



ALASKA DEPARTMENT OF TRANSPORTATION & PUBLIC FACILITIES  
2017 DBE PROGRAM SHORTFALL ANALYSIS & ACTION PLAN

FEDERAL HIGHWAY ADMINISTRATION

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## Introduction

The Alaska Department of Transportation & Public Facilities (ADOT&PF/the Department) had an overall DBE goal of 8.46% for federal fiscal year (FFY) 2017. ADOT&PF projected race-conscious (RC) achievement of 0.00% and race-neutral (RN) achievement of 8.46%. The actual RC and RN achievements were 0.00% and 6.90% respectively, constituting an overall achievement of 6.90%, and a shortfall of 1.56% relative to the overall DBE goal. Because ADOT&PF did not meet the overall DBE goal, and in accordance with 49 CFR Part 26.47, the ADOT&PF Civil Rights Office (CRO) conducted a detailed analysis to identify the factors that contributed to the shortfall, and established specific steps and milestones to address those factors and enable the Department to meet its overall DBE goal in FFY 2018. The CRO analyzed data from ADOT&PF contracting records, Alaska Unified Certifications Program (AUCP) certifications records, the ADOT&PF Bidders List, and the ADOT&PF Plan Holder Self Registration List (PHSRL) to identify factors that contributed to the shortfall. The following factors were found to have likely contributed to the shortfall, and are detailed below.

- DBE Availability
- DBE Utilization on Large Contracts
- DBE Utilization on Professional Services Agreements (PSAs)

## DBE Availability

DBE Availability is an important consideration because it has a direct impact on DBE utilization. There are multiple aspects of DBE availability beyond the number of certified DBEs, including firm location, the types of work DBEs are certified to perform, firm capacity, and interest in bidding on FHWA-funded contracts. To explore DBE availability during FFY 2017, the CRO compiled and analyzed current DBE availability data from the following sources:

- The ADOT&PF CRO Contract Compliance Database (Biztrak)
- The Plan Holders Self Registration List (PHSRL)
- AUCP Certifications Records
- The 2017 ADOT&PF Bidders List

## Bidders List

Compliant with the requirements of 49 CFR Part 26.11, the CRO maintains a bidders list on which all DBE and non-DBE firms performing work on federal-aid contracts must register each calendar year. Information collected from bidders includes firm contact information, gross receipts, DBE certification status, and the types of work performed. To gain insight into the current federal-aid contracting market and give context to DBE utilization on the Departments FHWA-funded contracts, the CRO analyzed bidder data collected from calendar year (CY) 2017<sup>1</sup>.

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<sup>1</sup> ADOT&PF requires contractors to complete Bidder Registration Forms once per calendar year in order to be eligible to be awarded ADOT&PF contracts.

From this analysis the CRO found that there were 531 unique firms that submitted Bidder Registration Forms during 2017, 66 (12.43%) of which were DBEs. Of the total number of DBE bidders, 43 (65.15%) were DBE construction contractors and 23 (34.85%) were DBE professional services providers. It is important to note that completion of the Bidder Registration Form is not only required to perform work on FHWA-funded contracts, but also to work on non-FHWA funded contracts let by the Department, and to take advantage some of the Department's DBE Support Services such as the DBE Reimbursement Program. Because all DBEs that complete Bidder Registration Forms may not necessarily intend to perform work on FHWA-funded contracts, the CRO also reviewed other indicators of DBE availability.

### **Plan Holder Self Registration List (PHSRL)**

To further explore the availability of certified DBEs ready, willing, and able to perform work on FHWA-funded contracts, the CRO reviewed data from the ADOT&PF PHSRL. The PHSRL is an online portal for DBE and non-DBE contractors to express their interest in participating on contracts let by the Department. The Department maintains two separate PHSRLs, one for construction contracting and another for professional services procurements. The CRO reviewed PHSRL construction data from FFY 2017 and found that 31 unique DBEs registered, 22 of which registered for more than one project. A review of PHSRL professional services data from FFY 2017 shows that 14 unique DBEs registered on the PHSRL, 4 of which registered for more than one contract. Because some DBEs perform work on both professional services and construction contracts, the CRO cross referenced data from both PHSRLs and found that there were a total of 44 unique DBEs that registered their interest in performing work on FHWA-funded contracts.

