

Port of Portland FY010 Disadvantaged Business Enterprise (DBE) Goal

In Federal Fiscal Year 2010 (FY10), October 1, 2009 – September 30, 2010, The Port of Portland plans to solicit bids/proposals for the following projects:

| Project location | Project Name | Project Estimate | Brief Description |
|--------------------------------------|--|-------------------------|---|
| Portland International Airport (PDX) | North Runway Overlay/Extension Phase 2 | \$24.2 million | Construct a pavement extension on the east end and the east end. Extend the parallel taxiway to connect to the new runway extensions. |
| Portland International Airport (PDX) | GA Apron W1 Rehab | \$775,000 | Rehabilitate the pavement surface on the west portion of the General Aviation Apron. |
| Portland Hillsboro Airport (PHI) | Construct RW 12L/30R | \$15.2 million | Construct a new 3600 foot runway and taxiway in the northeast section of Hillsboro Airport. |

To establish the Port of Portland overall Disadvantaged Business Enterprise (DBE) goal for FY10, the Port uses the methodology found on the Office of Small and Disadvantaged Business Utilization (OSDBU) website (<http://osdbuweb.dot.gov>): Tips for Goal Setting in Disadvantaged Business Enterprise Programs.

Step One –

Initially we identified the availability of DBE and non-DBE firms who are ready, willing and able to compete for AIP funded contracts that will be let by the Port of Portland in FY10. The Port has determined our market area to be those firms that are in our BizTrak system data base. This data base is populated with businesses that have submitted bids/proposals on Port projects in the past and also includes businesses that have submitted bids/proposals as sub-contractors/sub-consultants to primary bidders/proposers. The BizTrak system is linked with the Oregon State certification website therefore firms in our data base are updated weekly in regards to their certification status.

The construction and architecture and engineering industry businesses in our market area are primarily located in Oregon and Washington states. The disparity study completed for the Port of Portland in February 2009 identified the relevant market area for the construction, architecture and engineering business categories to be the state of Oregon, the Portland MSA, and King County Washington. In reviewing the suppliers in the Port potential supplier list for the seven NAICS codes, 81% of the suppliers are located in Oregon and Washington states.

We have identified the following work categories by NAICS that will be included in the four Port of Portland projects scheduled for FY10:

| <u>NAICS</u> | <u>Description and Percent of Work</u> | <u>DBE</u> | <u>All</u> |
|--------------|--|------------|------------|
| 237310 | Heavy Construction* | 52 | 419 |
| 238210 | Electrical Contractor | 14 | 256 |
| 541370 | Surveying | 21 | 193 |
| 238910 | Site Preparation Contractors | 51 | 409 |
| 561990 | All Other Support Services (traffic control) | 25 | 72 |
| 561730 | Landscape Service (seeding, erosion control | 23 | 118 |

*includes pavement milling, pavements/concrete, pavement/asphalt, drainage, excavation & embankment, trucking, and pavement painting.

The Biz Trak system has a DBE Goal setting function that is programmed in accordance with the Office of Small and Disadvantage Business Utilization (OSDBU) website (<http://osdbuweb.dot.gov>): Tips for Goal Setting in Disadvantaged Business Enterprise Programs. This goal setting function is utilized along with a search of the state of Oregon Office of Minority, Women, and Emerging Small Business data base to develop a step one base figure.

To determine the percent of DBE's ready, willing and able to compete for contracting opportunities at the Port of Portland, the total number of DBE firms is divided by the total number of DBE plus non-DBE firms identified.

