

December 21, 2023

Subject: FY 2023 FHWA Shortfall Analysis and Corrective Action Plan

The Montana Department of Transportation's (MDT) DBE goal for Fiscal Years (FY) 2023-2025 is 6.3%, which was projected to be met through solely race neutral measures. In FY 2023, MDT achieved 3.1% DBE participation through commitments and awards to DBE firms. MDT's race neutral and overall DBE participation shortfall for FY 2023 is 3.2%.

MDT conducted detailed analyses to determine the reasons for the shortfall and identified two factors impacting MDT's DBE participation in FY 2023:

- Increase in alternative delivery projects
 - In its 2023 session, the Montana legislature approved MDT's use of progressive design build and Construction Manager / General Contractor (CM/GC) projects. MDT awarded its first CM/GC project for over \$35 million with no DBE participation.
- Active DBE firms exiting the program
 - MDT is still feeling the effects of DBE firms exiting the program in years past without new firms available to fill the void.

MDT is taking proactive steps to address the factors identified and ensure the DBE goal is met going forward.

Increasing Participation on Alternative Delivery and Design Contracting

MDT will discuss alternative delivery and design opportunities at the networking events noted below. In addition, two staff from MDT's Civil Rights Office attended FHWA's Every Day Counts (EDC)-7 peer exchange in December to generate new ideas for fostering increased participation on alternative delivery contracts. MDT is in the process of implementing a required staffing plan on alternative delivery and design contracting projects to include efforts to utilize Small Business Enterprises (SBE).

Teaming Opportunities

MDT's 2022 Disparity Study identified the importance of relationships when bidding projects and encouraged additional avenues to facilitate partnerships between prime and subcontractors. To help build relationships, MDT will host Pre-Bid Networking Conferences in each district every year. These conferences will give DBEs and other small businesses the opportunity to introduce themselves, network, and provide their capability statements to prime contractors that they have not worked with in the past. The first of these Pre-Bid Networking Conferences was hosted in Glendive on November 13, 2023. To incentivize participation of prime contractors, MDT grants an additional ten contract days to the low bidder on large contracts in the corresponding district if they attend. In the previous year, MDT hosted pre-bid conferences on two large projects. MDT has shifted from project-specific pre-bid conferences to district wide events to allow for more advanced planning and to increase participation on projects of all sizes.

Training

MDT hosted bidding and estimating training in the spring to help DBEs and other small businesses learn how to bid on MDT projects. This winter, MDT will host training on the requirements of working on a federal-aid project including presentations on electronic certified payroll, Equal Employment Opportunity (EEO), how progress payments work, etc.

Recruitment and Retention of DBEs

If the proposed increase in the DBE Notice of Proposed Rule Making to the personal net worth limit is implemented, MDT would likely regain DBEs who have previously exited the program. This change would increase DBE participation in the short term yet is not a sustainable way to meet the DBE goal alone.

This fall, MDT hosted its neighboring states' DBE Program staff to help DBEs through the interstate certification process in each state. Idaho, Wyoming, North Dakota, and South Dakota participated. This event gave DBEs in neighboring states that are interested in branching into Montana the opportunity to meet certification staff and learn the process to become certified in Montana. In addition, MDT is encouraging certified out of state firms to participate in the Business Development Program to help them obtain work on projects in Montana.

Increasing the Number of Bidders


To incentivize using new subcontractors and thus increase the number of bidders, MDT will pay an incentive when a prime works with a DBE or SBE certified firm that has not worked on a federally funded project for any prime contractor in the past 3 years. MDT will calculate the amount based on the size of the subcontract with the new firm.

Building Capacity

MDT will require the prime contractor to obtain greater than 0.0% small business participation on large contracts. If the prime contractor does not utilize any SBEs (DBEs are automatically enrolled in the SBE program), they will not be awarded the contract. MDT will verify the SBE commitments to ensure the firm(s) is used or is substituted with another SBE firm.

MDT realizes the importance of the DBE Program and has already implemented several strategies to increase participation this year. If you have any questions, concerns, or suggestions regarding MDT's efforts, please contact me.

Sincerely,



Maghan Strachan
Civil Rights Program Supervisor