

BEFORE THE OHIO DEPARTMENT OF TRANSPORTATION

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Ohio Department of Transportation Public Meeting  
Ohio DBE Waiver Request for  
Heavy Highway Construction and Engineering

- - -

PUBLIC MEETING

held at the Ohio Department of Transportation,  
Auditorium, 1980 West Broad Street, Columbus, Ohio,  
at 10:08 a.m. on Friday, December 16, 2016.

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PRESENT:

Ohio Department of Transportation:

Lauren Purdy, Deputy Director, Division of  
Opportunity, Diversity, and Inclusion

Kimberly A. Watson, Assistant Deputy Director,  
Division of Opportunity, Diversity, and Inclusion

Terry A. Bolden, Administrator of the Office of  
Outreach, Division of Opportunity, Diversity, and  
Inclusion

Deborah M. Green, Administrator, Office of Small and  
Disadvantaged Business Enterprise

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1 Friday Morning Session,  
2 December 16, 2016.

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4 MR. BOLDEN: I guess we'll go ahead and  
5 get started. I'm going to welcome everyone to the  
6 Division of Opportunity, Diversity and Inclusion, DBE  
7 Waiver Request. Thank you, everyone, for coming out  
8 today. I know with the weather, coming from  
9 different parts of the state, I know we do a great  
10 job at ODOT to make sure that the streets and the  
11 roads are plowed, but I understand sometimes it can  
12 be challenging.

13 Again, we want to welcome you to this  
14 very important meeting. I'm sure from some of the  
15 e-mails that we received, a lot of DBEs and  
16 contractors out there have wondered what is a -- what  
17 is a waiver request and what -- what's the background  
18 behind that waiver request, and today we're hoping  
19 that we give you a little more insight. But also,  
20 most importantly, give you the opportunity to comment  
21 and have your perspective brought to this matter as  
22 well.

23 Before we do start, we do have our  
24 friends from Federal Highway here in attendance, and  
25 I would like to acknowledge Ms. Laurie Leffler, who

1 is the Division of Ohio Manager -- Administrator;  
2 Ms. Wanda Culbertson, who is also with Federal  
3 Highway; and Rachyl Smith also with HWA. We welcome  
4 them as our partners.

5 Just a little bit of overview of today's  
6 meeting. We're going to talk about why the waiver  
7 request. As you know, most of you may know that a  
8 couple years ago we conducted a Disparity Study, and  
9 out of that Disparity Study were findings that gave  
10 us some information on why we considered submitting a  
11 waiver request; what are some of the options.

12 As I've sent out some of the e-mails and  
13 some of the notifications, you saw three options, and  
14 they can be kind of confusing, but we wanted to break  
15 it down a little bit more for you, too, to  
16 understand. There's also a summary sheet when you  
17 came in that has a little bit of that information  
18 there as well.

19 And also, most importantly, your  
20 comments. That's why we're really here. It's all  
21 about understanding your perspective and having you  
22 submit those perspectives on the Public Meeting  
23 Comment Form which was submitted to Federal Highway,  
24 but also out in the front lobby, we want you to take  
25 the time to fill those out as well.

1           One of the most important things about  
2 today's meeting is that we're all either DBE  
3 businesses or prime contractors or consultants who  
4 are interested in growing businesses in Ohio, and our  
5 common interest is to have a fair and equitable  
6 environment for all businesses. But we understand,  
7 again from the Disparity Study, that there are some  
8 discrepancies along the history that we've had here  
9 in the contracting arena.

10           What we are going to do, though, in this  
11 meeting, again have a summary of why the request, as  
12 well as the -- as well as the Disparity Study that  
13 was submitted. Your comments, again, are going to be  
14 encouraged and they're welcomed and we expect that  
15 everyone is in a very open and courteous manner. We  
16 will have microphones that we'll move around, after  
17 the presentation, for Q and A.

18           This entire presentation is being  
19 captured by Armstrong and Okey, by Carolyn Burke, who  
20 is our court reporter, and we welcome her as well.

21           So just before we get started, I'd like  
22 to welcome our Deputy Director, Ms. Lauren Purdy, who  
23 will be giving the presentation; Ms. Kim Watson, who  
24 is the Assistant Deputy Director for our division;  
25 and Ms. Deborah Green, who is the Administrator for

1 the Small and Disadvantaged Business Office.

2 I didn't introduce myself, but I'm Terry  
3 Bolden. I'm the Administrator for the Office of  
4 Outreach. So if you get the e-mails, please don't  
5 ignore them; there is good information there.

6 But we will do a presentation and,  
7 afterwards, we will have Q and A.

8 I'd like to welcome Ms. Lauren Purdy, the  
9 Deputy Director of the Division.

10 DEPUTY DIRECTOR PURDY: Thanks, Terry.

11 Thanks everybody for coming out.

12 I'm just going to give a very kind of  
13 short overview about the waiver request; why; what it  
14 is; the options; and then we'll have plenty of time  
15 to answer questions from all of you. And if you  
16 don't feel comfortable standing up and asking a  
17 question, of course we encourage you, we do have a  
18 written form. And, at the end, there's also a  
19 website that has the waiver request information --  
20 can you hear me? Can you hear me now?

21 AUDIENCE MEMBER: A little better.

22 DEPUTY DIRECTOR PURDY: Okay. So I need  
23 to stand -- I'll stand a little closer to the  
24 microphone.

25 So if you don't feel comfortable standing

1 up and asking your question here, please, you can use  
2 the form that we have, the written form, to turn in.  
3 And we also have a website where you can submit your  
4 questions online. And, at the end, I'll show you the  
5 link where you can print out the waiver request and  
6 all the supporting documentation that we'll be  
7 talking about here today.

8           So, first, I just want to very briefly  
9 explain what is a waiver request. So here we're  
10 talking about the DBE, the DBE regulations, and those  
11 are governed by the Code of Federal Regulations, so  
12 by federal law. The section is 49 CFR Part 26. And  
13 the particular section that governs waiver is 26.15.

14           And basically what the code says, what  
15 the DBE-related provisions say is that if you're  
16 going to deviate in any way from what the law says,  
17 you have to request a waiver in accordance with  
18 26.15.

19           So as Terry kind of alluded to, what  
20 we're talking about here today is setting goals and  
21 subdividing goals based on race and ethnicity. That  
22 is expressly prohibited within the code. So if we  
23 want to deviate from that and subdivide our goals, we  
24 have to submit a waiver to Federal Highway that then  
25 goes up to USDOT to make a determination on whether

1 or not we can do that.

2 And so, the determination is made and  
3 we must show these four things. So this is taken  
4 from that 26.15. So we have to show that there's a  
5 reasonable basis to conclude that we can achieve DBE  
6 participation that's consistent with what the law  
7 says. The conditions in our jurisdiction are  
8 appropriate. I think that means kind of that we can  
9 do it; it's something that can be executed; where we  
10 are. No. 3 is really important for what we're going  
11 to talk about today. The proposal would prevent  
12 discrimination against individuals or groups in  
13 contracting and that it's consistent with applicable  
14 law.

