

TEXAS TRANSPORTATION COMMISSION

ALL Counties

MINUTE ORDER

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ALL Districts

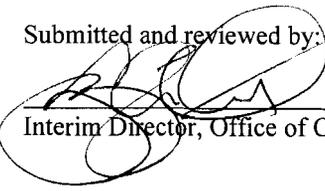
In accordance with Title 43, Texas Administrative Code, §9.55, the Texas Transportation Commission (Commission) will establish a statewide annual Small Business Enterprise (SBE) goal. The Texas Department of Transportation (Department), under its authority in Transportation Code, §201.702, to develop programs for small businesses, chose to develop the Small Business Enterprise (SBE) Program to assist small businesses in the specialized fields of state and local funded highway construction and maintenance. The program is open to all small businesses that meet the required ownership and size limitation. The SBE Program was designed to mirror other contracting programs, whenever practicable, so that those members of the affected industry will not be confronted with different rules based on the funding source.

Pursuant to Title 43, Texas Administrative Code, §9.55, the Commission, in a procedure similar to other contracting programs and roughly equivalent to the HUB goal setting procedures, will establish annual SBE goals based on the availability of SBE firms and prior contract attainment. The annual goals represent SBE participation in contracts determined by a percentage of the total cost of highway construction and highway maintenance projects funded with state and local funds.

To determine the availability of SBEs, the Department compared the relative availability of small businesses certified as SBEs against the availability of all contractors. This comparison indicated that SBEs comprise 7.0 percent of all contractors. An assessment of prime and sub contracts for last year indicates that SBEs attained 3.5 percent participation. To further encourage the development of small businesses and with the anticipation of improved SBE contracting opportunities next year, the Department will continue the previous annual goal of 4.5 percent. The methodology is attached as Exhibit A.

IT IS THEREFORE ORDERED that the SBE goal of 4.5 percent is effective for FY 2011.

Submitted and reviewed by:


Interim Director, Office of Civil Rights

Recommended by:


Executive Director

112449 SEP 30 10

Minute
Number

Date
Passed



Overall Annual SBE Goal for Highway Construction and Maintenance Contracts

Fiscal Year 2011

Exhibit A

SECTION 1: EXECUTIVE SUMMARY

The Small Business Enterprise (SBE) Program is applicable to all highway construction and maintenance contracts funded entirely with state and local funds.

The [Texas Transportation] Commission will establish annual agency SBE contracting goals based on the availability of certified SBEs. The department will make a good faith effort to meet or exceed this annual goal. (Title 43 Texas Administrative Code §9.55)

Process Summary

The goal methodology consists of two steps, the base figure for the relative availability of SBEs and any adjustments to the base figure based on available evidence. In Step 1, the base figure is established through the SBE Directory and TxDOT's Bidders List. In Step 2, TxDOT reviews available information and takes it into account in determining an adjustment (if any) to the base figure. The base figure and the adjustments to the base figure are used to determine the overall goal.

Results Summary

The SBE goal methodology justifies an FY 2011 overall SBE goal of 4.5%. TxDOT will monitor SBE participation for state and locally funded highway construction and maintenance contracts during FY 2011 for participation in the SBE goal.

SECTION 2: PROCESS

The methodology includes: a description of the methods used to establish the goal, the base figure and evidence used for its calculation, summary listing of available evidence and wherever necessary an explanation on why it was not used to adjust the base figure.

TxDOT's overall goal provides for the participation of all certified SBEs and is NOT subdivided into group-specific goals.

SECTION 3: STEP 1 – ESTABLISH RELATIVE AVAILABILITY (BASE FIGURE)

For Step 1, TxDOT takes into account available information in determining the base figure. Factors considered in this calculation include the relative availability of SBEs. This calculation results in a base figure of 7.0%.

Exhibit A

Bidders List

TxDOT begins the goal setting process by determining the base figure for the relative availability of an SBE. The Bidders List consists of prime and sub contractors that are actively ready, willing and able to do work with TxDOT. The list consists of prime contractors bidding or obtaining construction or state maintenance contracts as well as all the sub contractors on low-bid contracts. (Only low-bid (winning bid) prime contractors have subcontract bids.) In addition to these bidders, TxDOT further qualifies the list by including relative data from pre-qualified construction contractors, subcontractors and submitted material suppliers. This helps to better determine the number of all ready, willing, and able businesses in TxDOT's market. The product of this method is identified as TxDOT's Bidders List. (See Table 3.1) There are currently 1,949 firms that are ready, willing and able to do work with TxDOT, of which 136 firms are SBE. (Note, there are 249 certified SBEs, however only 136 are active.)

