

INDIANA DEPARTMENT OF TRANSPORTATION

Driving Indiana's Economic Growth

100 North Senate Avenue
Room N750
Indianapolis, Indiana 46204

PHONE: (317) 233-6511
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Michael R. Pence, Governor
Brandy Hendrickson, Interim
Commissioner

August 1, 2013

Mr. Richard Marquis
Division Administrator
c/o Mr. Kenneth Woodruff
Federal Highway Administration
575 N. Pennsylvania, Room 254
Indianapolis, IN 46204

Re: Submission of FFY 2014-2016 Disadvantaged Business Enterprise (DBE) Goal

Dear Mr. Marquis:

The Indiana Department of Transportation (INDOT) has prepared this submittal to the Federal Highway Administration (FHWA) to describe the method used to establish INDOT's overall DBE goal for FFY 2014-2016. In accordance with 49 CFR § 26.45, INDOT's recommended overall DBE goal, as a percentage of all federal-aid highway funds INDOT will expend in FHWA-assisted contracts in the forthcoming three fiscal years is **12.40%**. This percentage represents INDOT's determination of the actual relative availability of DBEs to perform on the types of federally-assisted contracts INDOT intends to let. Of its overall goal, INDOT will achieve **9.52%** through race-conscious measures and **2.88%** through race-neutral measures. If INDOT experiences any changes in the circumstances of administering its DBE Program during the 2014-2016 fiscal year period, then INDOT will request approval from FHWA for an adjustment to its DBE goal at that time pursuant to 49 CFR § 26.45(f)(1).

This goal represents the level of DBE participation on INDOT's contracts expected in the absence of discrimination based on the most recent, complete, and accurate data available. 49 CFR § 26.45 requires a two step process for setting the overall goal. The first step is the calculation of a Base Figure for the relative availability of the DBEs in the relevant market area. The second step permits INDOT to make adjustments to the Base Figure based on relevant and reliable data that is available. Finally, as required by 49 CFR § 26.51(c), INDOT includes a projection of the portion of its overall goal that it expects to meet through race-neutral means.

INDOT respectfully submits the following "Overall Disadvantaged Business Enterprise Goal-Setting Methodology Report FFY 2014-2016" with a proposed DBE goal of **12.40%** to FHWA for consideration.

Sincerely,

Brandy Hendrickson
Interim Commissioner
Indiana Department of Transportation

cc: Matthew Voors; Chief Legal Counsel and Deputy Commissioner, INDOT
Kenneth Woodruff; Civil Rights Program Manager, FHWA
Heather Kennedy; Acting Director, Economic Opportunity & Prequalification Division, INDOT
Derrick Casson; DBE Certification Manager, INDOT
David Alyea; Contract Compliance Manager, INDOT

**OVERALL DISADVANTAGED BUSINESS ENTERPRISE GOAL-SETTING
METHODOLOGY REPORT
FFY 2014-2016**

I. INTRODUCTION

In accordance with the regulations set forth in 49 CFR Part 26.45, and following the *Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program (Tips for Goal Setting)* published by the U.S. Department of Transportation (USDOT), the Indiana Department of Transportation (INDOT) has developed its methodology for determining the DBE goal FFY 2014-2016. The regulations require that the overall goal be prepared using a two-step process. According to the *Tips for Goal Setting*, the recipient must first determine a base figure for the relative availability of certified and non-certified minority and woman-owned business enterprises, hereafter collectively referred to as Disadvantaged Business Enterprises (DBEs). Next, the recipient must examine all relevant evidence to determine what adjustment, if any, is needed to the base figure in order to arrive at an overall goal. The final adjusted figure is the recipient's overall goal and represents the proportion of federal transportation funding that the recipient is expected to allocate to DBEs during the subsequent three federal fiscal years (FFY). Once the adjusted overall goal is determined, the process requires considering what portion of the goal will be met by race-neutral and race-conscious measures, respectively.

II. PROPOSED OVERALL GOAL FOR FFY 2014-2016

Based on the requirements set forth in 49 CFR Part 26, INDOT is submitting a goal for FFY 2014-2016. The recommended overall DBE goal for the period is **12.40%**.

III. OVERALL GOAL-SETTING METHODOLOGY

As previously stated, setting an overall goal involves a two-step process. The base figure is intended to be a measurement of the current ready, willing, and able DBEs as a percentage of all ready, willing, and able businesses to perform the recipient's anticipated federal-assisted contracts. The regulations present five options for establishing a base figure for relative availability of DBEs as listed below.

1. DBE Directories and Census Data Method

This method requires a recipient to consider its DBE directory and U.S. Census data to determine the relative availability of DBEs. The Indiana Unified Certification Program (IUCP) database is the source for the directory, but is limited to USDOT-certified businesses; it does not capture "potential" DBEs that are not certified as required by *Tips for Goal Setting*. Conversely, census data is over-inclusive. The Census Bureau's County Business Pattern (CBP) data is derived from business federal income tax filings and does not consider a business' willingness to do business with a government entity; nor does it filter Caucasian male-owned business. Essentially, the IUCP under-counts DBEs and the CBP over-counts Caucasian males, thus understating the availability of DBEs.