15 So those are the general requirements  
16 that we have to show in our waiver request. So that  
17 was what it is.

18 Now, why are we submitting a waiver  
19 request.

20 Some of you may have attended our  
21 outreach sessions in June where we went out and  
22 talked about the DBE goal, our goal methodology, and  
23 we got into a lot of detail with the Disparity Study,  
24 so you may have already heard that. I'm not going to  
25 get into all of those details. You can ask questions

1 at the end about the Disparity Study in more detail  
2 and you can look that information up online.

3 But just very, very generally. So the  
4 Disparity Study was conducted for Ohio DOT contracts.  
5 It was completed last spring, where they looked at  
6 our utilization and our ODOT contracts based upon  
7 availability.

8 And the results are here, demonstrated  
9 and summarized by this chart, that showed we did have  
10 disparity in utilization amongst three different --  
11 I'm sorry -- yeah, amongst three different groups of  
12 contractors. So those would be the African-American,  
13 Asian-Pacific American, and Hispanic American.

14 So there's two lines. There's the dashed  
15 line and the solid line. And just very briefly to  
16 let you know what those mean. Anything less than 80  
17 is considered a substantial disparity. And then 100  
18 is considered parity.

19 So kind of what that means is for every  
20 dollar you're expected to receive, so, for instance  
21 here, Black-American has a disparity indices of 31.  
22 So they're only receiving 31 cents for every dollar  
23 they're expected to receive.

24 So if it's less than 80, that's  
25 considered substantial disparity by courts that have

1 made that determination. And the 100 is that you're  
2 getting dollar for dollar what you should be expected  
3 to receive. So there were three groups.

4 Now the top, just to explain, this is if  
5 you group everything together. So if you group all  
6 of the firms, that would include White Female, Black  
7 American, Asian-Pacific, so on and so forth,  
8 everybody together, grouped all together, it's at 79.  
9 But then when you break it out by subgroups, White  
10 Women are at 118, and so on and so forth down the  
11 line.

12 So just to summarize, like I said, the  
13 utilization analysis was performed. They looked at  
14 ODOT contracts, 2010 to 2014. You can see the number  
15 of prime and subcontracts. And an availability  
16 analysis was performed utilizing a custom census.

17 So they looked at the universe of firms  
18 that could have potentially bid on our contracts,  
19 what are those firms, that was the denominator, and  
20 the nominator was the utilization. So that's the  
21 general way they then come up with the disparity  
22 index.

23 And so that study was completed by a  
24 consultant, BBC. It was completed last May. And  
25 we -- I think it was May -- I'm sorry -- last spring.

1 And then we went out and we discussed the results.  
2 But ODOT then submitted a waiver request after  
3 receiving those results on April 15th of 2016. So  
4 that waiver request was sent out.

5 And so, the reason why is when we saw  
6 those results, we realized that there were groups  
7 that were not getting their fair share of contracts.  
8 And though the Disparity Study did not indicate that  
9 there was any purposeful discrimination going on,  
10 there were conditions in the marketplace, called  
11 "marketplace discrimination," that led to that sort  
12 of unfairness in contracting opportunities.

13 So ODOT, we wanted to remedy that. We  
14 wanted to fix that. We want to make sure that  
15 everybody is given an equal opportunity to  
16 participate on our contracts. And the results showed  
17 that we had reason to take action, to take  
18 affirmative action, and so that is what we did.

19 So we wanted to implement a  
20 race-conscious goal so that we can strengthen parity.  
21 We want everybody -- that's our goal. We want  
22 everybody to be based at parity. Based on  
23 availability, they're getting utilized based on  
24 availability in the marketplace. And so, we wanted  
25 to ensure that; expand opportunities within heavy

1 highway and construction. So that's the overall why.

2 The Disparity Study showed us the proof  
3 that there was a problem and this is one of many --  
4 it's one of many -- but it is a part of the solution  
5 to that problem.

6 So now we're going to get into the  
7 options.

8 So we submitted our request on  
9 April 15th. We submitted it to our Ohio division and  
10 that was then sent to USDOT. As part of that  
11 submission we are required to have the meeting that  
12 we're having here today, to collect everybody's  
13 comments, questions, on what it was that we  
14 submitted, what your thoughts are, and then we will  
15 then resubmit our request summarizing what you all  
16 have to say today back to our Ohio division.

17 So, hopefully, many of you have looked at  
18 the waiver request letter and are familiar with it.  
19 I know we have a summary that was available at the  
20 front desk. But basically what we submitted was  
21 three options and I'm going to go through the options  
22 and then kind of summarize why we selected that way  
23 of doing things.

24 So the first option is that we would  
25 reduce credit toward DBE goals for the non-UDBE. A

1 UDBE is an Underutilized DBE. So that would be  
2 African-American, Pacific-Asian, and Hispanic. Those  
3 were the three UDBEs. So we would reduce credit for  
4 any non-UDBE that's proportionate to their  
5 overutilization. And then the UDBEs would be counted  
6 at a one-to-one ratio. So I'm going to go through an  
7 example.

8           So in Option 1, Prime Contractor A  
9 submits their DBE plan to use the following DBE firms  
10 toward the goal. We're going to assume that the  
11 overall contract amount is 1 million, because the  
12 math is easy, and the DBE goal is 10 percent, so  
13 \$100,000. So in the scenario we have DBE Firm 1 that  
14 is Subcontinent Asian-American-owned firm; they have  
15 a subcontract of \$50,000. DBE 2 is  
16 Hispanic-American; subcontract of \$25,000. And DBE  
17 Firm 3, African-American owned; subcontract of  
18 \$25,000. So that total contract amount under the old  
19 rules, under the rules we're working with right now,  
20 is that they met the \$100,000; 10 percent  
21 requirement.

22           But under this option we have to reduce  
23 credit for the Subcontinent Asian firm in proportion  
24 to their overutilization. So under Option 1, only  
25 50 percent of DBE Firm 1's subcontract can be counted

1 toward the goal because, if you remember, they're at  
2 200. So we're doing the inverse of that. So it  
3 would be one-half. Flip 200 over 1; 200 percent. So  
4 we would cut that in half. So that counts \$25,000  
5 toward the goal. And then DBE Firm 2 and 3 would  
6 count dollar for dollar.

7           So under this scenario, the Prime  
8 Contractor A would need to find additional DBEs to  
9 fulfill -- they would need to find an additional  
10 \$25,000. Either they could get a \$25,000 contract  
11 with a UDBE or they would have to get a higher value  
12 contract with a non-UDBE. So it promotes finding and  
13 using more of those underutilized firms. It doesn't  
14 exclude the ability to use the non-UDBEs, but it  
15 encourages that use.

