
Illinois Department of Transportation
Federal Fiscal Year 2009
Disadvantaged Business Enterprise Goal
Public Meeting
October 16 and 20, 2008

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& Associates

Federal Law & Regulations

- Race- & gender-conscious programs must meet strict constitutional scrutiny
- DBE Program is governed by 49 CFR Part 26
 - Two step DBE goal setting per 49 CFR §26.45
 - Step 1: Base figure of the relative availability of DBEs in IDOT's geographic and product markets
 - Step 2: Possible adjustment of the base figure to reflect DBE availability “but for” discrimination
 - Projection of the portion of the goal to be met through subcontracting goals and race-neutral measures

Federal Law & Regulations, Cont.

- *Northern Contracting v. IDOT*
 - Court of appeals sustained 22.77% DBE goal based on:
 - IDOT's Availability Study
 - Additional trial evidence
 - Expert testimony about DBE program design
 - Other studies
 - Anecdotal testimony
 - IDOT's public hearings
 - Governing case law for Illinois, Indiana & Wisconsin

IDOT FFY 2009 DBE Goal

- Complies with *Northern Contracting* opinion
- Step 1 base figure of 22.77% established by the Study
 - State of Illinois is IDOT's relevant geographic marketplace
 - 27 SIC codes comprise IDOT's product marketplace for prime contracts & subcontracts
 - Determined the availability of DBEs & non-DBEs in IDOT's marketplaces through Dun & Bradstreet & directories
 - Verified owners' race & gender

IDOT FFY 2009 DBE Goal, cont.

- Step 2 “but for” adjustment factors
 - Past DBE participation on IDOT contracts
 - FFYs 2005-2007 = 16.44%
 - Evidence from disparity studies
 - Older Chicago area studies
 - Metra DBE Availability Study
 - *BAGC v. Chicago & Northern Contracting* evidence

IDOT FFY 2009 DBE Goal, cont.

- Evidence from related fields affecting DBE opportunities
 - Statistical disparities in financing, bonding & insurance
 - Data on employment, self-employment, education, training & union apprenticeship programs
- “But for” discrimination DBE availability would be 27.51%
- Followed court’s directive to use “plausible lower bound estimate” of step 1

IDOT FFY 2009 DBE Goal, cont.

- Projection of race-neutral vs. race-conscious attainment
 - Race-neutral initiatives
 - Emerging contractors support initiative
 - Supportive services program
 - Mentor-protégé program
 - IDOT's partnership with the Model Contractor Development Program

IDOT FFY 2009 DBE Goal, cont.

- Complaint procedures
- Nondiscrimination assurances
- Prompt payment
- Outreach
- Networking
- Information sharing
- Stakeholder inclusion
- Median attainment for FFYs 2005-2007 = 4.24%

IDOT FFY 2009 DBE Goal, cont.

- Public participation
 - Meetings in East St. Louis & Chicago
 - Publication
 - Economic Opportunity Focus Group
 - Comments accepted until 11/15/08