



Rock County Stakeholder Advisory Committee
Wednesday, August 14, 2013; 3:30 – 5 p.m.
Beloit Utilities and Engineering Facilities

Meeting Summary

Barbara Hickman, Resident
Brian Mitchell, National Association of Minority Contractors (telephone)
Darius Wright, Edwards Engineering
Ericka Rebout, Rock Roads
Gary Mejar, American Indian Chamber of Commerce (telephone)
Gregory Boysen, City of Beloit
Kari Watson, Edwards Engineering
Lynn Jones, E&T Community Action, Inc.
Michele Carter, WisDOT (telephone)
Nicole Hunt, First Choice Pre-Apprenticeship Training (telephone)
Olatoye Baiyewu, First Choice Pre-Apprenticeship Training
Oluyemi Falomo, WisDOT, DBE Program Engineer
Paul Ndon, WisDOT (telephone)
Rhonda Suda, Southwest Wisconsin Workforce Development
Vincent Fisher, WisDOT
Walter Knight, Rock County Opportunities Industrialization Center
Alicia Griffin, Serendipity Communications, I-39/90 DBE Outreach Liaison

Welcome / Opening Remarks / Agenda Review

Vincent Fisher – Committee Facilitator

Lynn Jones moved for acceptance of the July 17, 2013 Meeting Summary with the meeting location corrected to show Blackhawk Technical College.

WisDOT DBE Program Overview

Vincent Fisher - WisDOT Certification Analyst

Vincent Fisher gave a presentation with the assistance of a PowerPoint document that provided a thorough description of the Disadvantaged Business Enterprise (DBE) program (attached). An abbreviated summary of Vincent's presentation is outlined below.

The DBE program is a federal program where state governments receive federal funding on federal projects. The DBE program attempts to create a level playing field for those in business and labor.



Under the guidelines of 49 CFR Part 26, states are required to implement the Unified Certification Program (UCP) for one-stop service. Wisconsin's UCP is managed under four agencies: Dane County, the City of Madison, the Department of Transportation and Milwaukee County. Any of the Wisconsin UCP agencies recognizes DBE certification from any of its partner UCP organizations.

WisDOT's approach to leveling the playing field includes: encouraging partnering and networking, making it convenient for prime firms and DBE firms to get to know one another, to set contract goals and to track DBE participation.

To assist in the development of DBE firms, the DBE Program Office offers free support services in the areas of finance, law, marketing and outreach and technical assistance. Opportunities for prime contractors and DBE firms to network are also facilitated by the DBE Program office through hosting the DBE Annual Event – the Golden Shovel Awards, Partnering for Employment workshops and through facilitating networking sessions at pre-bids and pre-cons.

It is important to note that the DBE certification of a firm is not a guarantee for work because:

- Certification is an analytical process not a pro-forma checklist
- Every firm that applies is not accepted
- Contracts have DBE goals; goals are not quotas
- DBE certification is not a selection criteria for contracts
- Contracts are awarded on the basis of price or qualification
- DBE subcontractors are selected by primes
- DBEs must still market themselves aggressively

Oluyemi Falomo, WisDOT DBE Program Staff *comment*

Not having a quota doesn't mean that if a prime contractor doesn't meet the goal, they won't get the work. Some primes may get worried that they will lose a contract because they don't have a DBE; however, that is not so.

Once your firm becomes certified as a DBE, it's not a magic door that you will walk through and get lots of contracts.

Vincent Fisher *continues*

A DBE certified firm is defined as a small, for profit business that is at least 51% owned and controlled by socially and economically disadvantaged individuals whose economic activity fits a business classification that can be categorized using NAICS (North American Industrial Classification Systems) Codes.

When certifying, it's not hard to prove you're an African American male and economics aren't hard to prove either. However, ownership may be hard to prove.



DBE firm criteria:

- Social disadvantage: Chronic and social disadvantage in the U.S. resulting from circumstances beyond their control. White males must prove social disadvantage based on the criteria listed in 49 CFR Part 26
- Economic Disadvantage: An owner's personal network cannot exceed \$1.32 million and at least 51% ownership documenting contributions.
- A small business concern: The business cannot exceed USDOT's \$22.41 million limit, average 3-year gross revenue as categorized by size in the SBA & NAICS Codes

Michele Carter *comment*

The DBE program is a federal program. The 49CFR Part 26 tells us what we must do. Every state has to do the same DBE Program and follow the same Federal guidelines. The average DBE is nowhere near the \$22.41 revenue caps. It's just the ceiling. It's the top. There's no wiggle room.