16           Option 2 is similar. We reduce credit  
17 toward the non-UDBEs, but then we increase credit for  
18 the UDBE firms proportionate to their  
19 underutilization. So here, same Prime Contractor A,  
20 same \$1 million contract, 10 percent. So here they  
21 submitted in their plan the Subcontinent Asian-owned  
22 firm, \$50,000. And then they submitted DBE Firm 3,  
23 the African-American-owned firm, for \$25,000. So  
24 that's \$75,000. Under the current rules they would  
25 not have met the goal. But under Option 2, DBE

1 Firm 1 would count for 25,000, and DBE Firm 3 would  
2 count for 80,500. So they have exceeded the goal  
3 under this scenario. So it encourages the use of the  
4 UDBE, but we can still use our non-DBEs to make the  
5 goal. And we can talk about all the options and your  
6 thoughts on the options once I'm done. I'm sure  
7 everybody has opinions.

8 Option 3 is kind of more of, I guess,  
9 maybe the traditional how people would think of  
10 subdividing goals. So we would racially -- race,  
11 ethnicity, subdivide the goals based on geographic  
12 availability.

13 So Option 3 -- this is all obviously made  
14 up. Say a project is located in Pleasant County,  
15 Ohio. Again, we have a \$1 million contract. The  
16 goal is 10 percent. And in Pleasant County the  
17 relative availability is as follows of DBEs. So we  
18 have our different percentages of what the  
19 availability is in that county.

20 So we would then -- we could -- the goal  
21 could be set requiring a minimum of \$20,000 in  
22 subcontracts for African-American-owned firms because  
23 they're underutilized; and a minimum of \$5,000 for  
24 Hispanic-owned, also because they're underutilized;  
25 and then the remainder could be open.

1           So there's different ways you could do  
2 it. You could set it -- you could potentially set it  
3 as doing it as breaking everything up. Or the way I  
4 would see doing it is more requiring a minimum of the  
5 UDBE. I think that's probably the most -- the best  
6 way of doing it to make sure it fits within the  
7 results and is legally defensible of just requiring  
8 the minimum for those firms that were found to be  
9 underutilized. And then for the rest of the goal you  
10 can use any certified DBE.

11           So just a couple of additional points. I  
12 do want to point out and stress that none of our  
13 options exclude the usage of any certified DBE firm.  
14 It's meant to encourage the use of the underutilized  
15 firm and to get us to parity.

16           I'll point out just kind of anecdotally,  
17 other states that have requested a waiver, of course  
18 they're in a different federal district court that  
19 has different requirements that we're not subject to,  
20 but they exclude. So they would say if you're not a  
21 UDBE, you don't count toward the goal. We didn't  
22 want to do that partly because we felt that that was  
23 just going to result in sort of recidivism; that then  
24 we're going to create underutilization where there  
25 wasn't before. And the reason why is while not all

1 of the groups suffered a statistical disparity, the  
2 Disparity Study did say, it did show that all of  
3 these DBEs were impacted by marketplace  
4 discrimination.

5 So we felt that everybody still needs to  
6 be included, but we wanted to encourage and come up  
7 with a way where we can encourage the use of the  
8 underutilized DBEs, but still ensure that everybody  
9 is able to still participate in our contracting  
10 opportunities.

11 Okay. So now I'm going to sit with the  
12 panel and I think we're going to start questions.  
13 And we have two ladies, Maria and Julita that have  
14 microphones, and we'll take questions, as many as you  
15 have.

16 MR. BOLDEN: Before we do start, we ask,  
17 though, that you state your name clearly, the name of  
18 your company, and one question. Not all questions we  
19 will be able to have a full answer today, but we will  
20 have someone write every question down and we're  
21 going to post answers online here in the next week or  
22 so.

23 Also, again, the Comment Form, if you do  
24 not express your comments here on the mic, please  
25 fill out the form. As well as online, you're able to

1 click on the Comment Form that we will send out after  
2 the meeting along with the PowerPoint.

3 We also wanted to acknowledge that  
4 Mr. Iyadeh Davies, who is from Representative Reese's  
5 office, is also here for the public meeting.

6 MS. RUBIO ROURKE: Frances Rubio Rourke,  
7 OHM Advisors. I'm on the consultant side of the  
8 business. So are you going to have an additional  
9 certification for the other representative  
10 businesses, not just DBEs? So now you're going to  
11 have a UDBE? As a prime consultant, when I'm  
12 searching for companies, it will be nice to know who  
13 is certified, who is the UDBE -- UDBE, or who is just  
14 a DBE.

15 MS. GREEN: Hi. No, actually, there  
16 wouldn't be an additional certification, I guess,  
17 description. It would be more like on our directory,  
18 we actually list the ethnicity of the firm. And I --  
19 I don't know if we put female or male, but I know we  
20 definitely put the ethnicity. We don't do gender?  
21 No. Okay. So that would be what it would be based  
22 off of if one of these options were to be  
23 implemented.

24 MR. MUNNERLYN: Hello. My name is Kelly  
25 Munnerlyn. I'm from Munnerlyn Cleaning Services.

1 That is M-u-n-n-e-r-l-y-n.

2 My question is this -- and I want to see  
3 us move forward, I want to see ODOT get better, so my  
4 primary question would be this: How do you -- and  
5 Ms. Purdy you used the word "encourage" and that is  
6 discouraging for me because to encourage something is  
7 to imply that it's not required. So if you could  
8 qualify that for me, that would be great.

9 And then number two it would be for the  
10 GCs that are not going to play by the rules that is  
11 going to be implemented, what kind of remedies are  
12 going to be in place that are going to allow us to  
13 get some relief when a company like mine is being  
14 displaced, underutilized, and when we step up to the  
15 plate and say, hey, we are -- we have the capacity,  
16 we have the ability to perform this job, but still  
17 we're not being utilized, and the companies know that  
18 we are capable of doing it and still we're not being  
19 utilized, so what remedy is going to be in place to  
20 make sure that they are forced to use us or use the  
21 minorities, as you say it?

22 And I just want to qualify what I'm  
23 saying. So when a GC says they're going to use a  
24 company to meet the goal, then once they are awarded  
25 the contract, the company is not called to

1 participate in the project itself, so there's no  
2 remedy in place, because they want to use us as a  
3 means to get through the process. So hopefully I'm  
4 saying it right, and you can answer it and qualify  
5 it.

6 DEPUTY DIRECTOR PURDY: Okay. I think  
7 I'll start because I think there's three -- kind of  
8 three questions in there, so I'll start with a  
9 couple, and then I'll give one to Deborah.

10 The first question, just to make sure I  
11 have it, was you wanted me to explain further, when I  
12 said "encourage the use." And then you also asked  
13 about remedies that are available when underutilized  
14 firms are not being used. And then the last question  
15 was, I think, related to when a prime uses a DBE for  
16 its DBE utilization plan or submits that, but when  
17 they're awarded the contract they don't work with  
18 you. So that third question I'll let Deborah answer.