2. Bidder List Method

This method requires a recipient to consider its bidders list to determine the relative availability of DBEs. The bidders list identifies businesses that have bid or quoted on prime or subcontracts. This method limits DBE availability to the number of

businesses that have directly participated in, or attempted to participate in, INDOT's federal-assisted contracts in the previous year.

3. Disparity Study Method

This method is the most comprehensive method for identifying ready, willing, and able DBEs. A disparity study refers to an analysis of whether a disparity, or differences, exists between the number of specified individuals or groups that are available to participate in certain opportunities, and those that actually do participate in those areas. A disparity study helps to determine whether the environment is fair and equitable to all parties involved. The availability data derived from INDOT's 2010 DBE Program Disparity Study will be utilized in the Step One Base Figure Calculation.

4. Other Recipients Base Figure Method

This method uses the goal of another USDOT recipient as the base figure for relative availability. INDOT can only use another recipient's goal if it is set in accordance with DBE regulations and performs similar contracting in a similar market area. This method presumes that there is another USDOT recipient which does the same or similar contracting in the same geographic market area. These conditions cannot be met in INDOT's market area.

5. Alternative Method

Alternative methods may be used to determine a base figure for the overall goal. Any methodology used to determine a base figure must be based on demonstrative evidence of the local market conditions and be designed to ultimately attain a goal that is related to the relative availability of DBEs and potential DBEs in the recipient's market area. The alternative method provides the most flexibility, but is also subject to a higher level of scrutiny.

IV. STEP ONE - BASE FIGURE CALCULATION

The base figure is intended to be a measurement of the relative percentage of ready, willing, and able businesses that are DBEs. The recipient is required to measure willing and able businesses in its marketplace, using the best available evidence, to derive a fair and accurate base figure that represents the percentage of DBEs.

According to Section 26.45(c) and *Tips for Goal Setting*, the overall goal must be based on demonstrable evidence of available ready, willing, and able DBEs relative to all ready, willing, and able non-DBE businesses to participate on INDOT federal-assisted contracts. INDOT has defined its relevant market area as the State of Indiana. A cluster analysis found that a substantial majority of prime contracts and subcontracts were awarded to in-state firms.

The availability database compiled for INDOT's 2010 Disadvantaged Business Enterprise Program Disparity Study (Disparity Study) was used as the source to determine the availability of DBE and non-DBE businesses. The Disparity Study provides direct evidence on disparities among certified and potentially certified firms in various sectors of INDOT's market. As recommended by the USDOT, the Disparity Study incorporates the practices of disaggregating data, weighting data, and including potential

DBEs to derive an availability estimate of **12.40%**.

V. STEP TWO - BASE FIGURE ADJUSTMENT

The Step Two base figure adjustment, as recommended in *Tips for Goal Setting*, requires examining relevant and reliable data in the recipient's market area to determine if an adjustment to the base figure is warranted. The consideration of an adjustment is intended to account for any impact the relevant factors may have on a DBE's contracting opportunities with INDOT. The following factors were considered for the Step Two adjustment.

1. Median Past Participation

INDOT used past DBE participation data based on available data from years 2010–2012. The Median Past Participation (MPP) figure for INDOT's 2014-2016 goal is **6.56%**.

	Total Award Amount	Total DBE Participation	Total DBE %
2010	\$996,279,399	\$110,678,058	11.11%
2011	\$1,177,406,683	\$70,965,513	6.03%
2012	\$1,306,026,744	\$85,664,940	6.56%

2. Bidders List

INDOT used its bidders list to identify DBE availability based on businesses that have bid or quoted on federal-assisted contracts in the previous year. The Bidders List (BL) figure for INDOT's 2014-2016 goal is **11.45%**.

$$182 \text{ [DBE Firms]} \div 1,589 \text{ [Total Firms]} = \mathbf{11.45\%}$$

3. Final Adjustments to the Base Figure

As directed in *Tips for Goal Setting*, if a recipient's adjustment considerations suggest levels that are very similar to the number calculated in Step One, then it is not necessary to make any adjustment to the Base Figure. Based on the foregoing factors, INDOT determined that an adjustment to the Base Figure was not warranted.

$$\text{Base Figure [12.40\%]} + \text{MPP [6.56\%]} + \text{BL [11.45\%]} \div 3 = 10.14\% \approx \mathbf{12.40\%}$$

VI. PROJECTION OF RACE-NEUTRAL PARTICIPATION

In accordance with 49 CFR § 26.51(a), INDOT will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes anytime a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE goal, or even if there is a DBE goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award. INDOT has also implemented a number of race-neutral initiatives designed to create a level playing field on which DBEs can compete fairly for federal-assisted contracts and to assist in the development of DBE firms so they can compete successfully in the market place outside the DBE program.