In analyzing firms for certification, we need to know who owns, controls and operates the business. That's because we don't want to pass the money through to somebody. The DBE must benefit and shares the risk.

Oluyemi Falomo *comment*

The \$22.41 million cap size is the very, very top. The growth areas for WisDOT include landscapers, engineers, accountants and public relations. Each NAICS code representing these areas have their respective revenue size limits. WisDOT will apply size limits to NAICS Codes in order for a firm to be continually qualified as a DBE. There are some NAICS Codes that have size limits of \$15 million or \$100 million. A DBE firm can graduate out of one NAICS codes and remain in another. Tax returns are used to determine this information.

Vincent Fisher *continues*

There are DBE certification analysis factors including:

- Operational Control: Controls day to day activities
- Managerial Control: Can delegate; but, retain ultimate authority and has independent decision making authority
- Independent and Self-sufficient: No 'umbilical cord' relationships
- Existing, operational and for-profit

Oluyemi Falomo *comment*

If you are dependent on a non-DBE that works in construction, they will always be subcontracting to you. It doesn't give everyone a level playing field. That business concern would not qualify to being a DBE

Michele Carter *comment*

Let's talk Franchise - McDonald's. Is the McDonald's branch independent or does it have a financial backer. For a DBE firm – Who can sign checks, put money in, get money out? Who gave you the money? Who makes estimates? Who decides to spend for what? Who decides how much services will cost? Whose name is on the taxes? Who makes investments? Who carries the risk and benefits? We are asking the question so that it is clear to us.



Darius Wright, Edwards Engineering *comment*

When our firm initially sought DBE certification, we were initially denied. Michele Carter suggested that Darius share this informative experience when he makes a presentation later in the meeting.

Lynn Jones, E&T Community Action, Inc. *question*

Is there a potential for a new company?

Oluyemi Falomo *response*

Yes.

Vincent Fisher *continues*

In order to receive business opportunities with WisDOT, DBE firms have roles and responsibilities that include:

- Market their firm aggressively
- Educate yourselves on DOT contracting processes
- Review contracting resources like the WisDOT website (HCCI)
- Thoroughly review plans and specs before submitting a quote
- Complete Annual Affidavit and 5-Year status updates
- Seek/Request assistance when needed

There are benefits to DBE Certification that include:

- Prime contractors receive DBE credit towards DBE goal attainment
- DBE firms are eligible to receive free support services assistance
- Specialized contracting opportunities on federal contracting
- Listing in UCP Directory
- Primes are required to respond to DBE inquiries

The Wisconsin Department of Transportation buys many services as outlined below:

Consultant Services

- Archaeology Study & Survey
- Construction Management
- Construction Inspection
- Design Engineering
- Geotechnical Services
- Public Information / Public Relations
- Real Estate Acquisition
- Storm Water Management



Construction Contracting

- Grading
- Landscaping
- Material Suppliers
- Paving
- Structures
- Traffic control
- Trucking

Oluyemi Falomo *presentation*

At the beginning of the year, before construction begins, an annual goal is set. The new rule, though, is that the goal that is set stays for three (3) years. In setting the overall annual goal, we look at ready, willing and able contractors who have signed up to work for WisDOT – DBE's that have signed up to work for WisDOT. From federal studies – there is a minimal threshold of a 10% annual goal – referred to in CFR 49 Part 46. In Wisconsin, we bring Stakeholders together to look at how we should arrive at our annual goal.

Through that advisory committee, we agree on a goal. This year, our annual goal is 11.90%. The annual goal has to be posted and put out for comments for 45 days. The Secretary of Transportation is responsible for this. The goal is submitted to the Federal government and posted on the WisDOT website. The goal will not be divided up in different projects and different regions.

For Mega Projects, we get stakeholders involved. For regular monthly projects, we set the goal from within the Department. Oluyemi Falomo works with the Bureau of Project Development to set goals. Goals are for both construction and for consultant services. Those goals will either go on the Let to inform the prime of the goal on the program or on the NOI to inform the prime of a percentage or dollar value for DBE participation.

The goal is not a set-aside or a quota. If the prime cannot meet the goal, it doesn't mean they lose the contract. We have a low bid environment. If a Prime can't meet the goal, they have to go to a good faith request to show us what they have done. They have to document what they do through the Good Faith Waiver Review. The Reviewer will look through the prime's presentation and agree or disagree with it.