### **Certifications Actions**

An important function of the CRO is implementing the AUCP, which provides one-stop shopping for applicants and USDOT funds recipients throughout the State of Alaska, and also maintains the statewide DBE directory. As of 1/2/2017 there are 216 DBEs (excluding airport concessionaires) that are certified in construction and non-construction related NAICS codes, of which 162 are located in the State of Alaska. ADOT&PF does not currently monitor DBE activity on non-federally funded ADOT&PF contracts or contracts let by other recipients. However, the Department will be implementing new a new information system that will be coming online over the next several years that will allow the Department to monitor DBE participation on non-federally funded contracts let by the Department. This information will provide insight into the work being performed by the portion of DBEs that do not regularly bid on federally-funded ADOT&PF contracts.

The AUCP certifies and removes DBEs from the program in accordance with the requirements of 49 CFR Part 26 Subparts D and E. The CRO reviewed certifications actions during FFY 2017 to determine what impacts, if any, they had on DBE availability. During FFY 2017, 17 firms were removed from the program and 42 were certified, constituting a net

increase of 25 DBEs. Of the firms certified, 33 were located in the State of Alaska and 9 were located outside of the state. Of the firms removed from the program, 9 withdrew voluntarily from the program and 8 were removed by AUCP certifications staff (the majority of these firms were removed for failure to provide required paperwork during annual reviews).

**Active DBEs**

The Department analyzed FHWA-funded prime and subcontracts awarded to DBEs during FFY 2017 to identify the number of unique DBEs that were utilized. This analysis showed that a total of 35 unique DBEs performed work on FHWA-funded construction contracts and 5 unique DBEs performed work on FHWA-funded PSAs during FFY 2017. To estimate the number of “active” DBEs, or those DBEs that pursued work on FHWA-funded contracts during the review period, the CRO combined the 44 firms that registered on the PHSRLs with the 40 firms that performed work on FHWA-funded contracts during the review period, and removed duplicate firms. This process yielded a total of 63 unique DBEs (29.17% of certified DBEs) that were awarded contracts, or indicated their interest in performing work on FHWA-funded contracts.

As part of the ADOT&PF RN DBE Program, the CRO requires prime contractors to document and submit to the CRO all efforts made to procure DBE participation. The CRO reviewed good faith efforts (GFE) records from 25 FHWA-funded contracts awarded during FFY 2017 to identify common challenges to obtaining DBE participation. Unsuccessful attempts to obtain DBE participation were identified, and revealed that in over 70% of cases, DBEs either did not respond to solicitations from prime contractors or indicated that they were not interested in bidding the contract. The following chart details other factors identified:

<b>Reason</b>	<b>Percentage of Unsuccessful Solicitations</b>
No Response	51.66%
Non-Competitive Quote	27.15%
Not Interested in Bidding	19.21%
At Capacity for Season	1.32%
Not Certified to Perform Quoted Work	0.66%

*Table 1*

Reasons for non-interest in bidding were generally not provided, though competition for DBE participation on both non-FHWA and FHWA-funded contracts exists between AUCP members and non-members, as well as the private sector. Presumably, contracts not funded by FHWA that draw DBE capacity will limit those firms ability to pursue work on FHWA-funded contracts let by ADOT&PF. During FFY 2018 the ADOT&PF CRO will seek follow up information from DBEs that did not respond to solicitations to identify specific reasons and ways to address these reasons.