1. Race-Neutral Initiatives

A. Generally

INDOT provides business development training for its certified and potential DBE firms in many ways. First, INDOT staff provides ongoing support and technical assistance to DBE firms throughout the year. In addition to on-demand phone and email support, INDOT provides DBE firms with information and notices regarding business and training opportunities, as well as letting participation information. Second, INDOT provides assistance to DBE firms through its Supportive Services Section. The Supportive Services Manager surveys DBE firms annually to determine common concerns, barriers to entry, and specific requests as the bases for specific program development targets. Then, through the financial support of the USDOT, INDOT works with its professional consultant to create effective, relevant, and customer-driven DBE development programs.

B. INDOT Supportive Services Outreach and training – the Entrepreneurial Development Institute (EDI) and the Statewide Indiana DBE Initiative (SINDI)

EDI is a statewide training and outreach initiative that provides managerial, technical, financial management, and technological classroom training for DBE construction, construction associated, and consulting firms. Participating firms are those certified DBE firms that have demonstrated the technical potential and entrepreneurial desire to perform in the highway construction and related industries. EDI also includes one-on-one mentoring for individual DBEs and follow-up site visits to determine if the firm has implemented skills learned in the classroom training.

SINDI provides statewide outreach and information for the solicitation of minority and women owned firms. INDOT started SINDI with a focus in Southern Indiana and expanded the program statewide as a result of the American Recovery and Reinvestment Act. SINDI educates these firms on the benefits of and processes for DBE certification. This includes a series of statewide, one-day educational workshops both for the recruited firms as well as currently certified but underperforming DBEs. The goal of the program is to create a more diverse group of certified firms with an emphasis on highway construction and highway design/engineering.

INDOT provided outreach, training, and service through EDI and SINDI for 225 firms between 2011 and 2013 YTD.

C. DBE Certification Trends

INDOT has continued to appropriately expand the number of certified DBE firms in Indiana. INDOT received 104 new DBE certification applications in calendar year 2012 and 42 new applications during the first half of 2013. This indicates that DBE applications remain relatively steady from last year to this year.

D. Non-discrimination assurances

To help ensure that its prime contractors provide full and fair opportunities for DBEs to compete and succeed, INDOT regularly evaluates primes for evidence that they advertise and evaluate subcontractors on a non-discriminatory basis.

2. Median Past Race-Neutral Participation

INDOT considered past DBE participation as a factor in its race-neutral projection. DBE race-neutral past participation data is based on federal-aid contracts closed during calendar years 2010–2012.

INDOT arrived at **2.88%** as the median race-neutral figure.

	Total Award Amount	Total DBE Race-Neutral Participation	Total DBE %
2010	\$996,279,339	\$93,145,800	9.35%
2011	\$1,177,406,683	\$29,544,860	2.51%
2012	\$1,306,026,744	\$37,639,675	2.88%

3. Formulation of Overall DBE Goal

INDOT will meet the maximum feasible portion of its overall adjusted goal through the foregoing race-neutral measures. While INDOT's current race-neutral efforts will continue in addition to its new initiatives, contract goals are still necessary to ensure non-discrimination and a level playing field for DBEs in Indiana's market area. INDOT's median race-neutral past participation during 2010-2012 was **2.88%**. As such, INDOT projects it shall meet **2.88%** of its overall DBE goal through race-neutral measures and **9.52%** through race-conscious measures.

Total DBE Race-Neutral Participation	
Total DBE %	
9.52%	Race-Conscious
2.88%	Race-Neutral
12.40%	Overall DBE Goal

VII. PUBLIC INVOLVEMENT

In accordance with 49 CFR § 26.45(g)(2), INDOT provided an opportunity for public involvement in establishing its overall DBE goal. The notification process has two objectives. First, to provide public notice of the proposed overall goal by making the goal setting methodology and rationale available for public inspection. Secondly, to consult with minority, women, and general contractor groups; community organizations; and other officials that could be expected to have information concerning DBE and non-DBE availability, the effects of discrimination on opportunities for DBEs, and INDOT's efforts to establish a level playing field for the participation of DBEs.

To this end, a public notice of the proposed goal was published in the following newspaper circulations as well as INDOT's website (*Exhibit A* contains publisher affidavits):

The Evansville Courier
Evansville, Indiana

The Journal Gazette
Fort Wayne, Indiana

The Frost Illustrated* Ft. Wayne, Indiana	South Bend Tribune South Bend, Indiana
The Post Tribune Gary, Indiana	The Indianapolis Star Indianapolis, Indiana
The Gary Crusader* Gary, Indiana	The Indianapolis Recorder* Indianapolis, Indiana
The Kokomo Tribune Kokomo, Indiana	The Indianapolis Herald* Indianapolis, Indiana
Terre Haute Tribune Star Terre Haute, Indiana	* Minority Newspaper

In addition, INDOT held a public meeting on June 28, 2013 to present the *Overall DBE Goal-Setting Methodology Report* and to receive public input (*Exhibit B* contains the public meeting sign-in sheet). Public comments were accepted for 45 days after the public meeting. The *Overall DBE Goal-Setting Methodology Report* was also made available for inspection at INDOT's central office following the date of notice.

