

2. PROGRAM RESPONSIBILITIES

2.1 Oregon Department of Transportation (ODOT)

As a recipient of US Department of Transportation (USDOT) financial assistance, the Oregon Department of Transportation (ODOT) is required to implement a Disadvantaged Business Enterprise (DBE) program according to the requirements explained in 49 CFR 26. As provided under 49 CFR 26, only firms owned and controlled by socially and economically disadvantaged persons are to benefit from the DBE Program.

The Director of ODOT is responsible for establishing the [DBE policy](#) for the Department and is responsible to ensure adherence to this policy. The Manager of the Office of Civil Rights (OCR), in coordination with all ODOT Officers, Division Managers, District Managers, and Procurement Office staff, is responsible for the development, implementation and monitoring of the DBE Program for contracts in accordance with the Department's nondiscrimination policy.

2.2 ODOT Office of Civil Rights

ODOT's OCR is responsible for ensuring compliance with federal regulations in determining the eligibility of applicant firms seeking participation in the program. OCR is also responsible for establishing a minimum expected participation goal on a triennial basis and determining credit towards meeting the assigned DBE participation goal on federally assisted contracts the department awards.

Roles and Responsibilities: Overview

A. DBE Liaison Officer

The following individual is the designated DBE Liaison Officer:

Tiffany Hamilton
Disadvantaged Business Enterprise Program Manager
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The DBE Liaison Officer is delegated by the Director the responsibility of developing and implementing policy and directing the DBE Program. The DBE Program Manager, who has direct independent access to the Director concerning DBE program matters, has responsibility for the day-to-day operation and oversight of the DBE Program as it applies to meeting Federal Highway (FHWA) and Federal Transit Authority (FTA) requirements for USDOT-assisted contracts and activities. The DBE Liaison Officer is responsible for implementing all aspects of the DBE program. The agency must have adequate staff to administer the program in compliance with 49 CFR 26. OCR reporting policy and the ODOT organization chart are attached as Exhibit C.

B. DBE Program Manager

The DBE Program Manager develops and implements program functions based on federal rules and regulations to provide opportunities for DBEs. The position establishes the overall ODOT goal, identifies ODOT contracts for DBE goal evaluation, establishes goals on identified contracts, monitors and evaluates contractual progress of DBE contractors, gathers and reports statistical data, and other information as required by FHWA. This position also provides support and guidance in developing the overall ODOT goal calculations and program outreach for transit-related activities as required by FTA.

Additionally, this position provides technical assistance and advice to ODOT personnel, outside contractors and consultants, and other agencies that perform contract administration and compliance in accordance with 49 CFR 26. This position assists in the design, monitoring, training, evaluation, and reporting of the DBE program consistent with current federal law. The program manager will recommend actions to be taken by staff in conducting reviews and investigations to assure contractor compliance with DBE contract requirements. This position reports directly to the Manager of the Office of Civil Rights.

C. Intermodal Civil Rights Manager

The Intermodal Civil Rights Manager establishes the overall ODOT goal, monitors and evaluates DBE compliance by sub-recipients, and gathers and reports statistical data and other information as required by FTA and Federal Rail Administration (FRA), as required.

D. Civil Rights Field Coordinators

Civil Rights Field Coordinators provide technical assistance and advice to the project management and field personnel who perform contract administration and compliance in accordance with 49 CFR 26. These positions assist in the design, monitoring, training, evaluation and reporting of the DBE program consistent with current federal and state laws. Field Coordinators will recommend action to be taken by field personnel in conducting reviews and investigations to assure contractor compliance with DBE contract requirements. They also provide regional DBE program outreach to contractors and small businesses. These positions report directly to the Field and Business Support Manager.

E. Field and Support Business Manager

Field and Support Business Manager supervises and coordinates the work of the staff in the Field Coordination Unit and the Business Support Unit. This position manages the ongoing development and design of the Civil Rights Compliance Tracking system database to support operations and strategies of the Small Business programs for the state of Oregon internal and external customers.

F. Emerging Small Business Program Manager

Emerging Small Business Manager oversees the Supportive Services Programs such as the Small Contracting Program, ESB/DBE Mentor-Protégé program, and, in concert with the DBE Program Manager, acts as the DBE Program liaison to the small business community at industry and partner organizations' meetings.

G. Office of Minority, Women and Emerging Small Business (OMWESB)

In accordance with an Interagency Agreement signed between OCR and OMWESB, OMWESB is responsible for carrying out the DBE certification and maintaining a database of currently certified DBEs (as well as of women- and minority-owned and emerging small businesses). OMWESB certifies DBEs in accordance with Code of Federal Regulations and Oregon Statutes. Section 6 of this document details the certification process as well as requirements for the DBE certification.

2.3 Other Support Personnel

Personnel from other offices within ODOT share responsibility for ensuring the effective implementation of the DBE Program. They will give full cooperation and active support to the OCR and designees in this effort.

