

## Appendices

### N. CRBA DBE and EEO/Apprenticeship, Title VI

#### Summary

CRBA DB Section 141.55 is the Workforce & Business Equity Programs measure of the CRC by which the users and observers will judge the success of the program. As a recipient of financial assistance from the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA), the Agency developed and administers a CRC Disadvantaged Business Enterprise (DBE) Program in accordance with 49 Code of Federal Regulations (CFR) Part 26. Pursuant to its Workforce and Business Equity Programs goals and objectives and 49 CFR Part 26, The Agency promotes and encourages participation by DBEs on its contracts and agreements. Submitters shall afford DBEs an equal, nondiscriminatory opportunity to compete for business as joint venture partners or subcontractor/subconsultants, and shall ensure their proposed subcontractor/subconsultants also afford DBEs such opportunities.

#### Status of Work

CRBA DB 141.55 is 60% complete, with agencies comments received back to initial draft before shut down. The agencies did not review changes made after the initial draft.

The track changes DB 141.55 can be found at \\CRC\CRC Workpaper Files\closeout Ref by Discipline\Diversity

The following comments were address in the draft CRBA DB 141.55

- (2) OJT/Apprenticeship Policy Statement – does this combine TriMet and ODOT's workforce plan specifically for CRC? **YES**
- (3) Scope - No reference to workforce - On-the-Job Training - \$250k threshold is low for required training.
  - **Response - \$250 came from HB 4113** Does "agency" mean ODOT? **Yes ODOT/TriMet/CRC**
- (4) EEO - remove covered area headings as there's only one set of targets. (4.B) - Delete link for resource list Delete alliances. Not sure we want I match (never worked for us) Requires Agency Discussion
- (4.F) - Need to include in house too.

The following comments need further discussion with the Agency's:

- (1.C) Require 40% of work to be subbed out to new DBEs that the D/B within last 3 years – potential obstacle depending on availability of qualified firms and the State's ability in processing new certification requests.

(2) Required apprenticeship percentage at 15% showing 10%-15% **HB 4113 states “at least 10%”**

(2) Can a clause be added to separate out the cost of materials and have workforce requirements be applicable to labor cost only?

(2) Consider increasing the contract value and labor hour threshold before Program requirements must be adhered to.

(5.A) - Don't know what request for apprentice form is within 96 hours.....?

(7) Workforce Monitoring and Compliance - EEO annual review of each contractor? Formal review? Can't (ODOT) commit to that.

Last Paragraph - All docs hard copy and electronic? Why both?

(5) Workforce Diversity Actions -To achieve asp targets, DBE shall use the following: sounds like they have to. Suggest that the following are best practices.

### **Known Issues / Gaps**

The following gaps and issue remain unresolved.

- Both Agencies have not reviewed DB 141.55 resolved comments
- Corresponding DB section including ones listed below were not updated with 141.55 requirements.
- **DB General Provision**, Subsection 171.20 - Disadvantaged Business Enterprise Program Provisions
- **DB General Provision**, Subsection 171.10 - On-Site Workforce Affirmative Action Requirements for Women and Minorities
- **DB General Provision**, Subsection 171.40 - Equal Employment Opportunity
- **DB General Provision**, Subsection 171.60 - Federal On-the-Job/Apprenticeship Training)
- **DB General Provision**, Subsection 172 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS
- **Instruction To Bidders** – needs to be updated
- **DBE** -Development of DBE project goal

### **Unfulfilled Commitments**

Title VI and Environmental Justice are unresolved. Environmental Justice was part of the NEPA process. However, both agencies DBE managers had expressed an interest in incorporating the findings of EJ into CRBA DB. Title VI was not covered by specification 141.55 fully and remains outstanding on agency approach to DB.

### **Outstanding Work**

- FTA and FHWA approved Workforce & Business Equity Program for CRC
  - Federally approved DBE program, and workforce program

- Community review of goal setting policy
- FTA and FHWA DBE goal setting Methodology for CRC program
  - Agency approved DBE project goal setting methodology.
- Workforce Goal Determination
- **DB General Provision**, Subsection 171.20 - Disadvantaged Business Enterprise Program Provisions
- **DB General Provision**, Subsection 171.10 - On-Site Workforce Affirmative Action Requirements for Women and Minorities
- **DB General Provision**, Subsection 171.40 - Equal Employment Opportunity
- **DB General Provision**, Subsection 171.60 - Federal On-the-Job/Apprenticeship Training)
- **DB General Provision**, Subsection 172 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONSTRUCTION CONTRACTS
- **Instruction To Bidders**

Below are comments received from Angela Ramos, ODOT Manager External WF/Field & Business Support; Monika Johnson, TriMet Diversity & Transit Equity Representative. The comments have been addressed or are open and need require additional Agency discussion. ODOT and TriMet have not reviewed the addressed comments for approval.

The following comments need further discussion with the Agency's;

(1.C) Require 40% of work to be subbed out to new DBEs that the D/B within last 3 years – potential obstacle depending on availability of qualified firms and the State's ability in processing new certification requests.

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**Work products that will remain valid one year out, and those that will need to be updated or refreshed**

If development of the CRC CRBA DB was to start again it is recommended to first confirm the participant's agencies and seek Agency(s) and FHWA and FTA approval of Executive Summary Memo. The CRBA DB 141.55 specification assumption is there is a single federally approved CRC Workforce & Business Equity Program. Many of the requirements in DB 141.55 were resulted from legislative directives contained in the original passed State of Oregon legislation HB 2800 and proposed HB 4113. It would be prudent to review any legislation that replaced proposed HB 4113( 2014),for updated requirements.

**Estimated shelf life of work products, and rough estimate of time and costs if work is picked up after expiration date**

The CRBA DB 141.55 is only supported through 2016, as ODOT and TriMet DBE programs will be renewed and updated in 2016. The Executive Summary Memo assumed current approved DBE program of both ODOT and TriMet in its formation.