INDOT did receive public comment from the Indiana Construction Association (ICA) regarding our *Overall DBE Goal-Setting Methodology Report*. The ICA's primary contention was that INDOT chose to utilize the disparity study that was prepared for a number of state entities by BBC Research & Consulting (BBC) in November of 2010 in determining its Base Figure calculation. ICA felt that the disparity study reached inflated availability percentages because these calculations were derived from an unverified survey; based on non-certified "potential" DBEs; and ignored INDOT's bidders list, which it felt was a better availability source (*Exhibit C* contains a copy of ICA's comment letter).

VIII. CLOSING

Again, INDOT respectfully submits the foregoing DBE goal of **12.40%** for FFY 2014-2016 to FHWA for consideration.

EXHIBIT A
PUBLISHERS AFFIDAVIT

**PUBLIC NOTICE
DISADVANTAGED BUSINESS
ENTERPRISE (DBE) GOAL
FOR FISCAL YEARS 2014-2016**
In accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26, the Indiana Department of Transportation (INDOT) hereby announces its FFY 2014-2016 Disadvantaged Business Enterprise goal of 12.4% on federal-aid highway construction projects. The proposed goal and methodology are available for public review for the next 30 days during normal business hours from 8:30 a.m. to 4:30 p.m., Monday through Friday, at INDOT's central office located at 100 North Senate Avenue, Room N758, Indianapolis, IN 46204 and on our web page at www.in.gov/indot/2594.htm. Written comments will be accepted by INDOT for 45 days following publication of this notice. The Department's FFY 2014-2016 goal may be adjusted by any comments received. Interested parties are encouraged to submit comments to: Heather Kennedy, Acting Director of Economic Opportunity and Prequalification Division, INDOT, 100 North Senate Avenue, Room N-750, Indianapolis, IN 46204. On June 28, 2013, INDOT will host a public meeting at its central office located at 100 North Senate Avenue, Room N755, Indianapolis, IN 46240 from 1:00 p.m. to 3:00 p.m. to discuss the Overall DBE Goal-Setting Methodology Report FFY 2014-2016.
(Courier & Press June 10, 2013)

Subk

The Journal Gazette

05-25-13A07:33 RCVD

Account # 1066219 - 1063581

Allen County, Indiana

Office of Environmental Service Waterway Permits

PUBLISHER'S CLAIM

ATTACH COPY OF ADVERTISEMENT HERE

LINE COUNT

Display Master (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) -- number of equivalent lines _____

Head -- number of lines _____

Body -- number of lines _____

Tail -- number of lines _____

Total number of lines in notice **44**

COMPUTATION OF CHARGES

44 lines, 1 column(s) wide equals \$ 17.69
44 equivalent lines at \$ 0.402 cents per line

Additional charges for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (\$1.00 for each proof in excess of two)

TOTAL AMOUNT OF CLAIM \$ 17.69

DATA FOR COMPUTING COST

Width of single column in picas 9.8 Size of type 7point.
 Number of Insertions 1

Pursuant to the provisions and penalties of IC 5-11-10-1, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

I also certify that the printed matter attached hereto is a true copy, of the same column width and type size, which was duly published in said paper 1 times.

The dates of publication being as follows:

6/10/2013

Additionally, Newspaper has a Web site and this public notice was posted on the same day as it was published in The Journal Gazette.

T. Brown-Smith
Legal Clerk

Date: June 10, 2013

PUBLIC NOTICE
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TERPRISE (DBE) GOAL
FOR FISCAL YEARS 2014-2016

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6--10 1063581 hspaxip

To Frost Illustrated
3121 S. Calhoun St.
Fort Wayne, IN 46807

by, Indiana

PUBLISHER'S CLAIM

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if the type in which the body of the
of equivalent lines

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18
22

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\$ 25.12

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(\$1.00 for each proof in excess

\$ 25.12

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6/12

DATA FOR COMPUTING COST

Width of single column in picas 11.5
Number of insertions one

Size of type 7 point.

Pursuant to the provisions and penalties of IC 5-11-10-1, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

I also certify that the printed matter attached hereto is a true copy, of the same column width and type size, which was duly published in said paper one times. The dates of publication being as follows:

6/12/13

Additionally, the statement checked below is true and correct:

- Newspaper does not have a Web site.
- Newspaper has a Web site and this public notice was posted on the same day as it was published in the newspaper.
- Newspaper has a Web site, but due to technical problem or error, public notice was posted on
- Newspaper has a Web site but refuses to post the public notice.

Aiden J. Ky...