Step One Base Figure = 186 DBE / 1467 DBE + Non-DBE = 12.67%

Step Two:

The next step is to determine if an adjustment to the system generated Step One Base Figure is warranted. To make this determination a system generated list of DBE firms for the identified NAICS is reviewed and any DBE firms whose certifications are no longer current are deleted from the list of ready, willing and able DBE's. The list of all firms ready willing and able to compete for Port business opportunities is also reviewed to filter out businesses that are not relevant to the calculation because they are duplicates, they do not perform the type of work the Port is contracting out, they are no longer in business, or they are so far outside the Port geographical market are that they are not likely to submit a bid on a Port job.

| <u>NAICS</u> | <u>Description and Percent of Work</u> | <u>DBE</u> | <u>All</u> |
|--------------|--|------------|------------|
| 237310 | Heavy Construction* | 22 | 419 |
| 238210 | Electrical Contractor | 5 | 256 |
| 541370 | Surveying | 6 | 193 |
| 238910 | Site Preparation Contractors | 18 | 409 |
| 561990 | All Other Support Services (traffic control) | 18 | 72 |
| 561730 | Landscape Service (seeding, erosion control | 5 | 118 |

Adjusted Step One Base Figure = 75 DBE / 1467 DBE + Non-DBE = 5.04 %

The Step One Base Figure can also be adjusted for recent past performance. The means utilized for achieving DBE participation changed at the Port of Portland from fiscal year 05 and prior from a combination of race neutral and race conscious means to 100% race neutral in fiscal years 06, 07, 08 and 09. As of September 10, 2009, DBE commitments on Port federally funded projects for FY09 is 3.4%; there were no DBE goals on project solicitations.

The median past performance is determined by looking at the past performance for the four fiscal years when the Port has tried to achieve the DBE goal using only race neutral means. Past performance for those four years was:

FY06 – 7.8% FY07 – 2.8% FY08 - .8% FY09 – 3.4%

The median past performance is determined by placing the four numbers in number order from low to high and then averaging the two numbers in the middle;

.8% 2.8% 3.4% 7.8%

3.1% is the median past performance.

The Adjusted Step One Base Figure DBE goal is adjusted again by averaging the Adjusted Step One Base Figure with the median past performance on Port projects.

Step Two Base Figure = ((3.1+5.04)/2) = 4.07 %

The FY10 Port DBE goal will not be adjusted for past performance because the Port did not establish DBE project goals in fiscal years 06, 07, 08, 07. Not establishing DBE project goals led to lower DBE participation. Making the adjustment for past participation would lower the goal below determined availability. As stated before, the Port will be resuming DBE project goals in FY10.

The adjusted DBE goal for the Port of Portland for FY010 is 5%.

The Port completed a disparity study in February 2009. MGT of America was the disparity study consultant. The study time period was July 1, 2002 – June 30, 2007. The study findings and recommendations related to the Port DBE program were:

Findings:

1. M/W/DBE Prime Utilization – During the study period, 18 M/W/DBEs won prime construction contracts for \$34.8 million on Port projects (13.22% of the total). 8 M/W/DBEs won prime architecture and engineering contracts for \$1.2 million on Port projects (9.64% of the total).
2. M/W/DBE Prime Availability was 13.36% for construction prime contractors and 27.44% for architecture and engineering prime contractors.

3. Underutilization existed for African American, Hispanic American, Asian American, and Native American prime construction contractors and for Hispanic American, Asian American, Native American and Nonminority Women architecture and engineering prime contractors.
4. Over the current study period 73 M/W/DBE construction subcontractors won \$14.1 million in construction subcontracts on Port projects (15.85% of the total construction subcontracts). 6 M/W/DBEs won 12 A&E subcontracts for \$39,425 on Port projects (14.98%).
5. Underutilization existed during the study period for African American, Hispanic American, Asian American, and Native American construction subcontractors. Underutilization existed during the study period for African American, Asian American, Native American, and Nonminority Women architecture and engineering subcontractors.
6. The Port stopped placing DBE goals on construction contracts in 2006. Minority DBE construction subcontractor utilization stopped entirely at that point. The implementation of the ESB program in 2007 did not halt this pattern. There was, however evidence of the use of M/WBEs that were not certified DBEs on projects without goals.

Recommendations:

1. There is evidence supporting the reestablishment of race- and gender conscious DBE goals in construction and architecture and engineering subcontracting. This evidence is based on disparities in subcontracting, and the collapse in use of DBEs in the absence of goals on federal contracts, considerable statistical and anecdotal evidence of barriers in the private sector markets associated with race and gender after controlling for capacity variables. At the same time there was some evidence of the use of non-certified M/WBEs in the absence of goals. The strongest case for the restoration of DBE goals can be made for minority DBEs.

