

# Introduction to INDOT's Economic Opportunity Division

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# INDOT EOD History

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The mission of Economic Opportunity Division (EOD) is to:

- Maximize contracting opportunities for disadvantaged businesses by certifying qualifying firms as Disadvantaged Business Enterprises
- Monitor INDOT contracts for equal employment opportunity contract compliance with state and federal laws
- Increase the number of journey-level women and minorities in Indiana's construction industry through the OJT Program
- Provide education about and ensure enforcement of state and federal civil rights laws
- EOD is responsible for:
  - DBE Certification
  - Ensuring Compliance on Federally Funded Contracts
  - Equal Employment Officer Responsibilities
  - Davis Bacon (Wage Rate) Compliance
  - On the Job Training
  - Supportive Services

# State M/W Certification vs. DBE Certification

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- State Dollar only contracts typically contain goals for minority, women and veteran's participation.
- These contracts are managed by INDOT but IDOA is responsible for the certification of minorities, women and veterans under State regulations.
- Current construction contract goals: 7% minority, 5% women, 3% veteran.
- Businesses cannot be double counted and must choose their category of use.
- DBE Certification is utilized for federal dollar transportation projects.
- If one dollar of federal funds is utilized, an INDOT project must be reviewed to determine if a DBE goal is appropriate.
- Federal contracts are subject to Davis Bacon wage rates and various federal regulations regarding contract compliance.
- Federal contracts are also subject to Title VI and ADA requirements.

# Setting the Overall DBE Goal for INDOT

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- Every three years, INDOT is required to set an overall DBE goal that it must meet (or show that it used good faith efforts to meet) each year in the reporting cycle. This goal is in the form of a percentage of federal funds apportioned annually to INDOT and is calculated based upon the relative availability of ready, willing, and able DBE firms relative to all firms in the relevant geographic market area.
- INDOT has historically utilized disparity study information as its basis for determining the actual relative availability of DBE firms.
- INDOT's Current overall DBE goal (From 10/1/16 to 9/30/19) is **10.9%**.

# DBE Certification- Who Qualifies?

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- To qualify as a Disadvantaged Business Enterprise, a firm must be:
- At least 51 percent owned by socially and economically disadvantaged individuals who:
  - Are US citizens or permanent residents
  - Possess expertise in the field
  - Control the daily business operations
  - Have a personal net worth less than \$1,320,000 (excluding the value of their primary residence and assets of the firm applying for DBE certification)
- The following groups are presumed by law to be socially and economically disadvantaged:
  - Black Americans
  - Hispanic Americans
  - Native Americans
  - Asian-Pacific Americans
  - Subcontinent Asian Americans
  - Women
- A small business as defined by the Small Business Administration (SBA) which means:
  - The firm's average annual gross receipts may not exceed Small Business Administration size standards
  - In any case a firm's gross receipts may not exceed a \$23,980,000 average over the previous three fiscal years

# DBE Certification- How Does It Work?

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- As of July 2016, DBE Certification is an all electronic process
  - Including attachments and notifications
- 21st century approach to the certification application process
- Link to Instructions:  
<http://www.in.gov/indot/2748.htm>
- Going Green – provide environmental impact
- Eliminate need for physical storage space
- Provide electronic source for INDOT and DBE's to review file information
  - Beneficial to DBE's interested in pursuing interstate certifications
- Improve the efficiency of application reviews while maintaining integrity of the Indiana DBE program

# DBE Directory Instructions



<https://entapps.indot.in.gov/DBELocator/>

## Filter Settings

Search by:

1. Company Name
2. Activity Code
3. DBE Category/Specialty
4. District
5. DBE Code

**State of Indiana Directory of Certified Disadvantaged Owned Business Enterprise Search**

This web application is provided as an aid in examining the locations of DBE Firms. Use the filter settings to limit the DBE search. Use the apply button to execute a search and the clear button to clear the results. In the search results table click the magnifier to zoom to that DBE Firm location. On the map, left mouse-click on a DBE Firm to show additional information.

**Filter Settings**

- Select a Company Name
- Select an Activity Code (NAICS)
- Select a DBE Category
- Select a District
- Select a DBE Code
- Filter Using Current Display Area
- Certification Date Begin and End Date: 1/1/1990 to 6/30/2020
- Apply
- Clear

**Table of DBE Credits**

DBE Category	DBE Credit
(AC) Airport Concession Sub	100% DBE Credit
(B) Broker	Fees & Commission Only
(C) Construction Sub	100% DBE Credit
(D) Supplier - Regular Dealer	60% DBE Credit
(E) Engineering Sub	100% DBE Credit
(G) General Sub	100% DBE Credit
(H) Hauler Lease	100% DBE Credit
(I) Industrial Sub	100% DBE Credit
(M) Medical Sub	100% DBE Credit
(N) Supplier - Manufacturer	100% DBE Credit
(P) Professional	100% DBE Credit
(R) Supplier - Broker	Fees & Commission Only
(T) Transit	100% DBE Credit

**For example:**  
If DBE Code = 0057.50D then the DBE Category = (D) Supplier - Regular Dealer and the DBE Credit = 60%

Zoom to	Name	NAICS #	NAICS Description	DBE Code	Work Specialty	App Type	District	dba	Owner	Address Line 1
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# Setting DBE Goals on Individual Contracts

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- Prior to each letting, EOD reviews all proposed contracts and establishes a DBE goal based on the type and nature of the contract and the availability of certified DBEs to perform work on the contract.
- As part of its bid submittal, each prime contractor must submit an Affirmative Action Certification if there was a DBE goal set on the contract. This document identifies which DBEs the prime contractor intends to utilize in an effort to meet the contract goal.
- After determining the apparent low bidder on each contract in which a DBE goal was established, EOD will review the Affirmative Action Certification to verify whether the DBE goal was achieved or if sufficient good faith efforts were made to meet the contract goal.
- P3 Projects and INDOT's Indefinite Delivery/Indefinite Quantity projects require different methods for setting DBE goals.