19 So when I said "encourage," and you  
20 mentioned the word "forced." And we're not -- we're  
21 not forcing. We are encouraging. I think by Options  
22 1 and 2, it encourages the use. We're not here to  
23 force firms to use. The prime contractors are still  
24 free to choose.

25 But we do want to encourage, through our

1 goals. But we also want to encourage, through other  
2 means, the development of these underutilized firms  
3 through a lot of efforts of Deborah and Terry with  
4 supportive services, outreach, things of that nature.

5 Sort of a more holistic approach of  
6 getting firms to the point where prime contractors  
7 want to work with them because they are ready,  
8 willing, and able.

9 So I don't -- we are encouraging. I  
10 think, you know, on which option you think is best, I  
11 would love to hear your feedback on which one you  
12 think would encourage or would help the UDBEs the  
13 most. Whether it's that true subdivided where that  
14 way it would be more of a requirement that you have  
15 to do a minimum with the UDBE, versus Options 1 and 2  
16 that are more of an encouragement.

17 But that is what we're intending to do.  
18 We're wanting to build that pool of ready, willing,  
19 and able firms from all -- from all respects, not  
20 just the goals, but elsewhere.

21 Remedies as far as when underutilized  
22 firms -- it would -- so depending on which option,  
23 again it all goes to whether or not the prime  
24 contractor is meeting their DBE goal, whether it's  
25 Option 1, 2, or 3. And the same remedies would exist

1 as they exist now if those goals aren't being met.  
2 So if you don't -- so if a prime doesn't meet their  
3 DBE goal, they have to show a good-faith effort. If  
4 there's not, then Deborah can explain what the  
5 remedies are available. I think it's outlined in our  
6 current proposal note if the goals aren't being met.  
7 So the remedies are still going to be the same.

8 But we are going to keep an eye on the  
9 UDBEs. Most likely we will probably have a follow-up  
10 with BBC or another firm to see how our contracting  
11 has changed, if it's changed, if firms are still --  
12 if the same firms are still being underutilized.  
13 That's very typical of disparity studies to have a  
14 follow-up to see where we are and how we're doing.  
15 Generally it's a requirement if we want to continue  
16 with subdivided goals.

17 But the remedies would be the same as  
18 they are. You meet the goal as we set it forth; you  
19 use the firms. If it's the true, that Option 3,  
20 you've got to meet it using that minimum level of  
21 percentage for the UDBE; and if you don't, then --  
22 then you're not meeting the goal.

23 Then -- so -- and Deborah can speak to  
24 the third point that you had.

25 MS. GREEN: Deborah Green.

1           So just really quick to lead you back on  
2 what Laura was saying about the encouraging  
3 component. I think it's really about encouraging a  
4 diverse utilization of the firms that are ready,  
5 willing, and able to do the work, with an emphasis on  
6 those that are underutilized. I think that's the --  
7 I mean, we are encouraging that. We can't force. I  
8 mean, it's up to the primes who they use, but we're  
9 -- Terry and myself and our team is working very hard  
10 to put things into play to, you know, have  
11 matchmakers. Just different things where there's an  
12 opportunity to meet the primes, different  
13 relationships can develop so they can start to learn  
14 about new firms. So I just really wanted to add  
15 that.

16           As far as what we're doing to ensure fair  
17 treatment of the DBEs as it relates to bid shopping,  
18 et cetera, things that go on out there. In Spring of  
19 2015 we implemented a new Proposal Note, an edited  
20 Proposal Note 13 is what it's called, and it's in all  
21 of our contracts, federal funds, where it requires  
22 the prime contractor to submit a utilization plan at  
23 bid time of how they're going to meet that goal. So  
24 they show the firm and how -- the money that they're  
25 going to be, you know, paying that firm and for the

1 type of work.

2 And then within five days of award that  
3 prime contractor works with the DBEs that they're  
4 going to be using to submit affirmations basically  
5 confirming, yes, I, DBE ABC Construction, am  
6 performing paving work for \$500,000, et cetera. And  
7 so, you sign off and submit it.

8 And so, any time there's a change, if  
9 there were to be a termination or a change in the  
10 dollar amount or anything, the work, for example if  
11 you guys decide it gets -- some of the work gets  
12 eliminated, et cetera, a change form -- a change  
13 form, termination form would be --

14 AUDIENCE MEMBER: Substitution form.

15 MS. GREEN: -- substitution form would  
16 have to be submitted to my office and approved. So  
17 it's not -- they can't just go out there and change  
18 out things without being approved by the Office of  
19 Small and Disadvantaged Business Enterprise.

20 In addition to that, at bid time, if, for  
21 example, there's three bidders, the lowest bidder  
22 comes in short, the second bidder meets the goal, and  
23 what I mean by "short" is it comes in short as to it  
24 meets the goal, like if they come in at 12 percent  
25 rather than 15 percent. If they don't perform

1 good-faith efforts or show that they actually really  
2 tried to meet that goal, then we would reject that  
3 bid and go to the second-lowest bidder.

4 In addition to that, throughout the life  
5 of the project, if the prime contractor -- if there's  
6 a termination or something happens and they can't  
7 meet the goal, if they don't submit adequate,  
8 sufficient good-faith efforts to my office, they will  
9 be sanctioned if it's not approved. So there's a lot  
10 of things we put into place in the last year.

11 In the industry they're adjusting and  
12 we're getting used to, you know, all these different  
13 rules. And there's variations of the sanctions that  
14 we have within the note.

15 Does that help answer your question?

16 MR. MUNNERLYN: No, but it's good for  
17 now.

18 MS. GREEN: Okay.

19 MS. KIDNER: Kim Kidner, Union  
20 Industrial. Statement and a question. I'm -- my  
21 question is posed as a prime even though I am a DBE.  
22 But as DBEs, when you're submitting your quotes to  
23 primes, make sure that you're addressing which  
24 option, if you're under- or overutilized, because  
25 when we're crunching and trying to put that bid

1 together the night before, we don't have time to keep  
2 going back and looking to see if you're an under- or  
3 overutilized and how I have to play my numbers to  
4 meet that DBE goal.

5 But my question is, how is ODOT going to  
6 manage this process? Because when you put out a bid  
7 for letting and you have work types, how are you  
8 analyzing that this Work Type 4 has -- actually has  
9 any DBEs who are certified that are underutilized  
10 versus overutilized? And particularly to Option 3,  
11 then you're going to take it a step further and have  
12 to analyze it by county? It just sounds like a  
13 nightmare on your end that you're going to have to  
14 manage to try to make this whole process work.

15 DEPUTY DIRECTOR PURDY: Thank you for  
16 your comment and question. And yes, it will be a  
17 challenge at first. I anticipate, first, we would  
18 need to hear whether -- which options are acceptable  
19 to know which direction. And if they're all  
20 acceptable, what I kind of envision was we wouldn't  
21 roll it out 100 percent all at once. We would  
22 probably start with a few pilot projects to see how  
23 it would go.