Port DBE goals should be linked to certified DBE availability. Port DBE goals should not be a rigid quota placed on every project. The limited use of DBE goals means that the Port should continue to let out some opportunities without specific DBE goals and closely monitor DBE utilization on these projects. The objective should be to steadily increase the number of DBE dollars achieved without using race and gender conscious DBE goals.

Based on the findings and recommendations of the disparity study, the Port of Portland will return to establishing DBE project goals that are based on the availability of DBEs to compete for and perform on Port of Portland federally funded contracts in fiscal year 2010. In addition to the return to DBE project goals, the Port will also continue to utilize race and gender neutral means to achieve DBE participation in Port of Portland projects.

Race and gender neutral means to achieve DBE goals include:

- Encouraging prime contractors to solicit bids from DBE sub contractors.
- Advertising projects in media that is focused toward minority and women owned businesses.

- Promoting Port projects at community outreach events including encouraging DBE contractors to consider bidding or proposing on Port projects.
- Ongoing technical assistance and small business development facilitated through the Port of Portland Mentor Protégé Program.
- Conducting open pre-bid meetings for all interested contractors.
- Providing contractors with a list of DBE certified businesses whose work scope matches work scope needed for specific projects.
- Evaluating and considering using various solicitation methods, including the RFP process where points can be awarded for small business inclusion, rather than the low bid process for award federally funded contracts.

To solicit consultation regarding our FY10 overall DBE goal, the goal is posted on the Port of Portland website, www.portofportland.com, Business Opportunities. Interested parties are invited to comment and are provided an email address for submitting comments regarding DBE availability, effects of discrimination on DBE opportunities, and the Port's efforts to solicit DBE participation. In addition the proposed DBE goal was distributed to the Hispanic Chamber of Commerce, the Phillipine Chamber of Commerce, the African American Chamber of Commerce, the Oregon Association of Minority Entrepreneurs, the National Association of Minority Contractors Oregon, the Oregon Governor's Advocate for Minority, Women, and Emerging Small Business, and Associate General Contractors Oregon. The goal will be adjusted for comments if warranted.

A legal notice was published in the Daily Journal of Commerce for the week of September 21, 2009 announcing that the proposed overall goal and methodology are available for public comment. Again the goal will be adjusted if comments are received that warrant adjustment.

The Port of Portland adjusted overall DBE goal for fiscal year 2010 is 5% DBE participation.

Step Three

The Port of Portland has consistently implemented race/gender neutral means to achieve increased DBE participation including:

- To improve the accessibility of Port projects, we developed the online supplier registration and solicitation system. 4341 suppliers are currently registered, 232 or 5.3% are DBE firms. During fiscal year 09, 63 Port business opportunities were solicited using the online supplier solicitation system.
- Through the Port of Portland Mentor Protégé Program, we strive to help build the capacity and business know-how of the protégé firms. 47% of the current protégé firms are DBE and 46% of the graduated protégés are DBE.
- The Port actively participates in numerous local outreach events targeted to small businesses including certified DBE firms.
- The Port began during FY07 establishing Emerging Small Business (ESB) goals on construction projects, federally funded and non-federally funded, with an

estimated value over \$500,000, and the Port increased the weight in Request for Proposal evaluation criteria to 10% of the possible points for ESB participation. ESB is a race/gender neutral State certification. Some ESB's are also certified DBE. During FY09, 7.25% of the sub-contractors on Port construction projects were ESB sub-contractors. Beginning July 1, 2009, the Port will set small business goals on these larger construction projects and RFPs will be evaluated for small business participation. The Port's new definition of small business – a small business certified by Oregon or Washington state – will be utilized.

In conclusion, the overall DBE participation goal being submitted for FY10 by the Port of Portland is 5% and will be accomplished using 4% race conscious means and 1% race neutral means.