

Are DBEs Qualified to Perform and Sustain Work? A Guide to Best Practices for DBEs on Heavy Highway Projects

Robert Ryan
Purdue University
West Lafayette, IN

The Disadvantaged Business Enterprise program began in the early 1980's and has been the center argument in the Heavy/Highway sector of the construction industry since its inception. Multiple cases involving fraud, reports on government oversight, Supreme Court rulings, state legislature to reduce goals, and several economic studies have been researched on the subject and there is still no sign of troubleshooting the issues at hand. There are several issues that come in to play, and although DBE contracting has a vast number of issues from all participants, it is here to stay. With that in mind, a realistic approach to how the program needs be administered should be taken. The research will focus to answer some of the following questions: What is the actual graduation from the DBE program? Are these rates in line with other industries facing similar issues? What is preventing or allowing the rates to increase/decrease? These questions will have a focus on the differences between DBEs still in the program, and DBEs that have graduated from the program, including: What has been their yearly revenue? How long were they in the program? Did they see a rise in contract enforcement or decline in revenue before enrolment in the program? During? After? Do they feel graduation from the program had an effect on this? Research will consist of extensive literature review including other scholarly papers, court cases, and federal laws. After further literature review, initial surveys to the major three parties (DOT, Prime Contracting Firms, DBE firms) will research the current problems that each party faces that may be causing the program participants obstacles to keep from graduating from the program. Follow-up surveys will be transmitted to build on top of the initial findings. Research will focus on a total of 12-14 states in the Midwest and several states outside of the Midwest that have a yearly funding budget of over \$2.5B. These states include MN, IA, MS, KS, AR, IL, WI, IN, MI, OH, KY, TN, PA, VA, TX, CA, NY, and FL. As this research is just beginning, there are no preliminary or final results. The expected outcome will hopefully include a guideline that meets the intent of the program, while also removing over inflated costs and a program that provides little to no recourse on contract enforcement from a Prime Contractor's point of view. Regardless of the outcomes, DOTs will need to ensure they are qualifying quality DBEs and not merely playing a numbers game that pits quality DBEs against non-quality DBEs and thus tainting the pool of qualified firms and inflating construction costs. Some possible steps include limiting not only the income based qualification for a DBE, but by setting a standard time table that a DBE can remain certified. Steps would need to be taken to ensure that one DBE is not constantly changing corporations to avoid graduation from the program. A more politically correct option would also include a small business preference, whether owned by a minority, women, or neither. Further research needs to be given to provide the Prime Contractor a legal course of action (without political pressure) if the DBE is found in non-conformance of the specifications or contract signed with the Prime Contractor. This issue cannot be stressed enough by a Prime Contractor as there is such a high level of political pressure that DBEs now set the pace and budget of multi-million dollar projects.

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