# Counting DBE Credit

## Categories of DBE Credit

- DBE participation credit is awarded based on how the DBE is participating on a given contract.
- Credit is given for all work performed by DBE's own forces – including cost of supplies and materials obtained by DBE.

### Credit for Materials & Supplies Purchased from a DBE

- Supplier-Manufacturer **100%**
- Supplier-Regular Dealer **60%**
- Supplier-Broker **Only fees or commissions**  
**Drop Shipped Items**

A DBE manufacturer is a firm that operates or maintains a factory or establishment that produces the following, on the premises:

- materials
- supplies
- articles
- equipment

- See Policy Statement on Supplier Credit  
<http://www.in.gov/indot/2753.htm>

# Commercially Useful Function Reviews

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- DBE participation on a contract will only be counted toward a contract goal if the DBE is performing a commercially useful function.
- A DBE performs a **commercially useful function** when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work.
- To ensure that a DBE is performing a commercially useful function on a contract, INDOT evaluates the DBEs performance on the project. This typically entails watching the actual work taking place, interviewing employees, verifying equipment, inspecting delivery tickets and lease agreements, etc.
- If for whatever reason it is determined that a DBE is not performing a commercially useful function, then the amount of DBE credit a prime contractor is awarded may be reduced accordingly.

# Changes in DBE Utilization

## Requirements

A prime contractor:

- Contractor may not terminate a DBE or reduce its commitment to a DBE listed on the Affirmative Action Certification without INDOT's prior written consent.
- INDOT will only provide written consent if there is "good cause" to do so.
- Contractor must give written notice to the affected DBE (with copy to INDOT) of its intent to request a termination or reduction and the reason(s) for the request.
- Contractor must inform the affected DBE that it has five (5) days to respond to its written notice with or without objection.
- If consent is provided, contractor must make "good faith efforts" at finding another DBE to perform at least the same amount of work under the contract as the DBE that was terminated or had its commitment reduced, to the extent needed to meet the contract goal.
- If consent is not provided, the contractor will not be entitled to any payment for work or material unless it is performed or supplied by the listed DBE.



Failure by the prime contractor to meet these requirements is a material breach of contract and may result in administrative sanctions.

# Changes in DBE Utilization

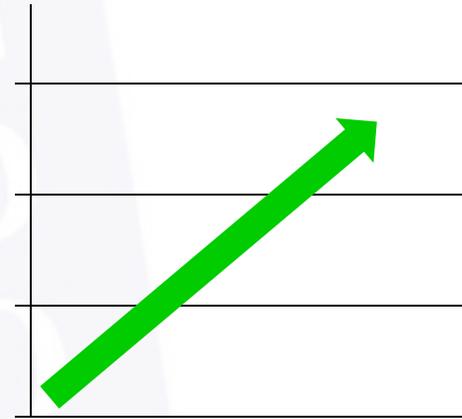
## Potential Good Cause Considerations

- DBE fails or refuses to execute a written contract
- DBE fails or refuses to perform the work of its subcontract
- DBE fails or refuses to meet the prime contractor's reasonable nondiscriminatory bond requirements
- DBE voluntarily withdraws from project with written notice
- DBE ineligible to receive DBE credit for type of work required
- DBE owner becomes disabled or deceased with result of unfinished DBE commitment
- DBE is determined by INDOT to be irresponsible
- Other documented "good cause"

# On the Job Training Program

## Purpose

- To offer equal opportunity for training and upgrading of minorities, women, and disadvantaged persons toward journey-level status in the highway construction trades industry.



## Who is Covered?

Minorities, women, and disadvantaged persons

Image for Example Only

# On the Job Training for Journey Level Careers

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- Partnership agreement administered by contractor and EOD
- Contractor OJT goal calculation
  - 5% of 3 year average hours worked
  - If no 3 year average, INDOT reviews the intended workforce and length of contract to determine the goal.
- Participation Results
  - 2016: 95 Program Participants
    - 72 contractors met their training goal
    - 17 contractors did not meet their training goal, but made sufficient good faith efforts
    - 6 contractors did not meet their training goal and were required to submit corrective action plans
  - 2017: 106 Program Participants
    - Compliance assessments under review
- INDOT has partnered with Vincennes University to provide supportive services dollars in the development and implementation of a CDL training program designed to provide our target group state-of-the-art training, licensure, and recruitment opportunities to enter the market place in an industry that is experiencing a shortage of qualified candidates.

# Supportive Services for DBE's

## Purpose

- Promote increased participation of DBEs on federally funded highway and bridge contracts.
- Provide training, assistance, and services to firms that are certified in the DBE program within the State of Indiana.

### Goal:

To ensure DBE's have every opportunity to succeed and eventually graduate from the DBE program.

