

Washington State Department of Transportation & Oregon Department of Transportation's Disadvantaged Business Enterprise Goal for the Interstate Bridge Replacement Program

Federal Fiscal Years 2020¹-2027

The Washington State Department of Transportation (WSDOT) and the Oregon State Department of Transportation (ODOT) submit this Disadvantaged Business Enterprise (DBE) goal methodology to the U.S. Department of Transportation's Federal Highway Administration (FHWA) for review and approval pursuant to 49 CFR § 26.45 to establish the overall DBE goal for the Interstate Bridge Replacement Program (IBRP) General Engineering Consulting (GEC) Agreement, for a federally-assisted highway bi-state mega-project. WSDOT and ODOT have determined that a DBE goal of 15% is feasible based on a step two adjustment of a baseline availability of 6.14% and demonstrable evidence from disparity studies conducted by both states.

The IBRP is a bi-state project that is jointly led by ODOT and WSDOT. ODOT and WSDOT will hire a single Program Administrator to provide executive leadership for delivery of the Interstate Bridge Replacement Program, ensuring that the program follows a transparent, data-driven process that prioritizes equity and inclusion throughout each stage of program development. The program team will be co-located and consist of both agencies personnel and consultants. ODOT and WSDOT will advertise for a GEC to support program development, similar to an engineering and subindustries contract in Oregon. ODOT and WSDOT's goal is to select a GEC in the Spring of 2020, based on legislative funding requirements in Washington State. The GEC will provide support to partner agencies and the program team in all aspects of program development. The program is federally funded, and the GEC contract will include an enforceable DBE participation goal where bidders must either meet the goal or demonstrate that good faith efforts were made to meet the goal. The goal will be address throughout the length of the seven¹ year contract. A consultant workshop will be coordinated after the Request for Qualification (RFQ) is advertised but before proposals are due to be submitted. The purpose of the workshop is to address questions, and encourage prime and sub-consultants to connect, with a goal to give small or disadvantaged firms an opportunity to meet prospective prime consultants. The start of construction is targeted for no sooner than 2025 (dependent on National Environmental Protection Act approval and construction funding).

Disadvantaged Business Enterprise Goal Methodology

As the IBRP is a joint project between the states of Oregon and Washington, a goal must be calculated based on data from both states. The process for calculating the goal is outlined below.

Step One Goal Calculations

Given the nature of consultant's work, the IBRP GEC's relevant marketplace was determined to be the state of Washington and the state of Oregon. The IBRP GEC will involve work relating to the following North American Industry Classification System (NAICS) codes:

Table 1: The work estimated for the IBRP involves engineering and consulting services. The four NAICS Codes listed below fit the projected scope of work.

NAICS Code	NAICS Description
541330	Engineering Services
541611	Administrative Management and General Management Consulting Services
541820	Public Relations Agencies
541620	Environmental Consulting Services

^e The agreement is currently anticipated to last five to ten years, WSDOT and ODOT are currently estimating seven years.

According to the Office of Minority and Women’s Business Enterprises certified directory², and ODOT’s certified directory³, there are a total of 371 firms in both Oregon and Washington. The results are show in Table 2.

Table 2: Results from WSDOT and ODOT’s certified directories. The number of firms is a combined total of both directories that were filtered based on county and NAICS. Firms with more than one of the NAICS were counted once to avoid double counting firms with multiple NAICS. The results of each state’s certified directories were limited to a firm’s home state and any duplicate entries were removed.

State	Certified DBEs – Home State Only
Washington	228
Oregon	143
Total	371

According to the US Census⁴, there are a total of 6,041 firms with a primary NAICS code that includes one of the four codes listed in Table 1.

Table 3: The number of all firms counted by the Census that have at least one of the NAICS codes for each state is displayed below and sorted by primary NAICS code assigned by the Census. There is no double counting of firms since the Census counts are based on geography.

NAICS	Washington	Oregon	Total
541330 Engineering services	1,717	809	2,526
541611 Administrative management and general management consulting services	1,789	845	2,634
541620 Environmental consulting services	366	196	562
541820 Public relations agencies	200	119	319
Grand Total	4,072	1,969	6,041

Dividing the number of DBEs in both Oregon and Washington by the number of firms yielded a result of 6.14%. The baseline availability of ready-to-work DBEs can be estimated at 6.14%.