Title Layout & Production Manager

Date 6/11/13

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FOR FISCAL YEARS 2014-2016**

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6/12

COPY

ACCOUNT 100174730

INDIANA DEPT OF
TRANSPORTATION

0000581765

To POST-TRIBUNE

1433 E. 83RD AVE., MERRILLVILLE, IN 46410-6307

LINE COUNT

Display Master (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) -- number of equivalent lines

Head -- number of lines

Body -- number of lines

Tail -- number of lines

Total number of lines in notice

COMPUTATION OF CHARGES

57	Lines, 1 columns wide equals	57 equivalent lines at	
	cents per line	0.299	\$ 17.04
	Additional charges for notices containing rule or tabular work (50 per cent of above amount)		
	Charge for extra proofs of publication (\$1.00 for each proof in excess of two)		
	TOTAL AMOUNT OF CLAIM		\$ 17.04

DATA FOR COMPUTING COST

Width of single column in picas	7.33	Size of type	7.00 point
Number of insertions	1		

Pursuant to the provisions of penalties of IC 5-11-10-1, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

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- Newspaper has a Web site but refuses to post the public notice.

CATHY CYNCAR

DATE: Jun 10, 2013

TITLE: LEGAL CLERK



Claim No. _____ Warrant No. _____

IN FAVOR OF

\$ _____

ON ACCOUNT OF APPROPRIATION FOR

Appropriation No. _____

ALLOWED _____

IN THE SUM OF \$ _____

ATEST

I have examined the within claim and hereby certify as follows:

That it is in proper form.

That it is duly authenticated as required by law.

That it is based upon statutory authority.

correct
that it is apparently

I certify that the within claim is true and correct; that the services there in itemized and for which charge is made were ordered by me and were necessary to the public business

**PUBLIC NOTICE
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BUSINESS ENTERPRISE
(DBE) GOAL
FOR FISCAL YEARS
2014-2016**

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**PUBLIC NOTICE
DISADVANTAGED BUSINESS
ENTERPRISE (DBE) GOAL
FOR FISCAL YEARS 2014-2016**

General Form No. 99P (Revised 2009A)

Tax I.D. 63-1253950
To: Kokomo Tribune
P.O. Box 9014, Kokomo, Indiana 46901

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K-568 June 10 hspaxlp #770957

Department of Transportation
Unit)
Indiana

PUBLISHER'S CLAIM

K- 568

Ad # 770957

Number of lines (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) - number of equivalent lines
Number of lines
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Number of lines in notice

FEES AND CHARGES

Number of columns wide equals

Equivalent lines at 0.4275 cents per line	\$18.81
Charge for notices containing rule or tabular work (percentage of above amount)	
Extra proofs of publication (each proof in excess of two)	\$18.81
Total amount of Claim	

DATA FOR COMPUTING COST

Width of single column in picas 9.9 Size of type 7 point.

Number of insertions 1

Pursuant to the provisions and penalties of IC 5-11-10-1, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

I also certify that the printed matter attached hereto is a true copy, of the same column width and type size, which was duly published in said paper 1 times. The dates of publication being as follows:

June 10, 2013

Additionally, the statement checked below is true and correct:

- Newspaper does not have a Web site.
- Newspaper has a Web site and this public notice was posted on the same day as it was published in the newspaper.
- Newspaper has a Web site, but due to technical problem or error, publish notice was posted on _____
- Newspaper has a Web site but refuses to post the public notice.

Angel M. Stinson

Date: June 10, 2013

Title: Legal Advertising Clerk

State of Indiana
St. Joseph County ss:

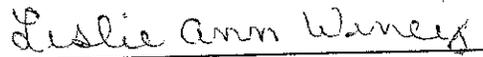
Personally appeared before me, a notary public in and for said county and state, the undersigned Kim Wilson who, being duly sworn says that she is of competent age and is President & Publisher of the South Bend Tribune, a daily newspaper which for at least five (5) consecutive years has been published in the City of South Bend, county of St. Joseph, State of Indiana, and which during the time, has been a newspaper of general circulation, having a bona fide paid circulation, printed in the English Language and entered, authorized and accepted by the post office department of the United States of America as mailable matter of the second-class as defined by the act of Congress of the United States of March 3, 1879, and that the printed matter attached hereto is a true copy, which was duly published in said newspaper.

1 time(s), the dates of publication being as follows:

June 10, 2013



Subscribed and sworn to before me this 10th day
of June 2013



Leslie Ann Winey
Notary Public
Resident of St. Joseph County

My commission expires December 21, 2016

Charges: \$16.87

Ad # 4402354

2013

PUBLIC NOTICE

DISADVANTAGED BUSINESS
ENTERPRISE (DBE) GOAL
FOR FISCAL YEARS 2014-2016
In accordance with regulations of
the U.S. Department of Transpor-
tation (DOT), 49 CFR Part 26,
the Indiana Department of
Transportation (INDOT) hereby
announces its FFY 2014-2016
Disadvantaged Business Enter-
prise goal of 12.4% on federal-
aid highway construction pro-
jects.

The proposed goal and method-
ology are available for public re-
view for the next 30 days during
normal business hours from 8:30
a.m. to 4:30 p.m., Monday
through Friday, at INDOT's cen-
tral office located at 100 North
Senate Avenue, Room N758, In-
dianapolis, IN 46204 and on our
web page at
www.in.gov/indot/2594.htm.