Table 3.1: TxDOT's Bidders List

All Firms	Active SBE Firms
1,949	136

Base Figure Calculation

The base figure is the calculated ratio of the relative availability of SBEs and the relative availability of all firms regardless of their SBE designation. The calculation (see Figure 3.1) results in a base figure of 7.0%.

Figure 3.1: Base Figure Calculation

$$\begin{aligned}
 \text{Base Figure} &= \frac{\#SBE}{\#AllFirms} \times 100\% \\
 &= \frac{136}{1,949} \times 100\% \\
 &= 0.06978 \times 100\% \\
 &= 6.978
 \end{aligned}$$

Base Figure

7.0%

SECTION 4: STEP 2 – ADJUSTMENT TO BASE FIGURE

The base figure calculation above helps determine the relative availability of SBEs to do work with TxDOT. In addition to the base figure, TxDOT examines other available evidence to determine any adjustments to the base figure. In calculating the FY 2011 SBE Goal, the department considered evidence to include an analysis of SBE past participation. (Note that the FY 2010 SBE Goal Methodology included the additional evidence for adjustment based on a survey of participating SBEs. This adjustment

Exhibit A

was necessary then to establish the consistency of participation by firms that were certified as SBE.)

Past Participation

TxDOT evaluates SBE past accomplishment to determine if an adjustment of this information is appropriate. An adjustment based on past participation evidence considers the actual SBE activity of recent and similar contracting years as a representative gauge for anticipated future participation.

PAST PARTICIPATION CALCULATIONS

TxDOT uses the figures from recent years to determine immediate past participation. Although we are currently operating in FY 2010, the participation figures for FY 2010 are not yet completed. The most recent completed figures for FY 2009 and FY 2008 are used for the FY 2011 goal calculation (see Table 4.1). The process for calculating SBE past participation is by dividing all SBE participation on prime and sub contracts by the total amount of all awards for the same period (see Figure 4.1).

Table 4.1: SBE Participation

Fiscal Year	All State Awards	SBE Prime Awards	SBE Sub Awards	SBE Participation Achieved
2008	\$534,847,373	\$17,120,169	\$6,536,662	4.4%
2009	\$611,064,593	\$18,409,979	\$3,140,935	3.5%

Figure 4.1: SBE Participation Calculation

$$SBE\ Participation = \frac{SBE\ Prime\ Awards + SBE\ Sub\ Awards}{All\ Awards} \times 100\%$$

PAST PARTICIPATION VALUES

In order to make an adjustment based on past participation, it is necessary to determine the actual past participation and factor that information into the equation. Past participation figures for certified SBE firms was not calculated until FY 2008.

Figure 4.2: Participation Average Value

$$= 4.4 \text{ (FY 2008)}$$

$$= 3.5 \text{ (FY 2009)}$$

Exhibit A

ANALYSIS OF FY 2009 PAST PARTICIPATION

An analysis of available data indicates that the relative availability of SBE's increased to 7.0% (see Section 3) while the actual participation was 3.5%. Although there is significant variance between these two measures of SBE availability, it is noted that a major reason for the significance between the base figure and past participation is that the SBE Program is only applicable to state and locally funded projects. However, there was significant SBE participation on federal projects in FY 2009 and that contracting accomplishment does not count toward the SBE goal which is for state and locally funded projects.

SECTION 5: ADJUSTED GOAL

All available evidence is taken into consideration to determine the adjustments to the base figure. An adjustment for past participation is suitable; therefore the base figure and average past participation adjustment are calculated to determine adjusted goal (see Figure 5.1).

Figure 5.1: Adjustment to Base Figure Calculation

$$\begin{aligned}
 \text{Adjusted Goal} &= (\text{Base Figure} + 2008 \text{ Participation} + 2009 \text{ Participation}) \div 3 \\
 &= (7.0\% + 4.4\% + 3.5\%) \div 3 \\
 &= 14.9\% \div 3 \\
 &= 4.96\%
 \end{aligned}$$

The adjustment suggests an SBE goal of 4.96%. However, given the proximity of this number to last year's goal and the lower past attainment values, it is recommended that the SBE goal should remain at its current level of 4.5%.

We are optimistic that we can improve past attainment efforts and achieve this recommended goal. Over the past year we have made significant improvements with our District-level reporting procedures and as a result expect to capture more participation by SBE subcontractors. Additionally, an increase in smaller contracts projected in the year ahead should provide greater competitive opportunities for SBEs.