and that you have followed the requirements for public participation in establishing your overall goal as set forth in 49 CFR § 26.45(g). Furthermore, we have also approved your projection of the portions of your overall goal that you expect to meet through race neutral and race conscious means. That projection is subject to modification during the fiscal year in accordance with 49 CFR 26.51. The basis for our conclusions is set forth more fully in the attached document.

As you are aware, the State must still submit a separate overall DBE goal for programs funded by the Federal Transit Administration and the Federal Aviation Administration, based upon the goal-setting approach outlined in the State's DBE program. The State should contact its regional FTA and FAA offices for further guidance and assistance on these matters.

**MOVING THE  
AMERICAN  
ECONOMY**

If you have any questions or comments, please contact Ms. Cheryl Cattledge, Civil Rights Program Manager, at 614-280-6890 or by email at [cheryl.cattledge@fhwa.dot.gov](mailto:cheryl.cattledge@fhwa.dot.gov) .

Sincerely,



For:

Dennis A. Decker  
Division Administrator

e-cc:

Thomas Smith (FHWA WV-Division)

Bernetta Collins (FHWA Lakewood, CO Civil Rights)

File: 14 A-3

## **Explanation For Approval Of Ohio Disadvantaged Business Enterprise (DBE) Program Goal Setting Process For Fiscal Year (FY) 2009**

This document sets forth the reasons for approving Ohio's DBE goal methodology and the portion of the goal to be attained by race-neutral and gender-neutral means for FY 2009.

**Overall Goal:** The regulations require recipients to set overall goals based on demonstrative evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing and able to participate in DOT-assisted contracts.

The State must begin the process by determining the base figure for the relative availability of DBEs. As required by the DBE regulations, the Ohio Department of Transportation (ODOT) used a two-step process to determine its overall DBE participation goal.

**Step One:** In step one, ODOT determined the base figure for their goal. To do this they calculated the relative availability of DBEs for the types of work: heavy construction, trucking, materials suppliers, engineering services, and other professional services (see tables 1 and 2). They then weighted the availability figures by the respective contract dollars to be expended in each type of federally funded projects for both primes and subcontracts. The weighted participation is based on the relative availability and federal funds spent in the two categories of Heavy Highway Construction Pre-qualified Contractors and Professional Services Pre-qualified Engineering Consultants. The federal dollars expended in Heavy Highway Construction represents 96.7% of the funds and the Design consulting represents .9%. For this reason, it was necessary to multiply the participation of prequalified DBE contractors (8.2 %) by the percentage of federal funds expended in heavy highway construction. The same process was used in the Design Pre-qualified firms utilizing the relative availability figure of 5.5%. The participation rates of 5.5% and 0.3% were derived. The relative availability and anticipated participation of DBEs equals 8 % (7.7% in heavy highway + 0.3% in professional services).

**Step Two:** Once a base figure has been calculated, the State must examine all of the evidence available in its jurisdiction to determine if an adjustment is needed to the base figure to arrive at the overall goal. ODOT considered the following factors relevant to its contracting market including:

- Past DBE participation;
- Size of ODOT's Construction Program for FY 2009,
- ODOT's average project size;
- Project location;
- Availability of DBE firms in specific work types; and
- Estimated race-neutral and race-conscious participation.

Other factors such as disparity studies were not considered since such data was not available for ODOT's market place.

A three (3) year historical analysis of ODOT's DBE achievement based on dollar volume was examined and is summarized in Table 3. ODOT evaluated the initial step one adjustment to the base figure using median past DBE participation as suggested by federal guidance. Median past

participation was calculated using ODOT's median DBE participation percentage of 7.4% over the last 3 years.

Averaging the base figure for the relative availability obtained in step one is 8%. The median past participation is 7.4%, and step two yields a figure of 7.7 %.

ODOT demonstrated consideration for a possible 2<sup>nd</sup> adjustment. Issues of the construction program for FY 09, DBE firms analyzed work types and locations of upcoming projects. The comparative analysis of the size of ODOT's projected FY 2009 program, project size, and the location of upcoming projects indicate that ODOT's construction program will remain approximately the same as it was in FY 2008. An adjustment was made in step two after reviewing past participation.

**Public Participation:** The regulation requires that the State must provide for public participation when establishing its overall goal. Notice of the 2009 goal and methodology will be published in 26 separate publications throughout the state of Ohio. A Notice to the Industry will be sent to all pre-qualified contractors, DBE firms, and the Ohio Contractors Association. ODOT will hold a public meeting on October 15, 2009 and will accept comments for 45 days from interested parties (see appendix A). Comments can be provided on-line. In addition, Ohio has a program Ombudsman that meets with and assists DBEs with terms and conditions of the program and facilitates any issues raised on an on-going basis.

**Race- and Gender-Neutral and Conscious Measures:** The regulations require that the State must meet the maximum feasible portion of its overall goal by using race-neutral and gender-neutral means of facilitating DBE participation. ODOT has determined that it will meet the goal with approximately 1.7% participation through race-neutral means and 6% through race-conscious means. The race-neutral means used by ODOT include:

- One-on-One Consulting Services
- Educational Reimbursement Program
- Mentor Protégé Program
- Program Ombudsman
- Statewide Outreach

ODOT uses the following means to increase race-neutral DBE participation:

- One-on-One Consultant Technical Assistance Program in the areas of bonding, marketing, accounting, computerization, web site development and estimating, Tuition Reimbursement Program, conferences, and industry sponsored training classes. ODOT plans to more aggressively promote its supportive services program and training opportunities to DBE firms in an effort to obtain additional race-neutral DBE participation.

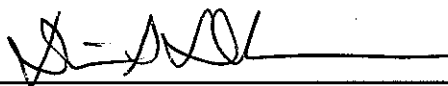
- In addition to the above, ODOT continues to sponsor a State -of- the- Art Mentor-Protégé Program. To date, fifteen firms have participated in the program.

- ODOT regularly sponsors networking and technical assistance sessions designed to facilitate and enhance working relationships among DBEs and non-DBE contracting partners.

- As part of an unprecedented DBE outreach program, ODOT has hosted pre-bid presentations designed to inform and expose potential DBE firms of opportunities offered in the ODOT bid letting process.
- ODOT prepares a quarterly hard-copy newsletter (the Advisor) designed to keep DBE firms advised of new DBE information and contracting opportunities.

**The DBE Program Plan:** ODOT's DBE Plan document is in compliance with 49 CFR Part 26.

**Determination:** For the above reasons, the Ohio Department of Transportation's goal setting methodology and race-neutral/race-conscious participation for FY 2009 is approved



\_\_\_\_\_  
Dennis A. Decker, Division Administrator

10/2/2008  
\_\_\_\_\_  
Date

Attachment: Copy of goal methodology approved

Cc: Bernetta Collins, RC