Written comments will be ac-
cepted by INDOT for 45 days fol-
lowing publication of this notice.
The Department's FFY 2014-
2016 goal may be adjusted by
any comments received.

Interested parties are encour-
aged to submit comments to:
Heather Kennedy, Acting Direc-
tor of Economic Opportunity and
Prequalification Division, INDOT,
100 North Senate Avenue, Room
N-750, Indianapolis, IN 46204.

On June 28, 2013, INDOT will
host a public meeting at its cen-
tral office located at 100 North
Senate Avenue, Room N755, In-
dianapolis, IN 46240 from 1:00
p.m. to 3:00 p.m. to discuss the
Overall DBE Goal-Setting Meth-
odology Report FFY 2014-2016.

1t: 6: 10

IND DEPT OF TRANSPORTATION
MARION COUNTY, INDIANA

To: INDIANAPOLIS NEWSPAPERS
307 N PENNSYLVANIA ST - PO BOX 145
INDIANAPOLIS, IN 46206-0145

PUBLISHER'S CLAIM

LINE COUNT

**PUBLIC NOTICE
DISADVANTAGED BUSINESS
ENTERPRISE (DBE) GOAL
FOR FISCAL YEARS 2014-2016**

In accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26, the Indiana Department of Transportation (INDOT) hereby announces its FFY 2014-2016 Disadvantaged Business Enterprise goal of 12.4% on federal-aid highway construction projects.

The proposed goal and methodology are available for public review for the next 30 days during normal business hours from 8:30 a.m. to 4:30 p.m., Monday through Friday, at INDOT's central office located at 100 North Senate Avenue, Room N758, Indianapolis, IN 46204 and on our web page at www.in.gov/indot/2594.htm. Written comments will be accepted by INDOT for 45 days following publication of this notice. The Department's FFY 2014-2016 goal may be adjusted by any comments received.

Interested parties are encouraged to submit comments to: Heather Kennedy, Acting Director of Economic Opportunity and Prequalification Division, INDOT, 100 North Senate Avenue, Room N-750, Indianapolis, IN 46204. On June 28, 2013, INDOT will host a public meeting at its central office located at 100 North Senate Avenue, Room N755, Indianapolis, IN 46240 from 1:00 p.m. to 3:00 p.m. to discuss the Overall DBE Goal-Setting Methodology Report FFY 2014-2016.

(S - 6/10/13 - 6073444)

DATA FOR ESTIMATING COST

Width of single column 5.8 ems Size of type 7
Number of insertions 1.0

exceed two actual lines, neither of which shall
lead lines of the type in which the body of the
number of equivalent lines _____

notice _____

side equals 74.0 equivalent lines at .487

\$ 36.05

s containing rule and figure work (50 per cent

.00

publication (\$1.00 for each proof in excess of two)

\$ 36.05

CLAIM

Pursuant to the provisions and penalties of IC 5-11-10-1, I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

I also certify that the printed matter attached hereto is a true copy, of the same column width and type size, which was duly published in said paper 1 times. The dates of publication being between the dates of:

06/10/2013 and 06/10/2013

Additionally, the statement checked below is true and correct:

- Newspaper does not have a Web site.
- Newspaper has a Web site and this public notice was posted on the same day as it was published in the newspaper
- Newspaper has a Web site, but due to a technical problem or error, public notice was posted on _____
- Newspaper has a Web site but refuses to post the public notice.

Keavy Reshman

DATE: 06/10/2013

Title: Clerk

YON

PUBLIC NOTICE

PUBLIC NOTICE
DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL
FOR FISCAL YEARS 2014-2016
In accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26, the Indiana Department of Transportation (INDOT) hereby announces its FFY 2014-Headstart Disadvantaged Business Enterprise goal of 12.4% on all highway construction projects.
Proposed goal and methodology are available for public review for the next 30 days during normal business hours from 9 a.m. to 4:30 p.m., Monday through Friday, at INDOT's office located at 100 North Senate Avenue, Room N758, Indianapolis, IN 46204 and on our web page at www.in.gov/indot/2594.htm.
Comments will be accepted by INDOT for 45 days beginning with the publication of this notice. The Department's FFY 2016 goal may be adjusted by any comments received.
Interested parties are encouraged to submit comments to the Indiana Department of Transportation, Attention: Director of Economic Opportunity, 100 North Senate Avenue, Room N-750, Indianapolis, IN 46204.
INDOT will host a public meeting at its office located at 100 North Senate Avenue, Room N-750, Indianapolis, IN 46204 from 1:00 p.m. to 3:00 p.m. on June 18, 2013. The Overall DBE Goal-Setting Methodology Report, FFY 2016.
06/14/13

PROOF OF PUBLICATION

for

Indianapolis Recorder Newspaper

Indiana's Greatest Weekly

2901 N Tacoma Ave

Indianapolis, IN 46218

Phone (317) 924-5143 ~ Fax (317) 921-6653

PUBLISHER'S CLAIM

Computation of charges:

Total number of lines in notice..... 56

28 lines, 2 column wide equals 56 total lines

at .511 cents per total line..... \$ 28.62

TOTAL AMOUNT OF CLAIM..... \$ 28.62

Pursuant to the provisions and penalties of Chapter 155, Acts 1953,

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing just credits, and that no part of the same has been paid.

