

DEPARTMENT OF TRANSPORTATION

CIVIL RIGHTS

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*Flex your power!
Be energy efficient!***END OF 90 – DAY PUBLIC COMMENT PERIOD ON
DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM**

Effective March 20, 2006, the 90-day public comment period ended. This revised text of the Public Forum Notice is being retained, however, to continue to encourage submitting written evidence which will be useful in the Department's upcoming Availability and Disparity Studies.

The California Department of Transportation (Department) is required by a recent Ninth Circuit Court of Appeals ruling to consider amending its Disadvantaged Business Enterprise (DBE) Program goals for all federally funded projects. The Ninth Circuit Court of Appeals decision, Western States Paving Co., Inc. v. Washington Department of Transportation et al., has established new evidentiary standards necessary to constitutionally support the use of race-conscious DBE goals such as those currently used by the Department. The decision is binding on the states within its jurisdiction, including California.

In accordance with 49 CFR Part 26.45 (g), the Department continues to invite submission of evidence regarding the use of race-conscious and race-neutral measures to achieve the overall goal. Examples of evidence may include, but are not limited to, the following:

1. Disparity Studies which determine the availability and capacity of DBEs in their local transportation contracting markets.
2. Statistical studies of the following types: past or present discriminatory practices within the transportation contracting industry; discriminatory effects on factors (i.e. availability, capacity, financial resources, or locality of business) related to a DBE's ability to compete for transportation contracts; studies ascertaining discriminatory effects for each disadvantaged group separate from the rest.
3. Statistical analyses of discriminatory barriers DBE participants encounter in obtaining bonding and financing or of discriminatory barriers in DBE business formation and earnings.
4. Formal complaints by a DBE alleging discrimination for past or existing transportation contracts.
5. Signed declarations asserting/describing the frequency prime contractors solicit DBEs on non-goal contracts versus the frequency solicited on contracts with goals, or declarations describing discriminatory practices by prime contractors, trade unions, business networks, suppliers and sureties against minority contractors.

If you have written comments or evidence fitting into the above categories, please send them to the California Department of Transportation, Office of Civil Rights, 1823 14th Street, Sacramento, California 95814, Attention: DBE Program Manager. These materials will be retained and made available to the Consultant firm that is ultimately awarded the contract for the DBE Availability and Disparity Studies.

Sincerely,

/Signed/

ANGEL CARRERA
DBE Program Manager