

MWBE Commission Meeting  
March 12, 2012 – 1 p.m.

**Commission Member Attendance** - Chairman Jamal Smith, IDOA Deputy Commissioner Felecia Roseburgh, Tiffany Mulligan, Rae Pearson, Sarah Taylor, Jesse Moore, Sen. Jean Breaux. **IDOA Staff:** Charles Hill, Nathan Lofton, Luther Taylor Jr., Jocelyn Williams, Megan Lawson, Nancy Walker, Greg Moorman, Debby Walker, Vickie Scott. **Also:** Paula Barnett, Tony Green, Mark Ahearn, Kendra York, and Ron Heustis.

Chairman Smith repeated Commission meeting requirements:

- Meeting are held four times per year
- Commissioners may miss one meeting per year
- Legislators are non-voting members so their attendance doesn't count toward a quorum.

**Certification ruling appeals** – IDOA Chief Counsel Tony Green outlined the appeal process. After the administrative law judge rules, the denied company may appeal to the MWBE Commission. The Commission may then appoint three members who will review the hearing, briefs and motions. They may then hear supplemental information that may be added to the case record before reaching a final determination.

Two certification denials are presently being appealed: Fanio Services, Inc. and Platt Construction.

**Ohio River Bridges Project – INDOT recap** - Mark Ahearn, Kendra York and Ron Heustis were present. The Indiana finance Authority issued its request for qualifications (RFQ) on March 9, with responses due by April 9. A short list will be determined by the third week in April and an RFP will be issued in early May. Award of the final contract will be in November.

The project is a one of a kind between two states, with two Indiana-to-Louisville bridges and divided responsibilities. One bridge will be parallel to the Kennedy Bridge upon which I-65 travels and further up stream will be the East End Bridge, connecting Prospect, Ky. to Utica, Ind. The East End Bridge will connect to a bypass around downtown Louisville.

The “20,000 agreement” between Kentucky and Indiana is that Kentucky will build the Kennedy Bridge and the interchange on that side of the river, while Indiana will be responsible for the East End Bridge, including the approach, the bridge and a tunnel that will bypass some historic property. Financing by the state of Kentucky will be a combination of traditional bond and tolls. Financing by the state of Indiana will be with the Indiana Finance Authority as procurement agent, entering into a contract with the private operator and the constructor.

**Disability, minority and women's business inclusion:** Because federal funds are involved, DBE inclusion is required and INDOT is working with the federal authorities to determine methods of compliance. INDOT believes there will be lots of opportunity for minority and women's businesses but how it will work is not yet determined because it is the type of project that has never been done before in Indiana, Kentucky or the U.S.

Commission member Jesse Moore pressed on the DBE, minority or women's business numbers in the RFQ. Commission member Tiffany Mulligan, (INDOT's representative on the commission), said that in

the past, the federal highway's position has been that DBE participation is what counts, not MWBE. However, there is overlap and it so happens that a majority of DBEs happen to be MWBEs.

Sen. Jean Breaux asked how the private partnership affected the federal mandate for DBE or the state's emphasis on MWBE? The response was that the federal oversight would not be affected. She then asked for an update on the MWBE commitment so far in the project.

Deputy Commissioner Felecia Roseburgh reminded the Commission that she and Tiffany Mulligan have been participating on a diversity work group to formulate recommendations for the engagement of MBEs, WBEs and DBEs in the Ohio River bridges project.

Distribution of the RFQ notice was also questioned by Jesse Moore; who were the companies specifically invited to submit RFPs? In addition to an agency e-mail distribution list, the RFQ was posted to the world, responded Kendra York.

**SEIs – how to engage in greater supplier diversity?** The thought was to set up a workshop with the SEIs to engage in the conversation. Because there was no voting quorum, Chairman Smith asked the item to be placed on the agenda for the next Commission meeting.