Crystal Dalton
Account Executive

Date: June 18, 2012

PUBLISHER'S AFFIDAVIT

State of Indiana, Marion County, ss:

A notary public in the state of Indiana who being duly sworn upon her oath, says (s) he is a clerk for The Indianapolis Recorder, a weekly newspaper of general circulation, printed and published in the English language in the city of Indianapolis, in the county of Marion, that the notice of which the attached is a true copy, was duly published in said paper for 1 times successively, the dates of publication being as follows:

-----06/14/13-----

SUBSCRIBED AND SWORN to before me, this 18 day of June, 2013

Crystal Dalton 642320
Notary Public

My Commission Expires February 21, 2021

EXHIBIT B
PUBLIC MEETING SIGN-IN SHEET

PUBLIC MEETING SIGN-IN SHEET
DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL FFY 2014-2016

June 28, 2013

Name	Organization	Contact Number or Email
1. Nicole Schaefer	Indiana Construction Assoc.	nschaefer@inconstruct
2. Donna Poole	INDOT	
3. LaKisha Williams	INDOT	lwilliams@indot.in.gov
4. Demick Casson	"	dcasson@indot.in.gov
5. Kev Woodruff	FHWA	kev@fhwa.gov
6. Heather Kennedy	INDOT	hkennedy@indot.in.gov
7. David Aysa	INDOT	daysa@indot.in.gov
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EXHIBIT C
INDIANA CONSTRUCTION ASSOCIATION COMMENT LETTER



Indiana Construction
Association

One North Capitol Avenue
Suite 1000
Indianapolis, Indiana 46204
Phone (317) 472-6777
Fax (317) 472-6767

318 Main Street
Suite 401
Evansville, Indiana 47708
Phone (812) 477-0881
Fax (812) 421-5883

Inconstruction.org

July 24, 2013

Ms. Heather Kennedy
Acting Director of Economic Opportunity and Prequalification Division
Indiana Department of Transportation
100 North Senate Avenue, Room N-750
Indianapolis, Indiana 46204

Dear Heather,

The following are comments of the Indiana Construction Association (ICA) regarding INDOT's proposed DBE goal for federal fiscal years 2014 through 2016. ICA is a statewide trade association serving highway, heavy, utility and commercial building contractors. Our members normally perform approximately 80 percent of INDOT's annual construction program.

ICA is concerned that INDOT chose to base the goal on the disparity study that was conducted for the state by BBC Research & Consulting (BBC) and issued in November 2010. The disparity study reaches inflated availability percentages because availability: (1) is derived from an unverified survey; (2) is based on non-certified "potential" DBEs; and (3) ignores INDOT's bidders list, which is a better availability source.

Since the data used by BBC in its analysis of INDOT's DBE program differs dramatically from INDOT's own data, the conclusions reached by BBC should not be viewed as valid. These differences pertain to both utilization of DBE firms on INDOT contracts and the size of INDOT's construction program. Our concerns with the disparity study are detailed in the attached letter, which was sent to the Federal Highway Administration (FHWA) last fall. Also attached is a critique of the BBC disparity study prepared for ICA by John Sullivan, a Maryland attorney who specializes in disparity studies.

ICA particularly objects to consideration of non-certified minority and woman-owned business enterprises in this calculation. Since participation by such firms does not count towards attainment of a contract goal, non-certified firms should not be considered in determination of the goal. Part of the certification process is a rigid examination of the ownership and control of a firm to verify that either a female or minority is in charge of the company. This review process also assures compliance with financial net worth and business size requirements. Since non-certified firms have not undergone this review, there is no guarantee that they would actually qualify for DBE certification. Also, since these firms have not sought certification, they should not be considered as ready, willing and able DBE companies.

As the *Tips for Goal Setting* notes, "If you obtain a disparity study conducted in your market areas but, upon reading it, you determine that it is not relevant to



Quality People. Quality Projects.

your program **or it is not reliable**, (emphasis added) you should not make adjustments based on the study." While this was included in a discussion of the Step Two adjustment, the same rationale should apply to the use of a disparity study for the Step One calculation when the study results are not reliable.

A disparity study should only be considered as the "most comprehensive method for identifying ready, willing, and able DBEs" if the data makes sense. The BBC study does not meet that standard. Because of the significant disparities between the data used in the study and other INDOT data regarding DBE participation and the size of INDOT's construction program, the 2010 study should not be considered in setting INDOT goals. Again, please review the ICA letter to FHWA regarding fallacies with the BBC results.