24 But yes, we would need to develop new  
25 processes internally and that would be an additional

1 process. I would anticipate we probably would have  
2 additional follow-up meetings with DBEs in the  
3 industry to kind of go through and develop that  
4 process.

5 It's not something that it's going to  
6 happen overnight, but we would probably start off  
7 slow, once we had a general process in place, to  
8 see, you know, how Option 1 worked out, Option 2,  
9 which direction we would go if all of them were  
10 approved. If only one was approved, we would still  
11 then have to work and develop that process. But I  
12 think it would be an ongoing discussion and dialogue  
13 in developing that process.

14 But you are correct that it's going to  
15 require a lot of work on our end. And because we  
16 don't yet know if any are going to be approved or  
17 which ones are, we don't yet have that developed.  
18 But we will and we anticipate involving all of our  
19 stakeholders in that process, and communicating,  
20 continuing to have an open dialogue as we would  
21 develop that.

22 MS. RIETSCHLIN: My name is Meg  
23 Rietschlin. It's R-i-e-t-s-c-h-l-i-n. Rietschlin  
24 Construction. First, I'd like to thank you for  
25 having this meeting. I have two comments/questions.

1 I know we're only allowed one. But the first one is  
2 could you elaborate on what the marketplace  
3 activities are that discriminate against all DBEs?

4 And the second one is, I didn't attend  
5 any of the outreach sessions or the public meetings  
6 for the diversity study, but I think that one of the  
7 considerations that must be made is the opportunities  
8 and the dynamics that exist in the small and rural  
9 areas are much different than the opportunities that  
10 exist in the large cities. And even though we can  
11 all get in a truck and a car and move equipment and  
12 drive, it's still not quite the same. And that's  
13 just my only comment on that.

14 DEPUTY DIRECTOR PURDY: Thank you, Meg,  
15 for your comment and question.

16 The marketplace discrimination, if you  
17 want to read in more detail, I would encourage you to  
18 go to this link and you can look, the Disparity Study  
19 has a section with a lot of detail on the marketplace  
20 discrimination.

21 But very generally what that means is  
22 that there are things that just exist nationwide,  
23 such as access to capital, to education, home  
24 ownership, that affect certain groups more than  
25 others. So certain opportunities are more readily

1 available to certain groups in the marketplace; being  
2 able to get an education, being able to purchase a  
3 home, being able to get capital to start up your  
4 business. And those marketplace considerations, they  
5 affect the DBE, the DBE demographics, more than they  
6 do those that are non-DBE.

7 So that would include anybody -- that  
8 would include Caucasian female as well as minority  
9 business owners, perhaps more so certain minority  
10 groups than Caucasian female, but everybody  
11 experiences -- everybody that's certified DBE,  
12 according to the results of the study, experience  
13 that marketplace discrimination.

14 MR. TUCK, III: Good morning, everybody.  
15 My name is George D. Tuck, T-u-c-k, III. I am with  
16 Tall View Palladium, Incorporated. I'm the CEO. And  
17 I want to thank you, number one, for having this  
18 meeting.

19 Being involved with the State of Ohio  
20 over 40 years, I've seen a lot of transformations.  
21 There are a lot of recommendations that I could help  
22 you with and I'm quite sure there's quite a few  
23 others who have been able to do the same.

24 My question is the same as some others.  
25 I'm wondering what option you're going to be using.

1 I would preferably look for Option 3.

2 And the lady just asked a question on how  
3 you would be able to accomplish that goal is that you  
4 could use the -- the agencies like in my area would  
5 be HRC that would be able to identify and tell you  
6 exactly who, what, when, and where, and how much  
7 equipment they got, because they've actually been  
8 there to do their review to see the companies, see  
9 what they have available, see what they actually can  
10 do, and have a record of some of the contracts that  
11 they've done.

12 And to answer the other lady's question  
13 about the rural areas. If there's not a lot of  
14 minorities, and from what I'm seeing in her area,  
15 then that option would be somewhat relieved to the  
16 majority companies. Because there's not a lot of --  
17 you know the word, I just can't -- but that would be  
18 relieved because there's no African-Americans or what  
19 have you in that area. So it would be kind of easier  
20 for a company to get around it.

21 But as the other gentleman expressed, my  
22 concern is enforcement. You guys have done a lot of  
23 planning, you've done a lot of exercises to try and  
24 make sure that this program is fair. The only  
25 problem I see is enforcement. The things that you're

1 doing are being overlooked. And, you know, you've  
2 put these laws in place and done this and you've done  
3 that, but nobody is checking them. So those are the  
4 questions that I have and those are the remarks that  
5 I have.

6 And I, you know, if you want to come to  
7 me or you want to go to HRC or, you know, I don't  
8 know what it is in the Columbus area, but I'm quite  
9 sure they know who their people are, so that can  
10 assist you a lot. Thank you.

11 MS. WATSON: Kim Watson.

12 Thank you, Mr. Tuck, for that  
13 information. We'll definitely be reaching out to  
14 you.

15 I just did want to make a comment on the  
16 enforcement side of things. In the past, our  
17 contractor compliance officers that are housed in the  
18 districts, they were under construction and so it was  
19 kind of what construction wanted, you know, so we --  
20 they now report up through us.

21 And Danette Shuler has done a really good  
22 job, over the past year, in providing consistent  
23 training, so that all of the contractor compliance  
24 officers in the field are consistently applying and  
25 enforcing what is expected of us.

1           So I hope that as time progresses you'll  
2 see that we are taking enforcement seriously and that  
3 you'll see improvements in that area as well.

4           MS. DENT: Good morning. My name is Lisa  
5 Dent. I'm with Glen Stephens, Inc. And I have my  
6 colleague here with me, Phyllis Stephens. I've got a  
7 couple pretty quick questions, but I did want to  
8 congratulate you guys for moving forward with  
9 following up with the results of the Disparity Study.  
10 Up in northeast Ohio we definitely have some  
11 experience with that area of discussion and movement,  
12 so I applaud you in that.

13           The first question is how -- I know that,  
14 Ms. Purdy, you had referred to Option 3 and had  
15 indicated that you looked outside of the State of  
16 Ohio to other states for some guidance on that  
17 option. The question is, how did you come to the  
18 first two options? What was the methodology,  
19 thinking, et cetera.

20           Number two is, you know, when we talk  
21 about DBEs and we talk about ready, willing, and  
22 able, and those three criteria which we've heard for  
23 the last, you know, few decades kind of thing, how do  
24 we determine, how do we know when folks are ready,  
25 willing, and able?

1           And I guess more specifically how would  
2 your office know when someone is ready, willing, and  
3 able? Is there some sort of preferred list or  
4 separate account for these types of companies?  
5 Thank you.