Vincent Fisher *continues*

The WisDOT Purchasing Process and the DBE Networking Strategy for Consultants

- Qualification Based Selection: Convey skills and experience, respond to Notice of Interest (NOI) question, make a presentation to decision makers and a selection is made.
- Solicitations are made every other month (the odd months)
 - Odd Months
- Once selected, Prime Consultants propose scope of service and staff and negotiate rates with WisDOT
- Sub-consultants prepare qualifications and rates for prime's reviews
- Networking is done with potential primes, with WisDOT CU supervisors, at WisDOT hosted events and through stakeholder organizations (e.g., ACEC, NAMC)



What Prime Consulting firms are looking for in DBE Sub-consultants

- Performance Record
- Diversity of Services
- Specialty Work
- Local Knowledge
- Geographic Proximity to Project

The WisDOT Purchasing Process and the DBE Networking Strategy for Contractors

- Lowest Responsible Bidder: The lowest bid wins the prime contract.
- Monthly bid lettings are held the second Tuesday of every month
- Prime contractors prepare bids using subcontractor quotes and submits the bid to DOT
- Subcontractors prepare quotes using criteria in the Spec book and forward them to the prime
- Networking is done directly with potential primes, at WisDOT hosted events and through stakeholder networking organizations (e.g. AICTA, NAMC, WTBA)
 - Directly with potential primes
 - WisDOT hosted events
 - Stakeholder networking

What Prime Contracting firms are looking for in DBE Subcontractors

- Price
- Expertise/Experience
- Equipment/Labor
- Credit/Bonding Level
- Geographic Proximity to Project mobilization

National Association of Minority Contractors (NAMC)

Brian Mitchell - President, NAMC-WI and President, Choice Construction Companies, Inc.

The National Association of Minority Contractors (NAMC) is a 25-year old non-profit trade organization with 21 chapters around the country. NAMC's goal is to help contractors get more business.

Three things that NAMC does to reach its goal is to reach out to minority contractors, involve them in networking with state agencies and to educate contractor.

There are no minority organizations that represent minority contractors that talk on a state level. NAMC seeks to provide that voice to get minority contractors' needs addressed and at least considered by state governments, Fortune 500 companies, the National DOT, city government, county government and the like.

The Wisconsin NAMC works pretty hard. We go about doing it by having quarterly general membership meetings (JP Cullen's was the host of the recent quarterly meeting held last week).



How do we go about doing it?

Quarterly general membership meeting (JP Cullen's office last week)

The Director of the State of Wisconsin's Supplier Diversity Program, Godwin Amegashi, spoke to the membership about how to access capitol budget, how do you know the lead time of upcoming projects and on how programs develop and where they are going.

The next meeting will be held on November 7th at Oscar J. Boldt in Milwaukee. Michele Carter will be a featured presenter at the meeting. NAMC meets bi-monthly with the Secretary of WisDOT and is actively involved in the WisDOT Trans-AC and Trans-CAC Committees where recommendations are made to the department.

Walter Knight *question*

How many members are in the organization?

Brian Mitchell *response*

There are currently about 40 paid members.

American Indian Chamber of Commerce

Gary Mejchar - Program Manager

The American Indian Chamber of Commerce is a member-driven organization that's been in existence for 22 years. The Commerce promotes and advocates for American Indian owned member businesses throughout the state of Wisconsin. They try to focus on finding those opportunity areas and promote native owned companies within those areas. The Chamber's work is similar to Brian's work at NAMC.

Focusing on the Highway 41 Project – when the Chamber saw the project evolving; it became involved in the Stakeholder process and formed the business and labor subcommittee.

Much of what is done at the Chamber is volunteer time; but, it's critically important to be at the table to learn about resources.

Gary Mejchar asked Oluyemi Falomo to give an overview of Trans-AC.

Oluyemi Falomo *presentation*

Trans-AC puts together the WTBA, NAMC and the American Chamber to advise the DOT Secretary on things to do to improve the opportunities between primes and minorities. From this group come different sub groups that look at areas of concern. It has helped to have a better understanding to deliver the best highway for the State of Wisconsin. Some of the best practices on the Marquette Interchange were due to Trans-AC. Trans-CAC is for the consultant group.



Gary Mejchar *continues*

The DBE Support Services office is on Fond du lac Avenue in Milwaukee. They have a number of content areas available for DBEs: legal services, financial – access to capital, loan, outreach and marketing and various technical services. The American Indian Chamber was able to compete and win a support service contract where it serves as an advocate for the entire DBE community providing workshops, one-on-one counseling, DBE certification, bidding process, website resources workshops, electronic payroll system, small business network – resources to build capacity and strengthen a DBEs ready willing and able status.

