



DBE Program Waiver

Public Meeting: Review and Comment on ODOT Proposal

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DBE Program Waiver

1. Background
2. Analysis – Preferred option & Alternative Option
3. Comments



Background

- 1 No group-specific DBE contract goals per 49 CFR 26.51 (e)(4)
- 2 Waiver to meet 2005 Federal Ninth Circuit case law: Western States Paving vs. Washington DOT
- 3 Prior waivers:
 - First 2008, extended 2010; Current 2013-2015
 - Based on 2007 and 2011 disparity studies
- 4 Construction data and plans to address A&E data
- 5 Timing of 2015 proposal and the 2016 disparity study



Analysis – FHWA Funded Construction Contracts

Over last five years:

- 1 All groups not included in current waiver, except Hispanic group appear to have been substantially underutilized, per aggregated prime and sub data.
- 2 Groups covered by waiver have increased utilization, but are still substantially underutilized on projects without goals.
- 3 Aggregated data obscures showing Hispanic group as substantially underutilized at subcontractor level in each of last five years.
- 4 ODOT proposes re-including all groups for construction contract goals.



FHWA Comments and Suggestions

- 1 ODOT would like to re-include all DBE groups under the waiver to meet construction contract goals.
- 2 FHWA has concerns that USDOT may not approve a proposal including the Hispanic group because it:
 - a. Has preferred to review overall, aggregated prime and subcontractor data for at least a five year period.
 - b. May view Hispanic prime participation as an indicator of the group's overall success.
 - c. Has not typically been swayed by arguments that a group's success is attributable to only a few firms.
- 3 FHWA recommended and ODOT has agreed to proposed two options in the waiver application.



Proposed waiver modifications:

ODOT proposing
two options:

1. All DBE groups
(construction
goals)

2. All DBE groups
except Hispanic
group
(construction
goals)



Waiver Proposal Comments

1. Hearing your comments today, or
2. In writing by Aug 30, 2015 to:
ODOT Office of Civil Rights, MS 31,
355 Capitol Street NE Salem, OR 97301-3871
or by email to OCRInfoRequest@odot.state.or.us.



Waiver proposal materials are posted on the DBE Program webpage.

ODOT Office of Civil Rights

<http://www.oregon.gov/ODOT/CS/CIVILRIGHTS/pages/index.aspx>

Thank you.