6           DEPUTY DIRECTOR PURDY: Thank you,  
7 Ms. Dent, for your questions. The first question you  
8 asked was with regard to the first two options; how  
9 we came up with those. It was a -- a collaborative  
10 discussion amongst individuals at ODOT and some --  
11 some of our other state partners where we wanted to  
12 come up with a creative solution to encourage -- I  
13 used that word again -- encourage the use of DBE  
14 without excluding, because it was really important  
15 that we did not want to create disparities  
16 artificially where they didn't exist before.

17           So based upon those discussions that we  
18 had, the brainstorming sessions, those options were  
19 then derived from that because we thought that was  
20 the best way. And also it ties it directly to the  
21 Disparity Study, because we also have to make sure  
22 from a legal standpoint that it's legally sound.

23           So any time you racially subdivide or you  
24 set a goal based on race, there's strict scrutiny and  
25 analysis applied to that. So you have to show that

1 your reasoning is sound. So you have to tie it to,  
2 well, there is a statistical disparity, and  
3 numerically here's what it is, and so that's why we  
4 did the ratio and the inverse of the ratio to get to  
5 that discounted.

6 So it was kind of two things we were  
7 concerned about. We wanted to encourage, but also  
8 not exclude, but we also needed to make sure that it  
9 was going to be legally sound. So that was kind of  
10 the rationale and reasoning.

11 And then, yeah, the third option is, like  
12 I said, more of a traditional. It would be different  
13 than other states because we would still allow  
14 non-UDBEs even in Option 3. It would just set a  
15 minimum threshold for the UDBE firms.

16 And then your next question was how do we  
17 know if firms are ready, willing, and able; and  
18 whether we have a preferred list.

19 So there's kind of two pieces to that.  
20 The first is as it relates to the Disparity Study and  
21 determining utilization and availability.

22 The ready, willing, and able firms were  
23 determined by BBC through that custom census. So  
24 they did outreach surveys. They looked at  
25 directories. They tried to gather the entire

1 universe of firms, whether they're DBE certified or  
2 not, that could have potentially done the work.

3 And "potentially done the work" would  
4 mean are they a business at the time the contract was  
5 entered into, do they do that kind of work, what's  
6 their capacity, their relative capacity. Those kind  
7 of things were looked at to determine then the  
8 availability as it relates to looking at disparities  
9 in contracting.

10 Then when we get though into actually  
11 bidding on ODOT contracts and when we set goals, we  
12 look at actual certified DBE firms. So Deborah can  
13 maybe expound upon that goal-setting process, but  
14 when we set our DBE goals we don't look at the same  
15 kind of list that the Disparity Study lists. That's  
16 sort of a -- that's what we want to get to; we want  
17 to get those firms certified that aren't; we want to  
18 get them ready, willing, and able. But for our ODOT  
19 goals, you've got to be certified as a DBE in order  
20 to count toward the goal, and also in certain  
21 instances you might need to be prequalified.

22 So there's going to be, you know, this is  
23 a long-term, looking-forward solution. We're not  
24 there yet. We don't -- all of those firms that were  
25 identified in the Disparity Study, they're not all

1 ready and able to bid on our ODOT contracts; they  
2 might be. That's why we have Terry and Deborah.  
3 We're going to reach out to them and get them ready.  
4 So we have to look at a smaller pool. But that's,  
5 you know, that's our goal. That's what we're looking  
6 toward in the future. That's what we want to get to.

7 And this -- these options, this waiver is  
8 a piece of that puzzle to try and get us to that  
9 point, to get those firms up and running, to build  
10 that capacity to get them to that point. So  
11 hopefully that answers your question a little bit.

12 MS. GETER: Good morning. Ann Geter.  
13 Ann Geter Consulting. Firstly, let me say I commend  
14 you for submitting a request for waiver for three  
15 options. I think that's a bold move to do that;  
16 that's not pretty common.

17 But with that being said, if, in fact,  
18 you do receive the waiver for the three options, my  
19 question is implementation as to how are you going to  
20 determine which option to use when you let your bids.

21 The other thing is, the more options you  
22 have, oftentimes that could be a possibility for more  
23 confusion and for more challenges to your program.

24 So do you have a committee, which is  
25 called a "Redetermination Committee," that will be

1 involved if a contractor does have a request to have  
2 their -- whatever you determine, if that bidder is  
3 nonresponsive, that they have an opportunity to  
4 challenge that?

5 MS. GREEN: Thank you for your question.  
6 About the one about the committee in place, I'm just  
7 going to start with that one.

8 If, in fact, a prime contractor does not  
9 meet good-faith efforts or meet a goal on our  
10 projects, we do have the Good-Faith Efforts Committee  
11 internal to ODOT. It's not just in my office. I am  
12 on the committee, but there are several other  
13 subject-matter experts that can weigh in on the types  
14 of work and what's involved and if it made sense,  
15 their reasoning of what they, you know, submitted as  
16 their good-faith efforts.

17 So it's kind of like a collaborative  
18 decision. It's not just one person making a decision  
19 in a vacuum. So that is one thing that we have  
20 implemented. We kicked that off probably six months  
21 ago; we implemented the Good-Faith Efforts Committee.

22 DEPUTY DIRECTOR PURDY: And then the  
23 other question related to implementation of the three  
24 options and which option, making sure it was clear  
25 when we let bids so there would be no confusion.

1 I think if -- if USDOT comes back and  
2 says any of your options, you can do all three, I  
3 think what we would do is most likely pilot on a few  
4 projects the options to determine or to see which one  
5 we feel gets the results that we're looking for. And  
6 from there we probably would then just stick to one  
7 of the three options going forward on all the  
8 contracts.

9 But for those pilots, it would be made  
10 very clear in the bidding documents what the goal  
11 requirements were. And then going forward, like I  
12 said, having -- we would have continuing dialogue  
13 with all of our stakeholders in determining what the  
14 best route is, what the best option is, what is  
15 getting us the results, what is -- looking to get  
16 us -- get those UDBEs more participation.

17 So I think -- I don't think -- I don't  
18 anticipate that we would be using a different option  
19 for every single contract or to have that; we would  
20 probably just stick to one option, the one that works  
21 the best.

22 MS. SUTTON CAMERON: Good morning. My  
23 name is Joyce Sutton Cameron, and I am representing  
24 Green Star Trucking in Dayton, Ohio. My question is  
25 regarding the bidding process. When a prime gets a

1 job, and you have submitted a bid, and I know you're  
2 not the only one that submitted a bid, but when you  
3 have conversation with that prime and they tell you  
4 that they're going to do all of their DBE in-house,  
5 is there a reporting mechanism that we can go to to  
6 get this straightened out?

7 MS. GREEN: Well, one thing we are going  
8 to be rolling out is a fraud or a complaint hotline  
9 and e-mail address. It just got finalized with our  
10 IT Department. So we're going to be rolling that out  
11 in the next few weeks.

12 MS. WATSON: And definitely if that were  
13 to happen to you, you need to let us know, because we  
14 don't know what we don't know. So let us know and we  
15 will definitely look into it.