#### **Deputy Commissioner's report:**

- **Successes:** The NFL emerging business program, Resource Fairs in northern and central Indiana, awareness building with state agencies on MBE and WBE requirements on state contracts and the pay audit system and the Ohio River Bridges Project diversity work group.
- **Partnerships:** The Indiana Minority Supplier Development Council, the Indiana Black Expo (Black Business Conference advisory committee), Minority Business Development Agency, Surety Association of Indiana, Latin Media (northern Indiana in particular). Another partnership is with the Women's Business Enterprise National Council.
- **Promotional Opportunities:** Radio 1 (two occasions), Minority Business Report magazine, Que Viva! Magazine.
- **Statistics:** As of January 31, 2,409 certified business (902 MBE and 1,507 WBE), with a 42.8% increase in applications (461 in FY 2011 and 655 in FY 2012). The NFL emerging business program was responsible for 299 applications in a six-month period – the largest number ever processed in a short period. The NFL emerging business activities helped to communicate that the value of the MBE/WBE certification extends beyond state government.
- **Contracting goals:** As of January 31, the MWBE program was at 12.85% of its state expected spend, or .15% away from the state goal for minorities and women. It broke down to 5.13% MBE and 7.72% WBE. Sen. Breaux and Ms. Pearson asked for a breakout of the actual dollar spend; Dep. Commissioner Roseburgh promised to include actual dollars, in future reports.
- **Pay Audit System:** Implemented on Nov. 14, 2011, with all agencies expected to be migrated to the system by the end of the fiscal year. Presently, 17 agencies and 68 contracts are in the system with primes and subs reporting. The contracts include those resulting from QPA agreements, a dollar value greater than \$250,000 and with 12 or more months remaining. For future discussion, the Commission will address contractors who don't abide by their MBE/WBE commitments and the Commission's recourse.

- **MWBE Division Operational Focus for 2012:** Improved customer service, full integration of the Pay Audit system, expanded use of technology and a new MBE/WBE marketing strategy.
- **Division of Supplier Diversity:** The name change will be effective July 1 and branding and marketing efforts will include a new logo, new branding materials and a fresh approach to doing business with an emphasis on the importance of diverse supply chain. It will also facilitate a better understanding of the MBE/WBE certification. Some of the marketing components include a multifunctional marketing display, an updated web site, social media presence on Facebook, Twitter, LinkedIn and others, as well as training webinars. Sen. Breaux expressed support for the name change.
- **Upcoming events:** The Northern Indiana Resource Fair, March 15. The Surety Association is launching a model contractor development program to enable contractors to become bonded – a great aid to contracting business success.

**Tiffany Mulligan** – She is director of the Economic Opportunity and Prequalification Division at INDOT. The division oversees the DBE program as well as compliance with EEO requirements on INDOT contracts and prequalification of contractors and consultants. The DBE program is a federal transportation program that INDOT is required by federal law to administer.

Main Goals:

1. Insure certification of DBE firms in a timely manner.
2. To set meaningful goals on INDOT contracts.
3. Insure that prime contractors achieve DBE goals on INDOT contracts (or demonstrate good faith efforts).
4. Provide capacity building for INDOT's supportive services program and outreach efforts.

There are currently 602 certified INDOT DBE firms and 548 of those are also certified under the MWBE certification program. The 62 firms that do not have MWBE certification are out of state vendors.

INDOT's Contract Compliance Section: Sets DBE goals on contracts and monitors contractors' compliance. The vast majority of INDOT contractors meet their goals. For example, of the 381 federal aid INDOT contracts in 2001, only 10 contractors failed to meet the DBE goals.

DBE commitment:

- In 2011, the INDOT commitment for federal aid contracts was 6.53%.
- The 2012 commitment was 6.53%.

Compliance: INDOT's data is via paper review.

INDOT's Supportive Services Program (outreach and business development initiatives): On Saturday INDOT completed its Contractors Entrepreneurial Development Institute (EDI) for 29 DBE companies. EDI is a three week training providing managerial and technical training for construction and construction-associated firms. The training also teaches aspects of doing business with INDOT, including how to become prequalified.

Qualifications: The personal net worth limit for the DBE program is \$1.32 million (increased last March from \$750,000).

DBE orientation and training for new DBEs will be April 26.

The on-the-job-training program, in addition to the DBE program, has been successful in providing women and minorities with opportunities for training in various construction fields. The program addresses the underrepresentation of minority and female workers in the construction trades and trainings and upgrades minorities and females towards journeyman status. In 2011, 102 contractors participated in the program and there were 445 trainees.

The typical INDOT/federal contract is 80% federal and 20% state funds. If it's one dollar of federal funds, a project must include DBEs. At the next meeting, Tiffany will discuss the statewide DBE initiatives to get new DBEs into the program.

**2012 MWBE Goals:** Due to the lack of quorum, the 2012 MWBE goals could not be set as required by statute. The item will be reset for the June meeting. Jesse Moore would like Deputy Commissioner Roseburgh to present recommended goals for 2012 at the June meeting with reasoning for the recommendations.

**Quorum for next meeting:** The importance of a quorum at the next meeting was discussed. Chairman Smith said he would send a personal e-mail to the commission members.

Jesse Moore said the transcript of the meeting is overkill and he inquired about meeting minutes. Dep. Comm. Roseburgh replied that it is a staffing issue and the cost of a court reporter is a viable alternative.

There being no further business, the meeting was adjourned at 3:09 p.m.