IBRP Step Two Adjustment

Once the base figure has been calculated, WSDOT and ODOT must examine all of the evidence available in their jurisdictions to determine if an adjustment is necessary to the base figure to reflect the level of DBE participation expected absent the effects of discrimination. Included among the types of evidence that must be considered are the current capacity of DBEs to perform work on WSDOT and ODOT’s federally-assisted contracts, as measured by the volume of work DBEs have performed in recent years, and evidence from disparity studies conducted anywhere within WSDOT or ODOT’s jurisdiction, to the extent not already accounted for in the base figure. If available, WSDOT and ODOT must also consider available evidence from related fields that affect the opportunities for DBEs to form, grow, and compete, including statistical disparities in the ability of DBEs to obtain the financing, bonding, and insurance required to participate in the Program, and

² Office of Minority and Women’s Business Enterprises Certified Directory, accessed on May 13, 2020 at <https://omwbe.diversitycompliance.com/>

³ COBID Certification Management System Certified Directory, accessed on May 13, 2020, at <https://oregon4biz.diversitysoftware.com/>

⁴ All Sectors: County Business Patterns by Legal Form of Organization and Employment Size Class for U.S., States, and Selected Geographies: 2017, CB1700CBP

data on employment, self-employment, education, training, and union apprenticeship programs, to the extent relevant to the opportunities for DBEs to perform in the Program. The regulations caution that any adjustment to the base figure to account for the continuing effects of past discrimination or the effects of an ongoing DBE program must be based on “demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.” 49 C.F.R. § 26.45(d)(3). WSDOT and ODOT have each separately delivered complex projects involving large-scale engineering consulting services agreements within the last 10 years. However, due to the uniqueness of this project, there is no readily similar past projects (i.e. bi-state GEC agreement between WSDOT and ODOT) to compare. Therefore, the best available data to evaluate the availability of small or disadvantaged firms is present within the disparity studies from each state DOT.

The most recent disparity study in Washington State was conducted in 2017, and used the entire state as the relevant market area. The estimated availability of Washington’s disparity study for the NAICS codes relevant to the IBRP are listed in table 4.

Table 4: Washington 2017 Disparity Study estimates for NAICS codes 541330, 541611, 541620, and 541820.⁵

NAICS Code	NAICS Description	DBE Availability Per WSDOT Disparity Study 2017
541330	Engineering Services	15.76%
541611	Administrative Management and General Management Consulting Services	19.10%
541820	Public Relations Agencies	23.03%
541620	Environmental Consulting Services	29.31%

Averaging the availability of all the NAICS codes yields an overall availability of 21.80% for Washington State.

Unlike WSDOT, ODOT does not calculate availability for specific NAICS codes. Rather, ODOT uses an overall availability for all engineering and other subindustry work. ODOT’s 2019 disparity study update determined an availability of 24.24% for engineering and other subindustries⁶ related work. The availability for both states were averaged to create an estimated availability of 23.02% for the combined market area of both states.

CONCLUSION

Based on the results from ODOT and WSDOT’s disparity studies, the data from the baseline goal of 6.14% should be significantly increased. Averaging the baseline goal of 6.14% with the disparity study availability for both ODOT and WSDOT yields an average of 14.58%, which can be rounded to 15%. A step two adjustment of 15% is consistent with the results from both Oregon’s and Washington’s disparity studies. Therefore, the IBRP will have an overall goal of 15% based on the available evidence.

⁵ WSDOT 2017 Disparity Study, Colette Holt & Associates, accessed at <https://www.wsdot.wa.gov/sites/default/files/2017/09/11/OEO-DisparityStudy-2017.pdf> on May 13, 2017.

⁶ 2019 DBE Disparity Study Update, Keen Independent Research, Figure 4-3 on pg 37 accessed on April 27, 2020, at https://www.oregon.gov/odot/Business/OCR/SiteAssets/Lists/DBE_Dis_List/EditForm/ODOT_2019_DBE_Disparity_Study_Final_Report.pdf

Public Outreach and Procurement Schedule

To satisfy the public consultation requirements of 49 CFR § 26.45(g)(1), below is a summary of the outreach performed jointly by WSDOT and ODOT related to the public outreach:

- May 19, 2020 through June 1, 2020: Public consultation for IBRP GEC Overall Goal.
 - On May 19 and May 26, 2020, email notices regarding how to participate in public meetings were sent by WSDOT to over 2,000 companies and individuals signed up to receive emails from WSDOT's Office of Equal Opportunity.
 - Additionally, on May 19, 2020, the email notice regarding the public meetings was shared with WSDOT's DBE Advisory Group.
 - On May 20, 2020, an email notice of the proposed DBE goal and public meetings were sent by ODOT to 14,457 companies, individuals and professional stakeholder organizations signed up to receive emails from the ODOT Office of Civil Rights.
 - On May 26, 2020, ODOT and WSDOT hosted a public meeting via webinar, due to the current health crisis, regarding the IBRP GEC Goal. Information on individuals who requested to participate in this webinar is included in the second enclosure.
 - On May 27, 2020, ODOT and WSDOT hosted a public meeting via teleconference, due to the current health crisis, regarding the IBRP GEC Goal, information on individuals who requested to participate in this teleconference is included in the second enclosure.
- During the public consultation process, ODOT and WSDOT received 18 public comments, the majority of these comments were in support of the IBRP GEC Goal. No reductions or modifications to the goal were proposed. Therefore, on June 3, 2020, the overall goal methodology and supporting documentation of 15 percent for the IBRP GEC was submitted to Federal Highway Administration for review and approval.