16 MS. SUTTON CAMERON: So could I get all  
17 of that before I leave here today?

18 MS. GREEN: The fraud hotline?

19 MS. SUTTON CAMERON: Yes.

20 MS. GREEN: Sure, yeah, I can get that  
21 for you.

22 MS. KLINE: Good morning. I'm Gabrielle  
23 Kline. I'm from the Beaver Excavating Company. I'm  
24 the DBE Coordinator for the company. I was just  
25 putting some numbers together, working on another

1 outreach for DBE participation. I was just wondering  
2 if the Disparity Study took into consideration the  
3 number of actual companies. Like, for instance, I  
4 went in and did a report off of the Unified  
5 Certification List, and I only found eight Hispanic  
6 companies under "Construction." So do they take in  
7 consideration the underutilization just by sheer  
8 numbers and percentages?

9           And the other question I have about the  
10 Disparity Study, it seems that your -- do they take  
11 the NAICS codes into consideration when you're  
12 bidding a project? Which individuals would have  
13 those? Because a lot of times we have, you know,  
14 it's a very specialized code that is required for  
15 those particular individuals. So are they looking at  
16 just the DBE community on a whole or are they looking  
17 at specialized DBE participation?

18           DEPUTY DIRECTOR PURDY: Thank you. Thank  
19 you for your question.

20           So the Disparity Study, they looked  
21 beyond just what would be on your UCP list. They  
22 looked beyond certified. So it's certified DBEs and  
23 potential DBEs; firms that could potentially be  
24 certified. So the universe is much bigger than what  
25 you can currently use toward your goal, and so it's a

1 bigger pot.

2           And as far as NAICS codes, they did not  
3 look -- I think they did look -- they did look at  
4 NAICS codes. Yes, they did. I'm sorry. I'm trying  
5 to remember back. They did consider NAICS codes,  
6 because when they did the custom census, so first  
7 they start with a big pot of everybody that's out  
8 there that they think is out there and it's grouped  
9 by demographic, race, ethnicity, gender.

10           And then they go and they look contract  
11 by contract. It's a very labor-intensive process.  
12 They look contract by contract; the date; the type of  
13 work; like I said, the relative capacity of firms  
14 that are in their big pot, so DBEs and potential  
15 DBEs; the type of work generally that they do.

16           They did not drill down to the extent  
17 that we do now because I don't think we had our  
18 walkway in place with the descriptors. But they did  
19 look at NAICS codes, kind of the heavy highway,  
20 consulting, other types of the more -- the  
21 more-commonly-used NAICS codes. So they did take  
22 that into consideration.

23           But as I've said, again, that  
24 availability, it's potential DBE. So they're not all  
25 going to be -- it's our job at ODOT to reach out and

1 to build those firms and get them ready so that you  
2 can use them on contracts. Again, when we set our  
3 goals, our contract-specific goals, we have to look  
4 at firms that are currently certified.

5 MS. GREEN: I would just like to make a  
6 comment as well. We've been improving our  
7 certification process to narrowly tailor the NAICS  
8 codes. So I know it can be challenging. You  
9 mentioned the specialty codes and things like that.  
10 Just so we're giving a real description of what that  
11 firm is doing. So that's actually going to help when  
12 you're trying to find firms that are doing that work,  
13 because if they had a broad code that, you know,  
14 you're calling and wasting time.

15 MS. KLINE: Right.

16 MS. GREEN: So this will help.

17 MS. HALL: Amy Hall with Ebony  
18 Construction. First of all, thanks to you guys for  
19 really putting a concerted effort and the energy and  
20 attention needed to the DBE program because it has  
21 been a little wavered and maybe not attended to as it  
22 has been prior, so great. I really, really  
23 appreciate it. I think we all appreciate that here.

24 I think there's a couple concerns. No  
25 questions, just a couple concerns, is that at the end

1 of the day how these goals are going to be attained,  
2 because we have seen, except for the latest bump up,  
3 historically the goal has been diminished and dropped  
4 every time we go to goal setting. So it started at  
5 13 or 14 and then went to 11 and has historically  
6 gone down.

7 And with the NAICS codes and the new  
8 walkway, if I'm not mistaken, somewhere up to about  
9 25 percent of the DBE spend, because of the NAICS  
10 walkway changes, have now been put to the side.

11 So we have 25 percent or up to 25 percent  
12 of the DBE spend is now not available to the  
13 contractors who have used, historically, specific  
14 NAICS codes.

15 Number two. Over 70 percent of the DBEs  
16 fall into the overutilized group. And so, as we're  
17 looking to make these changes, do we have, number  
18 one, enough contractors to fulfill the offset of not  
19 utilizing the overutilized group.

20 Number two -- or, another thing. Option  
21 3 is a major concern because we are -- we are already  
22 relegated to 8 percent or 12 percent or whatever the  
23 goal is now. And now we're subdividing or  
24 bifurcating the goal. And so now we're relegated to  
25 20 percent of 8 percent, or 30 percent of 8 percent,

1 or whatever your demographic falls into. And once  
2 you hit that number, it's a wrap and it goes on to  
3 the next guy to help fulfill the larger goal. Major  
4 concern.

5 Another concern is with the percentage  
6 and overinflating the use of underutilized DBEs. So  
7 now you have a DBE who has a \$100,000 contract;  
8 they're being used at a \$200,000 contract. There's  
9 going to be an offset in the DBE spend because the  
10 goal attainment is now overinflated and not  
11 necessarily the goal spend is the true spend. So  
12 that's a major concern.

13 So are contractors now going to use  
14 people because they can get an overinflated number,  
15 but not give you a larger contract to match the  
16 overinflated number, and then you have the offset  
17 where they're not using the overutilized group  
18 because now there's no value?

19 At the end of the day we have to figure  
20 out how not to throw the baby out with the bathwater.  
21 I think this definitely needs to be addressed. I  
22 think my concern is to make sure that the actual  
23 dollars that are available for the DBE spend are  
24 actually truly spent and not misplaced in  
25 overinflated numbers and numbers that become not

1 necessarily actual numbers.

2 And then there's other people who have  
3 built their businesses and have been viable and  
4 sustainable and who have made this DBE program for  
5 years, now are going to be relegated, instead of  
6 being able to do \$100,000 because they're  
7 overutilized, they're now relegated to 50.

8 This impacts people's ability to do  
9 business. It impacts their business models. It  
10 impacts the way we have been allowed and the way we  
11 have been encouraged to do business.

12 So I love the idea that we are looking  
13 and really taking ownership of there's a disparity,  
14 but the impact and the ripple effects that are going  
15 to go through this are tremendous. And so, before  
16 anything is done, everybody really needs to look at  
17 this subject from all perspectives.

18 And then we haven't even talked about the  
19 prime contractors and how that's going to impact them  
20 and their ability to figure who's underutilized,  
21 who's overutilized, who can be utilized at  
22 20 percent, and now this company is going to be 20  
23 percent, and it's just going to be a nightmare or a  
24 huge challenge -- I shouldn't say nightmare -- a huge  
25 challenge for everybody and all the participants

1 involved. Thank you.