## DBE Utilization on Large Contracts

During FFY 2017 66.44% of FHWA dollars were awarded on prime contracts with individual award amounts greater than 10 million dollars. Across these contracts, aggregate DBE participation constituted 4.39% of dollars awarded. DBE utilization rates on large contracts have a proportionally larger impact on overall DBE utilization, and were a primary factor contributing to the shortfall in FFY 2017. Amplified barriers to DBE participation on large contracts include higher bonding requirements and low availability of DBEs primes able to bid contracts in this dollar range. ADOT&PF also reviewed prime contracts with individual award amounts less than 10 million but greater than 5 million dollars, and prime contracts with award amount less than 5 million dollars. DBE utilization on these contracts were 5.10% and 19.09% respectively, highlighting an inverse relationship between contract size and DBE utilization percentage. The CRO expects that DBE utilization on large contracts will continue to be a challenge during FFY 2018. The Department will submit annual DBE utilization projections to FHWA in March of 2018, and depending on the results may need to use contract goals to address any projected shortfall.

## DBE Utilization on PSAs

To explore how DBEs were utilized during FFY 2017 and to identify factors that contributed to the shortfall, the CRO compiled and analyzed data from the ADOT&PF CRO Contract Compliance Database (BizTrak). The following table details DBE utilization on FHWA-funded contracts awarded during FFY 2017:

<b>Procurement Type</b>	<b>Total Awarded</b>	<b>Total Awarded to DBEs</b>	<b>DBE Utilization</b>
Construction	\$334,960,728	\$23,541,394	7.03%
PSA	\$9,296,525	\$212,753	2.29%
Construction & PSA	\$344,257,253	\$23,754,147	6.90%

Table 2

Several conclusions can be drawn from the data reflected in Table 2. First, construction expenditures constituted the majority of FHWA funds awarded during FFY 2017, and therefore the DBE utilization rate on construction contracts carried more weight in calculations of overall DBE utilization relative to the DBE utilization rate on PSA contracts. Second, the DBE utilization rate on PSAs was significantly lower than that of construction contracts. This conclusion is consistent with a trend of lower DBE utilization on race-neutral professional services contracts that has been observed in recent years. ADOT&PF has taken steps toward addressing this by voicing concerns directly to consultant industry groups, and updating internal policies with a focus on PSA DBE participation. Specifically, ADOT&PF has implemented a PSA closeout review process for all professional services contracts to address issues such as ensuring DBE subconsultants were used as originally committed.

## Summary and Action Plan

The shortfall in DBE utilization relative to the overall goal in FFY 2017 is attributable to multiple factors. Based on the analysis conducted by the CRO, DBE availability as well as DBE utilization on PSA and large contracts were factors that contributed to the shortfall. ADOT&PF will take steps to address the shortfall by implementing new and continued race-neutral measures during FFY 2018, which are detailed below.

<b>ADOT&amp;PF Race-Neutral Measures</b>
Pre-Bid Notification of Subcontracting Opportunities
Aspirational Project Goals
Outreach Efforts
Increased Monitoring
M/WBE Outreach
Coordination with Industry Partners
One-on-One Business Reviews
Training Classes and Technical Education
Plan Holders Self-Registration List
The Transporter
Quality Assurance Reviews
Facilitating Relationships between DBEs and Prime Contractors
DBE Reimbursement Program
Access to Capital
PSA DBE Program Development
AASHTOWARE
Disparity Study Update
Contract Goals

Table 3

### **Pre-Bid Notification of Subcontracting Opportunities**

ADOT&PF has taken steps to ensure DBE awareness of subcontracting opportunities through several approaches. One approach is utilizing the State of Alaska Online Public Notices Service. This service provides registered users a cost-free way of staying informed of upcoming federally-assisted contracts by procurement type and region. Building on the State of Alaska Online Public Notices service, the Plan Holders Self Registration List allows interested subcontractors/consultants to connect with prime contractors bidding on federally-assisted contracts. Beyond these web-based mechanisms, the ADOT&PF CRO has begun working with prime contractors to ensure that interested DBEs are given fair consideration for subcontracting opportunities. Under the race-neutral program, prime contractors have demonstrated a continued commitment to soliciting bids from DBEs who register on the Plan Holders Self Registration List. Toward this end, the CRO has begun developing a sample bid solicitation form to assist prime contractors in their efforts to procure DBE participation. Additionally, ADOT&PF has taken steps to highlight subcontracting opportunities to DBEs on a non-project specific basis. By brokering discussions between DBEs and ADOT&PF leadership during events

throughout the year, DBEs were able to preview upcoming projects and subcontracting opportunities. The efforts that ADOT&PF has made to inform DBEs of subcontracting opportunities appear to be effective, as evidenced by the 2014 ADOT&PF Disparity Study which highlights that surveyed participants overwhelmingly agreed that they receive notification of contract or bid opportunities.