WisDOT Design and Related Professional Services (NOI)

Darius Wright - Edwards Engineering Consultants, LLC (a DBE Firm)

Darius Wright is a DBE firm with a long background with WisDOT and the DBE program. An engineer being educated in Indiana, Darius worked for the Indiana DOT in their training program in Indianapolis. In 1994, he began working with Edwards and Associates, a DBE company founded and run by Horace Edwards. Mr. Edwards was a distinguished individual, serving as the Secretary of Transportation for the State of Kansas receiving a Mechanical Engineer degree from Marquette University. He started his own firm in 1991/1992 with offices in Kansas and in Milwaukee.

Mr. Edwards, when considering retirement, tried to turn the company over to the employees through an ESOP (employee stock option plan) which didn't work. He then suggested a company be launched with four of his employees (2 black males, 1 female and an individual of Persian descent) where the employees would work for him during the day and work at their own firm after hours.

Darius and his counterparts met the social and economic qualification; however, they failed in the area of firm control. Michele Carter was part of their interview process and denied their DBE status. Ultimately, Mr. Edwards sold the firm to Darius and his counterparts when they were offered the assets of the company. The four got a bank loan and purchased the assets. They then started a new company – Edwards Engineering Consultants (member, owner and operator) in 2003. The firm worked on the Marquette Interchange Project, working without DBE status because the prime respected their work. By the time the project was completed, Edwards Engineering Consultants did have the DBE status and the prime got credit for work done as DBEs.

Edwards Engineering Consultants is celebrating its 10 year anniversary this year. As an engineering consulting firm, it specializes in transportation as its core competency with 95% of its work directly related to WisDOT as a prime or a sub-consultant, a municipality (monitored by WisDOT). So, WisDOT's very important to us.

The firm offers three things: Design, Construction and Planning. In Construction, Edwards prepares plans, specs and estimates. They also represent WisDOT in the field on projects serving as the eyes and ears to make sure that the costs don't fall too far from what taxpayers expect. In planning, WisDOT is looking out to the future to see if corridors need improvement. In this capacity, Edwards has worked as both a prime and sub-consultant to larger firms to help them meet DBE requirements for different projects.



Darius shared a few best practices for working with or being selected by Primes:

- It's competitive
- Get certified
- DBE is not a golden ticket. There are a lot of firms out there. You have to market yourself to WisDOT or primes. Brian Mitchell, NAMC/Choice Construction, can be a mean guy and not nice and likeable (although, he is) because his contracts are based on low bids.
- Consultants selection is resume based or qualification based – You're only as good as the last project worked.
- It's important to establish relationships with WisDOT and primes. The DBE programs helps firms get known and get names out there and get opportunities.

Requirements to work as DBE/Consulting Firm

- WisDOT business contracts are taxpayer based, government work
- The government is good at getting the most bang for their buck. They are very efficient in ensuring that the taxpayer dollar is not wasted
- DBE's are required to provide financial information annually
- We are required to prove that we aren't charging taxpayers for things that aren't allowed
- We must complete a CFR – Consultant Financial Report - annually
- You must be listed on the Roster of Eligible Firms to be able to do certain work
- As an engineer, you must prove your PE (professional engineer) status every two years
- You must maintain Professional Liability Insurance
- It helps to be certified as a DBE which includes supplying an affidavit and tax information. Some people don't want to go through all that; however, it is something you have to do to keep your certification
- Become a member of NAMC. NAMC has mostly contractors; but, also has a consultant wing that provides the same advocacy for firms like Edwards Engineering to get opportunities within the State of Wisconsin

Walter Knight *question*

You had a team of four. Is that still the case?

Darius Wright *response*

We started with four, we now have two owners. One of the original members doesn't work with us and one just left.

Oluyemi Falomo *question*

What is our current staff size?

Darius Wright *response*

There are currently eight employees.



Wisconsin Department of Transportation



Upcoming Meeting Dates / Timeline Review / Announcements

Vincent Fisher – Committee Facilitator

Next meeting: Wednesday; **September 18, 2013**
 3:30 – 5 p.m.; Blackhawk Technical College
 6004 S. County Road G; Room 2602 / Door 2-19
 Janesville, WI

Meeting Adjourned at 5:08 p.m.