2 MR. BOLDEN: Thank you, Amy, for your  
3 comment. I will say each project is -- goal-wise is  
4 set on a case-by-case basis. And we do know that the  
5 overall program goal has gone up to 15.6 percent.  
6 But again, we look at each project based upon what  
7 work types are available and what DBEs are available  
8 to fill those work types.

9 So again, I mean, it's a shock to the  
10 market, but again, we're internally, as far as the  
11 Goal-Setting Committee, we're looking at each project  
12 based on availability and we are taking all those  
13 comments into consideration. Thank you.

14 MS. ROBERTS: Hi. I'm Wendy Roberts and  
15 I'm with SEPI Services. We're a trucking company.  
16 My questions or concerns certainly emulate what Amy  
17 had already said. But we do need to look at the  
18 prime contractors so that we can see what's being  
19 offered to them, who is bidding on their work, who is  
20 submitting bids, who is, you know, reaching out to  
21 them, who is making themselves available.

22 As a white woman in your Disparity Study,  
23 I've worked very hard with ODOT, with DBE Support  
24 Services, to get where I am. I've made my way by  
25 asking a lot of questions. And my question really is

1 who's looking out for the prime in this utilization  
2 study.

3 MR. BOLDEN: I'd like to also comment.  
4 One of our partners in this, working with the Ohio  
5 Contractors Association, I would like to acknowledge  
6 Mr. Chris Engle who is here as well. But we do have  
7 -- we have been meeting with them to talk about some  
8 of the changes and how that affects all contractors.

9 MS. TWITTY: Hello. I'm Amber Twitty  
10 with Make It Plain Consulting. It's like the country  
11 singer; T-w-i-t-t-y.

12 My only caution with the way, like other  
13 people have said, I agree with the approach and the  
14 reasoning behind the approach, but I'm a little  
15 cautious when it comes to the enforcement side. I  
16 don't see you -- I don't hear you all talking enough  
17 for my comfort that there's going to be enough  
18 enforcement.

19 Also, with the bidding, it seems like the  
20 way it's being proposed it's going to be convoluted  
21 for prime contractors and subcontractors. It's  
22 almost like a bureaucratic nightmare. I don't want  
23 to say it's a nightmare, but it's just -- I  
24 understand the rationale and the concept, I'm not  
25 sure about the application, how that's going to help.

1                   And also with I think it was Option 3,  
2 with the minimums. If you have a minimum and you're  
3 saying, you know, hypothetically if Prime Contractor  
4 A gives the underutilized company \$20,000, but it's  
5 going to get credit for \$40,000. Me, as a DBE  
6 minority company, what that translates to me is that,  
7 okay, instead of me potentially getting a real  
8 \$40,000 worth of work, I'm only going to get \$20,000  
9 worth of work. And that affects my ability to  
10 maintain my payroll and my cash flow and everything  
11 else. So I hope that you all take that into  
12 consideration.

13                   The good thing is that you will be  
14 putting the -- whether it's waivers or whatever, that  
15 the goals are set on a project-by-project basis, so  
16 that will deal with the availability. Because we  
17 have projects in an urban area which is a lot  
18 different dynamic than our projects that we do in a  
19 rural area just because of availability and distance  
20 to companies that are needed for a project. So I  
21 just wanted to put that out there.

22                   But I hope that you all are transparent,  
23 when you pilot anything that you roll out, with the  
24 results and the challenges. Keep us engaged. Thank  
25 you.

1 MS. ESTES: Good afternoon. My name is  
2 Toya Estes. I'm with J&B Steel Erectors. The last  
3 name is E-s-t-e-s. And I would like to thank DOI for  
4 coming out and chatting with us. I think  
5 communication in this whole situation is key.

6 One thing I would like to point out as  
7 being a DBE for the last 18 years: Being awarded a  
8 job does not guarantee you a profit. So no matter  
9 how much revenue you get or how many jobs you get,  
10 that profit may not be there at the end of the day.

11 So if you want to help these companies, I  
12 think you can help the companies by supporting them  
13 in another way as far as an underutilized company,  
14 possibly, you know, the support of the program is  
15 nice, to receive the \$10,000 for expenses we use  
16 throughout the year for our pre-qual or joining  
17 associations and so forth.

18 But maybe if some money went to these  
19 companies that would give them working capital to get  
20 their workforce more educated and kicked off and more  
21 support for, you know, being able to go 60 days  
22 without payment, pay their fringes, or whatever other  
23 expenses, their insurance, get bonding capacity.  
24 Make them stronger companies, so a GC has a chance to  
25 use them because they are a stronger company and

1 they're not worried about using them that they  
2 wouldn't be able to finish a job in the whole scheme  
3 of things.

4 My second comment is I'd like to know the  
5 sanctions. Not due to any Ohio contractors, but I am  
6 working with an out-of-state contractor and having a  
7 huge issue of getting paid. So if I could find that  
8 out, I'd really appreciate it. Thank you.

9 MS. GREEN: Deborah Green.

10 As it relates to Proposal Note 13, which  
11 we implemented on contracts starting in, I believe,  
12 May of 2015. If, of course, like I kind of described  
13 earlier, if the prime contractor does not submit  
14 adequate good-faith efforts, at the end of the job  
15 there are different tiers of sanctions; one being a  
16 letter of reprimand.

17 And it's not like -- it's not in any  
18 order. It's just tiers just to have some flexibility  
19 there. We have damages as one of them. And I'm  
20 forgetting the third one. I don't have it in front  
21 of me. Do you remember the third one? I think  
22 debarment. So there's a variety of options. I think  
23 those are the main three, but I can get you the note  
24 so that -- I'll e-mail it to you, the most recent  
25 note. And then you can review it and let me know.

1 But yeah, there's definitely, and those are the main  
2 three.

3 MR. BOLDEN: Any additional questions?

4 Well, again, this entire meeting was  
5 recorded by a court reporter. Questions that were  
6 asked were also written down and we will post those  
7 online with a short answer, but the entire transcript  
8 can also be available as well. We can also send out  
9 the PowerPoint as well as the Comment Form that you  
10 will need to fill out to let us know, to send back to  
11 Federal Highway, what your thoughts are regarding the  
12 waiver. Again, your comments are very important to  
13 this process.

14 Anyway, I want to thank everyone for  
15 coming out. I want to wish everyone a wonderful  
16 holiday season, and have a great day. Thank you.

17 (Thereupon, the public meeting concluded  
18 at 11:25 a.m.)

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CERTIFICATE

I do hereby certify that the foregoing is a true and correct transcript of the proceedings taken by me in this matter on Friday, December 16, 2016, and carefully compared with my original stenographic notes.

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Carolyn M. Burke, Registered Professional Reporter, and Notary Public in and for the State of Ohio.

My commission expires July 17, 2018.

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