



2

DBE Program Intent

- DBE Program originally based on Title VI of the Civil Rights Act of 1964.
- USDOT established a regulatory structure in 1980 to remedy past and current discrimination in transportation projects.
- After its inception, Congress enacted statutory provisions addressing the DBE program, which have been amended and reauthorized several times.
- Key objectives of the DBE Program [49 CFR 26.1]:
 Create a level playing field; and
 - Ensure nondiscrimination.
- The DBE program encompasses over 41 thousand DBE firms with approximately \$6 Billion of awarded contracts.

Objectives of the DBE Program (49 CFR §26.1)

There are **EIGHT** objectives of the DBE Program:

- 1. To **ensure nondiscrimination** in the award and administration of DOT-assisted contracts
- 2. To create a **level playing field** on which DBEs can compete fairly for DOTassisted contracts;
- To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law;
- To ensure that only firms that fully meet this part's eligibility standards are permitted to participate as DBEs;

Objectives of the DBE Program (49 CFR §26.1)

- To help remove barriers to the participation of DBEs in DOT-assisted contracts;
- 6. To **promote the use of DBEs** in all types of Federally-assisted contracts and procurement activities conducted by recipients.
- 7. To assist the **development of firms** that can compete successfully in the marketplace outside the DBE program;
- 8. To provide appropriate **flexibility to recipients** of Federal financial assistance in establishing and providing opportunities for DBEs.

The Applicability of the DBE Program (49 CFR §26.3)

As a general matter, DBE Program applies to recipients of:

• Federal-aid highway funds

6

8

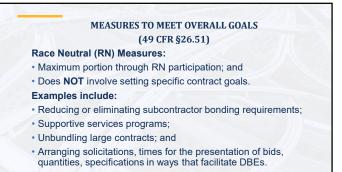
- Federal transit funds
- Airport funds authorized by 49 U.S.C. 47101

The DBE Program also applies to Transportation Infrastructure Finance and Innovation Act (TIFIA) funding. See Infrastructure Investment and Jobs Act, Division A, Title II, and Section 11101(e)(3).

DBE OVERALL GOAL METHODOLOGY

(49 CFR §26.41 and 26.45)

- State DOTs must set an overall DBE goal every three years
- The overall goal is expressed as a percentage of a recipient's federal-aid funds
- The percentage represents the disparity between the current percentage of minority and women-owned firms' participation on transportation projects and the percentage of participation that would be expected absent the effects of current and past discrimination

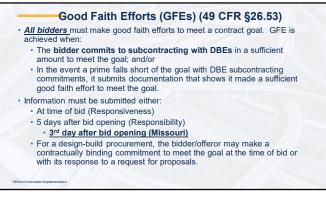


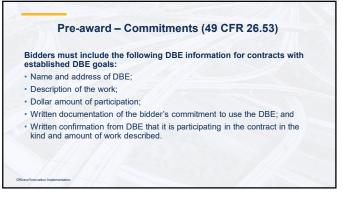
Measures to Meet Overall Goals (49 CFR §26.51)

Race Conscious Measures -

- · Setting DBE goals on individual contracts, or specific projects.
- Not required to be set on every contract
 Contract goals may only be set on contracts with subcontracting opportunities
- A contract goal must be **narrowly tailored** based upon each contract. States should not merely use its overall goal as a DBE goal on every contract.
- 49 CFR 26.51(f) defines the circumstances when contract goals may be used or adjusted

9





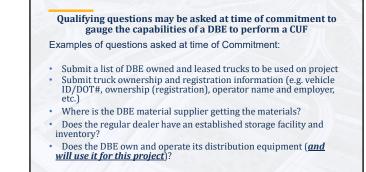
(A) Line No.	(B) Dollar Value of DBE Work** (Unit Price x Quantity of the Item in (A), or Lump Sum)	(C) Dollar value applicable to DBE Goal** (100% = enter 1 60% = enter .6)	(D) Dollar amount applicable to DBE Goal (BxC)	(E) Percent of total contract amount for line item (D / total contract amount)	Ren	idd or move mes
					-	+
						+
		DBF. Total		Total %		+
	t exceed bid amount for given item of work. services credited at 100% if the DBE owns t	he trucks or is leasing from a DBE i	im.	, com / c	1	
rucking llowed rokered			im.		1	
rucking llowed rokered	c services credited at 100% if the DBE owns t amount of participation will be in accordance i services will only receive credit for fees.	e with 49 CFR Part 26.	im.	Name / Title	.1	

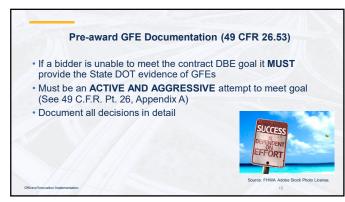
Did the Bidder Meet the Goal?