Additionally, as ADOT&PF moves toward implementing AASHTOWARE over the next three year period, the Department will explore automating notifications to DBEs when projects containing work in their certified work categories are advertised. ADOT&PF expects that continuing to notify firms of upcoming subcontracting opportunities will help to encourage more DBEs to submit bids.

### **Aspirational Project Goals**

Aspirational goal-setting serves several purposes in the race-neutral program and gives ADOT&PF a standard against which DBE utilization on individual projects can be measured. Aspirational goals are calculated in the same manner as race-conscious contract goals, however, they are not advertised. By considering available work that may be subcontracted on a project and the availability of DBEs to perform that work, the Department can estimate the level of DBE utilization that could be expected on a given project. By allowing the Department to compare actual utilization against projected utilization, aspirational goals help generate more oversight of the program. In regard to the information collected for the purposes of calculating aspirational goals, subcontractable items aid in identifying probable upcoming subcontracting opportunities available for DBEs.

Currently, aspirational project goal data is not easily accessible for the purposes of aggregating and analyzing the data. ADOT&PF has incorporated aspirational project goal tracking functionality into its AASHTOWARE system, which will be available as it is implemented over the coming three years.

### **Outreach Efforts**

One of the key components of the ADOT&PF DBE race-neutral DBE program is documenting efforts made by prime contractors to procure DBE participation on FHWA-assisted contracts. This is accomplished through contract provisions that require prime contractors to detail their outreach efforts to procure DBE participation. Under this system, the sufficiency of outreach performed is not evaluated, however, documentation of any efforts made to utilize DBEs is required. Capturing this data has afforded the Department additional insights into DBE utilization on its FHWA-assisted contracts. By allowing ADOT&PF to monitor the efforts made by prime contractors to obtain DBE participation, and in some circumstances the reasons why those efforts fail, the Department can tailor its future efforts to increase DBE utilization on its FHWA-assisted contracts.



As previously noted, during FFY 2017 in over 70% of cases, DBEs either did not respond to solicitations from prime contractors or indicated that they were not interested in bidding on contracts. During FFY 2018 ADOT&PF will perform follow up with DBEs who have previously not responded to solicitations to identify their reasons for not responding. Once this information is gathered, ADOT&PF will be able to take specific and measurable steps to encourage DBEs to respond to solicitations.

### **Increased Monitoring**

Increased monitoring refers primarily to monthly status reports prepared by ADOT&PF and provided to FHWA regarding overall DBE utilization. However, the Department has expanded this to include other DBE program stakeholders such as the Associated General Contractors of Alaska (AGC), certified DBEs, and other sections within the Department. By using multiple platforms such as AGC's DOT Steering Committee and DBE events sponsored by ADOT&PF, the Department seeks to maintain a high level of awareness about the DBE program, progress against annual goals, and the responsibilities of individual stakeholders. Additionally, ADOT&PF expects to expand on its monitoring efforts in the coming triennial period by preparing DBE utilization projections based on current DBE utilization rates and upcoming contracts. These reports will be provided to FHWA during the fiscal year, increasing program accountability and improving the Department's ability respond to projected shortfalls in DBE utilization by using contract goals when necessary, and helping to achieve the overall goal.

### **Minority and Women-Owned Business (M/WBE) Outreach**

Performing outreach to non-certified M/WBEs includes activities related to building the population of available DBEs to perform work on FHWA-assisted contracts. The Department estimates that there are at least some firms performing work on its FHWA-assisted contracts that could become certified. When firms that can be certified actually become certified, DBE participation is increased. The Department's efforts to recruit DBEs have included collecting references from prime contractors, utilizing disparity study data to identify non-certified M/WBEs, and partnering with the Procurement Technical Assistance Center (PTAC) and other agencies to recruit potential DBEs. The actual recruitment process generally involves inviting potential firms to DBE program orientations which are provided by the CRO quarterly, or DBE program overview presentations hosted by PTAC.