Instead, ICA continues to urge INDOT to use relative capacity rather than relative availability of DBEs for the initial step in the goal setting process. The capacity of ready, willing and able DBE firms should be compared to the capacity of all contractors ready, willing and able to pursue INDOT contracts. This approach was used successfully by INDOT for several years after the 1999 revisions to the U.S. Department of Transportation DBE regulations. This would result in goals that fairly assess the relative potential for DBE firms to perform INDOT's anticipated federal-assisted contracts. One flaw with relative availability, without consideration of capacity, is that firms with no prequalification are considered the same as a firm with unlimited prequalification, even though there is a vast difference in the amount of work these firms could perform for INDOT. Another flaw with the relative availability approach is that it considers all firms on equal footing, regardless of the type of work they perform. Thus, a firm that only installs raised pavement markers is viewed the same as a firm that handles major items of work such as paving, bridge construction or earthwork.

The relative capacity can be based on the Bidder List Method. While INDOT expressed concern about limiting DBE availability to those firms that have directly participated in, or attempted to participate in, INDOT contracts in the prior year, this is an appropriate way to base the calculation only on those firms that are ready, willing and able as required by 49 CFR 26.45(b). The same ready, willing and able standard is applied to all firms that are considered as part of the denominator. This limits the equation to those firms that truly want to work on INDOT projects.

As for the breakdown between the race/gender conscious and race/gender neutral components of the goal, the data used by INDOT in its Methodology Report is difficult to analyze because it is not consistent with other INDOT data that is available to ICA.

ICA is unable to provide significant comments regarding the Step Two adjustment because the source of the information is not identified. ICA was unable to correlate the data shown with the Uniform Report of DBE Awards or Commitments and Payments or data ICA compiled for DBE participation from Affirmative Action Certifications. It is curious that while the revised Methodology Report shows an increase in the 2011 total award amount from the amount shown

on the original Methodology Report, the amount shown for DBE participation in the revised Methodology Report is \$10 million less than the original.

The source of data for race-neutral participation is also not identified. Again, ICA was unable to correlate the data listed in the Methodology Report with the data included in the Uniform Report. ICA compared the race-neutral data included in INDOT's original 2014-2016 Methodology Report to the revised version and identified inconsistent variations. While the total award and race-neutral numbers for 2010 increased dramatically, the numbers shown for 2011 and 2012 were both dramatically decreased, particularly for the DBE race-neutral participation. The drop of the 2012 race-neutral number from \$35,916,929 to only \$6,720 is especially troubling.

ICA has always contended, and data from prior years has confirmed, that actual DBE participation significantly exceeds the race-conscious amounts shown on the Affirmative Action Certifications. The race-neutral participation of more than \$87 million for 2010 is an indication of such participation. The \$6,720 amount for 2012 brings into question the accuracy of this number, particularly since INDOT now requires contractors to report all DBE participation on DBE-3 forms, not just participation of the DBE firms used to achieve the contract goal. ICA might be able to offer additional comments if better information regarding the source of the data were provided. Because the data used in the Methodology Report is questionable, ICA does not believe that INDOT is meeting the maximum feasible portion of its overall goal through the proposed race-neutral goal component.

The Methodology Report also fails to show the extent to which DBE participation as the prime contractor has been factored into the determination of the race-neutral amounts or whether that was even considered.

ICA's check of INDOT contract awards for the October 1, 2011 through September 30, 2012 period found DBE prime contract awards on federally-funded contracts of more than \$13 million. While this is less than the \$22,139,121 that INDOT reported on the Uniform Report for the first six months of federal fiscal year 2012, neither amount appears to be factored into the race-neutral component. This needs to be rectified so INDOT can meet the requirement of attaining "the maximum feasible portion of your overall goal by using race-neutral means of facilitating DBE participation." (49 CFR 26.51)

The data included in the Uniform Report shows that DBEs are successful on the subcontracting level, with more than 20 percent of the subcontracted dollars committed to DBE firms during each period. For the period of April 1, 2011 through September 30, 2011, 33.90 percent of the subcontract dollars were awarded to DBE firms.

If INDOT and FHWA were to follow 49 CFR 26.51 to the letter, race-neutral participation would also include any time a DBE "wins a subcontract from a prime contractor that did not consider its DBE status in making the award." ICA thinks this happens in a significant number of

Indiana Construction Association
INDOT's Proposed DBE Goal for FY 2014-16
Page Four of Four

cases, even though INDOT has chosen not to track these occurrences. ICA has noted this deviation from the federal regulation many times in the past.

Since the Methodology Report does not provide any breakdown between DBE participation in construction contracts and DBE participation in consulting or other federally-assisted contracts, it is not possible to tell whether non-construction contracts were considered in the goal calculation. In the past, INDOT has agreed that this information would provide a more detailed description of how INDOT is setting its DBE goal and would consider listing these numbers for future DBE goal submissions.

In summary, ICA concludes that the proposed goal for 2014-16 is being based on unreliable data and urges INDOT to re-examine how the goal and the race-neutral/race-conscious split have been determined.

Sincerely,

A handwritten signature in cursive script that reads "Paul Berebitsky".

Paul Berebitsky
Government Relations