

Resolution Number TC-1802

WHEREAS, on November 18, 2009, CDOT presented a preliminary Federal Fiscal Year 2010 DBE goal recommendation of 13.29% for federally funded construction and design contracting opportunities to the DBE Committee and general public; and

WHEREAS, the November 18, 2009 presentation provided the factual predicate required by the US DOT/FHWA in 49 CFR Part 26.45 for establishing Colorado's Disadvantaged Business Enterprise (DBE) program overall annual goal; and

WHEREAS, after reviewing all feedback and comments received by CDOT, no adjustments have been made to the initial 13.29% DBE goal recommendation; and

WHEREAS, federal court decisions require that DBE programs be narrowly tailored; and

WHEREAS, CDOT contracted with D. Wilson Consulting Group to conduct an updated Disparity Study which has been completed and submitted to CDOT; and

WHEREAS, the Disparity Study provides statistical and anecdotal data that CDOT can use to narrowly tailor Colorado's DBE program by addressing specific problems identified in the study; and

WHEREAS, the State of Colorado was found to be the relevant market area for DBEs participating in CDOT construction and design contracts in the disparity study; and

WHEREAS, DBEs in the relevant market area should benefit from CDOT's DBE Program; and

WHEREAS, the US DOT DBE Regulations require that the maximum feasible portion of the overall DBE goal be met by using race and gender neutral means; and

WHEREAS, the 13.29% annual aspirational goal for Federal Fiscal Year 2010 shall be implemented by the setting of goals for DBEs on construction projects and design contracts, based upon the type of work included in each project and the availability of DBEs capable of performing such work, and using the good faith efforts standard to justify award when the goal on highway projects has not been met and by encouraging the use of other DBEs whenever possible; and

NOW THEREFORE BE IT RESOLVED, that the DBE program for CDOT shall be as follows:

- 1. CDOT will follow the procedures set forth in its US DOT/FHWA approved DBE Plan.**
- 2. CDOT shall strive for 13.29% DBE participation in its federally funded contracting opportunities for construction and design projects for FFY 2010.**
- 3. The 13.29% goal will be implemented by the setting of appropriate, narrowly tailored goals on projects depending on the availability of DBEs, according to recent CDOT findings, the disparity study and quarterly progress reports on the participation of each group in relation to its availability.**
- 4. CDOT shall strive to meet the 13.29% overall annual DBE goal with DBEs residing in the relevant market area.**
- 5. CDOT shall monitor participation of all DBEs in accord with their availability as demonstrated by recent CDOT findings and the disparity study.**
- 6. Based on public comment received by the Center for Equal Opportunity concerning the Disparity Study, the Center currently projects that it will meet 2.14% of the overall goal through race-neutral measures and 11.15% of the overall goal through race-conscious measures. These percentages will be adjusted quarterly in the discretion of the Center based on its monitoring of DBE participation.**
- 7. CDOT shall continue to monitor DBE participation in construction and design contracts each month, and shall report such participation to the Commission on a monthly basis so that the Commission can evaluate the status of all DBE goals and the need for any appropriate future changes to the DBE program.**
- 8. On a quarterly basis, after reviewing the DBE participation during the previous three months, the Commission shall direct CDOT staff to make any necessary changes to the DBE Program or the definition of DBEs for construction or design contracts.**