During FFY 2018 ADOT&PF will work to add mechanisms to track the conversion rate of these outreach efforts. These efforts may include tracking presentation attendees as well as requesting information regarding how new applicants were referred to the program.

### **Coordination with Industry Partners**

Coordination with industry includes identifying and leveraging external resources to encourage DBE utilization on FHWA-assisted contracts. External partners play an important part in the DBE program not only from the perspective of being primary stakeholders, but also in

providing resources for many of the race-neutral initiatives that help DBEs compete on FHWA-assisted contracts. During FFY 2018 ADOT&PF will focus additional resources on coordinating with professional services industry partners in response to reduced DBE utilization on PSAs during FFY 2017. Additionally, ADOT&PF will coordinate with prime contractors and consultants to emphasize DBE recruitment. Anecdotally, recruiting new DBEs via referral from prime contractors has had some success in the past and will likely help address some of the issues experienced during FFY 2017 with only a portion of DBEs actively bidding.

### **One – on – One Business Reviews**

The Map to Success Specialized Assistance Program offers one – on – one consultations with business advisors who conduct in-depth analyses of firms' business operations. The consultations are intended to identify areas for improvement, and upon completion of the initial assessment, provide firms with a business profile that includes recommendations for strengthening their business infrastructure. The goal of the program is to provide business owners with the tools necessary to bring their businesses to a performance level that would result in an increased percentage of work on FHWA – assisted contracts. Among the 10 DBEs that most recently completed the program, 4 have completed work on FHWA funded construction or professional services contracts let by ADOT&PF.

### **Training Classes and Technical Education**

Training classes and technical education are effective ways of delivering generalized information that is applicable to most DBEs. Various platforms are available for providing these educational offerings. Quarterly orientations for newly certified DBEs, business consultant presentations, and coordinated trainings with PTAC, USDOT, and the SBA are some of the avenues ADOT&PF uses to provide DBEs with information pertinent to their business operations. These trainings provide information to DBEs on topics including navigating the ADOT&PF procurement process, and other information beneficial for firms interested in working on FHWA-assisted contracts. As the Department moves forward with its implementation of AASHTOWARE, the CRO will be able to more accurately track which DBEs are attending trainings, and whether they are being awarded FHWA-funded contracts.

### **Plan Holders Self Registration List**

The Plan Holders Self Registration List serves as a portal for DBE and non-DBE subcontractors to express interest in participating on FHWA-assisted contracts. For prime contractors, the Plan Holders Self Registration List is a simplified way to identify potential DBE subcontractors. Additionally, the Plan Holders Self Registration List can act as an indicator of the availability of DBEs to perform work on a given project, and in turn, provide the Department with information helpful for evaluating DBE outreach and participation. The Plan Holders Self Registration List also provides prime contractors a strong starting point for obtaining DBE participation on FHWA-funded contracts as it can be assumed that DBEs registered on the list are interested in working on a given project.

## **The Transporter**

The Transporter is a quarterly newsletter published by the ADOT&PF CRO Office of Support Services. The newsletter communicates DBE program news, upcoming events, and other news pertinent to DBE firms and DBE program stakeholders. The newsletter is made available on the CRO website, and is also emailed to prime contractors, industry stakeholders, and all DBE firms. The Transporter benefits the Department's DBE program by helping to ensure compliance with program requirements by stakeholders, especially when policy or other changes take effect.

## **Quality Assurance Reviews**

The objective of quality assurance reviews is to evaluate DBEs' experience on ADOT&PF construction projects from the DBE, prime contractor, and project staff perspectives. Quality assurance reviews help to ensure that all DBE program requirements are being met on FHWA-assisted contracts, and also serve as a means to promote DBE program best practices on construction projects. During FFY 2018 the ADOT&PF CRO will revisit its QAR procedures to make data more trackable from year to year. This will allow the Department to identify positive and negative trends in DBE program compliance and implementation among specific contractors.