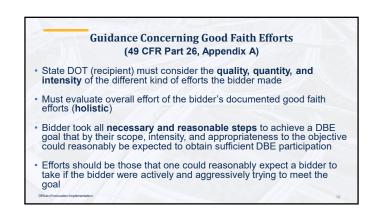
Even if it appears a Bidder met the DBE goal, a good practice is to review the DBE commitments to ensure:

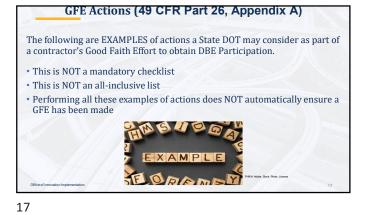
- Committed DBEs have the capacity to perform the work
- Ensure DBE suppliers will meet the definition of "regular dealer" to receive credit for 60% of the cost of supplies
- Trucking estimates are detailed and not just large lump sums
 All committed work is commensurate with the available subcontractable work and quantities estimated under the prime contract

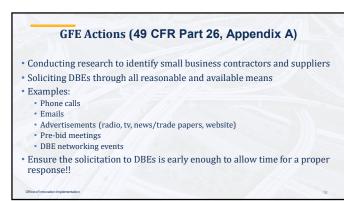
13

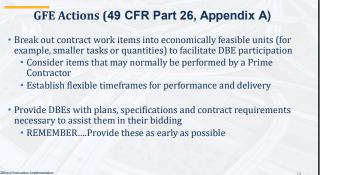


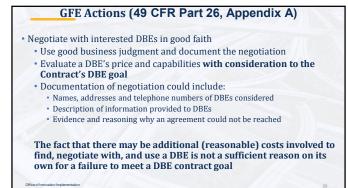


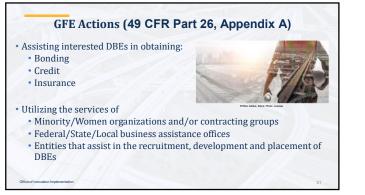


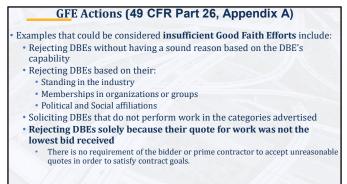


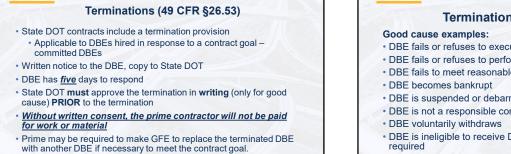


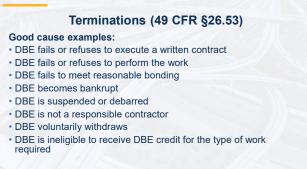












Substitutions (49 CFR §26.53)

- When a DBE subcontractor is terminated the prime must make good faith efforts to find another DBE subcontractor to substitute for the original DBE
- These good faith efforts shall be directed at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated, to the extent needed to meet the contract goal you established
- If the State DOT requests GFE documentation, the contractor must submit documentation within <u>7 days</u>, which may be extended for an additional <u>7 days</u>.
- The recipient shall provide a written determination to the contractor stating whether or not good faith efforts have been demonstrated.

25

Prompt Payment (49 CFR 26.29) Pay all subcontractors for work that was satisfactorily completed no later than 30 days (<u>15 in Missouri</u>) after the prime receives payment The DBE program Plan must contain a prompt payment and release of retainage contract clause Included in every contract and subcontract and applies to all tiers

 Satisfactorily completed - State DOT has accepted and paid for portion of work

Proactive Enforcement Mechanisms

