



ODOT Office of Civil Rights Disadvantaged Business Enterprise  
Advisory Committee

**Barrier and Recommendation Paper**

3/13/2023

<b>Barrier: Challenges with open communication and access to prime agreements</b>	
<b>Barrier overview</b>	<p>DBE firms have limited access to prime contractor agreements or project management platforms, resulting in insufficient information about expectations, performance standards, payment schedules, and support requirements.</p> <p>This barrier has been identified in previous bodies of work, including the 2022 Disparity Study and the ODOT BIPOC Contracting Expansion Anti-Oppression Barriers Analysis.</p>
<b>Impact on DBE firms</b>	<ul style="list-style-type: none"> <li>▪ DBE firms experience insufficient and inconsistent access to information related to prime contractor agreements with ODOT, resulting in DBE firms having inadequate information to manage and deliver their project tasks. This leads to increased risk for both primes and subcontractors in meeting key deliverables.</li> <li>▪ DBE firms do not regularly have access to project management and document sharing platforms, like DocExpress and SharePoint, which makes DBEs rely on prime contractors to share critical information. This may result in DBE firms having incomplete information, putting their payments and contracts at risk.</li> </ul>
<b>Past or current ODOT actions to address this barrier</b>	For discussion.
<b>Potential structural issues or conflicts</b>	<ul style="list-style-type: none"> <li>▪ Prime firms each have their own internal practices and procedures so enforcement will be different for every large firm that primes a project.</li> <li>▪ It is difficult for ODOT to enforce standardized information sharing.</li> </ul>

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<b>Agency partners in addressing barrier</b>	<ul style="list-style-type: none"> <li>▪ ODOT Procurement</li> <li>▪ ODOT Project Manager</li> <li>▪ ODOT Construction Section</li> <li>▪ ODOT OECR</li> </ul>		
<b>Recommendation</b>	<p>Establish and communicate to DBEs standardized expectations that all prime contractors need to adhere to regarding information sharing with subcontractors. Include these expectations in all contracts between ODOT, primes, and subcontractors. Specifically:</p> <ul style="list-style-type: none"> <li>▪ Require all DBE contracts to include language that subcontractors will have access to the prime contract.</li> <li>▪ Include scoring of open communication and information sharing with subcontractors in Prime Contractor Performance Evaluations.</li> <li>▪ Require prime contractors to include DBEs in pre-construction meetings and weekly project coordination meetings.</li> <li>▪ Commit to holding prime contractors accountable and enforce compliance to DBE program standards.</li> </ul> <p>Establish penalties on prime firms for not adhering to information sharing expectations.</p>		
<b>Advisory Committee consent</b>	[Yes/No]		
<b>Actions</b>	<table border="1"> <tr> <td>Near-term</td> <td> <ul style="list-style-type: none"> <li>▪ Review WSDOT DBE program language, specifically termination clauses.</li> <li>▪ Provide access to prime contractors through all project tracking and document sharing systems.</li> <li>▪ Improved coordination between ODOT departments to improve access.</li> <li>▪ Work with prime contractors to identify and agree on what information or sections of the contract are critical to share with DBEs and subcontractors.</li> <li>▪ Identify what consequences will incentivize prime firms to comply with updated expectations.</li> </ul> </td> </tr> </table>	Near-term	<ul style="list-style-type: none"> <li>▪ Review WSDOT DBE program language, specifically termination clauses.</li> <li>▪ Provide access to prime contractors through all project tracking and document sharing systems.</li> <li>▪ Improved coordination between ODOT departments to improve access.</li> <li>▪ Work with prime contractors to identify and agree on what information or sections of the contract are critical to share with DBEs and subcontractors.</li> <li>▪ Identify what consequences will incentivize prime firms to comply with updated expectations.</li> </ul>
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**Commented [HN(1):** Technical advisors will need to define penalties.

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		<ul style="list-style-type: none"> <li>▪ ODOT confirms they are engaging existing legal remedies where they exist.</li> <li>▪ Examine how this barrier relates to barriers experienced during the pursuit phase of a project.</li> </ul>
	Longer-term	Develop language to be included in all contracts, with the requirement that prime contractors include this language in their subcontracts.
<b>Cost considerations</b>	No anticipated costs.	
<b>Outcomes of implementing recommendation</b>	Greater access to information, including ODOT contracting expectations, schedules and deliverables, will provide DBE subcontractors with more reliable information about the project and ODOT's expectations. This will lead to improved levels of success on the project and increase DBE firms' understanding of the processes and requirements which can inform their long-term business planning.	