## **Facilitating DBE and Prime Contractor Relationships**

Facilitating networking opportunities for DBEs is an important part of the Department's race-neutral DBE program. Networking events allow DBEs and prime contractors to meet face-to-face to build their networks of professional relationships, which can translate into additional DBE utilization on FHWA-assisted contracts. The Department is exploring ways to track the success of these networking events such as by using follow ups to gauge whether prime contractors were introduced to firms they intend to use in the future.

## **DBE Reimbursement Program**

The DBE Reimbursement Program benefits DBEs by assisting them in building their business so that they may better compete in the marketplace. This ultimately benefits the Department's race-neutral DBE program by providing an additional incentive to becoming certified, and by building DBE capacity to perform work on FHWA-assisted contracts. DBE firms may receive assistance to cover the costs of training, consultation and/or association fees that enhance the management skills or expertise of the DBE. A 50% reimbursement program is available to individuals of qualifying DBE firms. Under this program, firms may be reimbursed for 50% of tuition or other costs (up to \$1,000 per calendar year) for business or technical training, workshops, consulting services, and professional association fees. Small Business Development Center core classes are reimbursed at 90% through the program. During FFY 2018 ADOT&PF will begin implementing electronic bidding, which has subscription costs for

contractors. As part of the DBE reimbursement program, ADOT&PF will reimburse some of the costs to DBEs associated with electronic bidding.

### **Access to Capital**

External resources such as the USDOT Short Term Lending Program (STLP), the Alaska Department of Economic Development Microloan Fund, the 504 Loan Program, and the Kenai Peninsula Economic Development District are available to both certified and non-certified DBEs to help with access to capital. Utilization of these programs is not monitored by ADOT&PF, however, one DBE stated that they utilized the USDOT STLP as recently as FFY 2016 to help fund work they performed on an FAA-funded contract let by the Department.

### **PSA DBE Program Development**

ADOT&PF has begun work to improve implementation of DBE program requirements on professional services contracts. Responding to concerns from stakeholders, ADOT&PF has taken steps to unify its processes and contract language across operating regions, and is coordinating with the community of prime consultants to ensure awareness of DBE program goals and responsibilities. Most recently, ADOT&PF has begun implementing a contract closeout review process at the end of every PSA to evaluate consultant performance. As part of this process, the Department will incorporate a review of DBE program elements, including whether DBEs were utilized as originally committed. These reviews may be used in evaluating qualifications based awards of future contracts.

### **AASHTOWARE**

ADOT&PF has begun the process of transitioning its information systems to AASHTOWARE, an integrated data management system with civil rights functionality. ADOT&PF expects that this transition will ultimately benefit the contracting community, including DBE and non-DBE contractors, by reducing paperwork requirements, augmenting the Department's prompt payment monitoring mechanisms, and facilitating a more transparent DBE program. AASHTOWARE is expected to go live in 2018 for civil rights preconstruction functionality, with post-award civil rights functionality coming online during the coming two to three years. ADOT&PF will be working with DBE and non-DBE contractors to strive for a smooth transition, including by hosting three electronic bidding trainings for contractors to attend.

### **Disparity Study Update**

ADOT&PF will work with its USDOT funding partners to conduct a disparity study update during the upcoming triennial period. The disparity study update should include analyses of M/W/DBE availability and utilization on USDOT-assisted contracts across all procurement types, and identify any evidence of discriminatory behavior in the market area. The disparity study update will be completed prior to the FFY 2021 – 2023 DBE goal cycle.

### **Contract Goals**

ADOT&PF will monitor DBE utilization throughout FFY 2018, and compliant with the requirements of 49 CFR Part 26.51(f)(1), will evaluate whether adding contract goals is necessary to meet the overall DBE goal. ADOT&PF will provide its projections to FHWA by March 31 of 2018, and if it is determined the Department will not meet its goal, will provide documentation showing the remaining portion of the overall goal to be achieved through setting project goals by April 7.