A. Project Delivery and Procurement Staff

- (1) Provide OCR with draft scopes of work/specifications for projects and Requests for Proposals (RFPs) with federal funding to enable goal setting. Outreach to DBEs and, where applicable, development of appropriate DBE language.
- (2) Provide OCR with copies of all final Invitation to Bids (ITBs), RFPs, mailing lists, and advance notices.
- (3) Incorporate DBE goal and appropriate DBE language into ITBs and RFPs
- (4) Inform the OCR of any changes to ITBs or RFPs that are subject to DBE goals.
- (5) Forward copies of bids to the OCR for evaluation of compliance with DBE requirements.
- (6) Allocate appropriate resources when needed, upon mutual agreement, to participate with OCR staff at major trade fairs and outreach events targeting DBEs and other small businesses.
- (7) Incorporate all applicable DBE provisions for procurements with goals. This information can be obtained from the DBE Program Manager.
- (8) Ensure that ITBs and RFPs do not contain unnecessary requirements which could unduly restrict or eliminate small businesses from competition.

B. Project Management Staff

- (1) Monitor and enforce DBE program requirements included in contracts, giving DBE Program compliance the same priority as compliance with all other legal obligations incurred by ODOT under its financial assistance agreements with USDOT. (See also, Section 5, Monitoring Performance and Contractor Compliance, and [ODOT Construction Manual - Chapter 18](#), Workforce and Small Business Equity Programs.)
- (2) Enforce DBE contract goal commitments, payment and reporting obligations, DBE termination and substitution limitations, good faith efforts requirements, and commercially useful function and crediting requirements.
- (3) Ensure Paid Summary Reports (available on the [DBE Forms page](#)) and other DBE compliance-required documents are sent to the OCR Field Coordinator for each project on a monthly basis.
- (4) Perform Commercially Useful Function (CUF) reviews on DBEs performing work on a project.
- (5) Alert OCR to potential problems concerning DBE utilization during contract administration and document such efforts. Secure OCR technical assistance and concurrence on DBE contract and subcontract matters in accordance with this DBE Program Plan, the DBE contract provisions, regulations, and ODOT Construction Manual - Chapter 18, as appropriate.

C. Oregon Department of Justice - Office of the Attorney General

- (1) Address legal matters relating to DBE program implementation.
- (2) Render legal opinions regarding the interpretation of DBE bid specifications and contract provisions.
- (3) Advise OCR regarding matters dealing with imposition of administrative sanctions against contractors who violate DBE provisions.

- (4) Represent ODOT in all legal actions involving DBE issues.
- (5) Provide OCR and the Office of Minority, Women, and Emerging Small Business (OMWESB) with legal opinions concerning DBE certification involving complex issues of ownership and control.

2.4 Sub-recipients (including Local Public Agencies)

A sub-recipient is defined for the purposes of this DBE Program Plan as any entity, public or private, who receives USDOT financial assistance through ODOT. All sub-recipients that let USDOT assisted contracts must follow the requirements of 49 CFR 26, (including insertion of DBE clauses in grant agreements and contracts).

Sub-recipients will develop a DBE Program where required by federal law, or endorse and abide by ODOT's DBE Program Plan. ODOT will make an effort to ensure the sub-recipients comply with all requirements. An agreement will be executed with sub-recipients which will bind sub-recipients to place appropriate DBE clauses in federally assisted contracts and to devise an appropriate DBE Program covering those contracts where required.

Upon FHWA approval, and as required, FTA approval, of the ODOT DBE Program Plan, or upon modifications to the Plan, all sub-recipients shall be notified in writing by ODOT that they must adopt the revised plan. Any ODOT sub-recipients who will award more than \$250,000 in FTA funds to primes (excluding transit vehicle purchases) per annum must prepare their own DBE Program Plan and submit it to ODOT for approval within a reasonable time period.

A. Sub-recipient Adoption of FHWA Approved ODOT DBE Program Plan

Sub-recipients adopting the ODOT Program Plan shall submit to ODOT written confirmation of such action signed by the appropriate executive officer having legal authority to obligate the sub-recipient. ODOT will notify sub-recipients of all Plan amendments.

B. Sub-recipient Submission of Program Document to ODOT for Approval

Sub-recipients that prepare their own DBE program plan shall submit the plan (signed by the appropriate executive officer) to ODOT Office of Civil Rights for review and approval. ODOT will provide written notice to sub-recipients of any document deficiencies to be corrected prior to approval. Once approved by ODOT, the sub-recipient's document will be forwarded to the appropriate federal operating authority for concurrence.

ODOT will conduct an annual review of all sub-recipients having their own program plan to ensure program compliance prior to submitting annual updates to the appropriate federal operating authority. ODOT's annual updates will include a status statement regarding sub-recipients' performance and compliance with their program documents.

After approval of the plan by ODOT, sub-recipients shall submit written requests to ODOT for approval of all proposed amendments. Sub-recipients shall be required to submit annual updates to ODOT reflecting program activities for the reporting period.

C. Local Public Agency Certification

Currently, local public agencies (LPAs) certified to manage FHWA-funded projects contract back to ODOT all civil rights-related work, including DBE program requirements. More information on Local Public Agency Certification

can be found at the [Statewide Programs Unit – Certification Program Website](#) of ODOT.

The civil rights section of the [Local Agency Guidance \(LAG\) Manual](#) tells LPAs how to request contract goal assignments from ODOT OCR, when to include DBE and other civil rights provisions in LPA contracts, what project compliance monitoring and documentation is required, and how to cooperate with OCR Field Coordinators on FHWA-funded projects.