



# DELAWARE DEPARTMENT OF TRANSPORTATION



## SUPPLIER DIVERSITY PLAN

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# **DELAWARE DEPARTMENT OF TRANSPORTATION**

## **Supplier Diversity Plan**

### **I. Background**

Governor John Carney signed Executive Order 49 (EO 49) on June 16, 2021 to enhance economic opportunities for Delaware's diverse business community and continue our commitment to supplier diversity initiatives. The EO 49 also requires executive branch agencies to appoint a Supplier Diversity Liaison and develop a supplier diversity plan for achieving respective goals. The deadlines for submission and approval of plans by the Director of the Office of Supplier Diversity (OSD) are as follow:

September 30<sup>th</sup> to Office of Supplier Diversity and  
December 1<sup>st</sup> to Governor's Office

### **DelDOT's Mission**

DelDOT is committed to its Mission of "**Excellence in Transportation**". It is also dedicated to its policy of encouraging businesses owned and controlled by women, minorities, or disadvantaged persons to participate in contracting opportunities created by its transportation programs. In its role as overseer and sponsor of hundreds of transportation projects occurring across the state each year, DelDOT distributes millions of dollars to construction contractors, suppliers, and professional services consultants.

For a business to become certified as woman or minority owned, it must be certified by either DelDOT's Disadvantaged Business Enterprise (DBE) Programs or the Office of Supplier Diversity (OSD).

A part of the Division of Small Business, the Mission of OSD is to "assist the entire supplier diversity community of minority, women, veteran, service-disabled veteran, and individuals with disabilities owned businesses as well as small businesses of a unique size in competing for the provision of commodities, services, and construction to State departments".

Both the OSD and DelDOT's DBE programs provide two distinct levels of certification and supportive services to women and minority-owned businesses. OSD provides certification and supportive services on a state level and provides business development assistance to certified companies. DelDOT provides training opportunities and supportive services to certified DBE's as part of its federal requirement as mandated by the U.S. Department of Transportation (USDOT). In addition, DelDOT sets contract specific goals, monitors these efforts, and reports DBE participation to the Federal Highway Administration (FHWA).

## II. DelDOT Aspirational Goals

DelDOT recognizes and promotes the outstanding contributions made by small and diverse businesses to the economic health and diversity of communities throughout our region. It is the policy of DelDOT to ensure that minority and/or women business enterprises (M/WBEs) are afforded equal opportunity to participate in the award of all DelDOT contracts. Therefore, in line with the strategic goals set forth by USDOT, DelDOT's shall aspire to the following:

- **Growth.** Support the growth of an inclusive and sustainable economy by investing in our transportation system to provide Delaware's workforce and businesses reliable and efficient access to resources, markets, and opportunities.
- **Equitable.** Reduce inequities across our transportation systems and the communities they affect. Support and engage people and communities to promote safe, affordable, accessible, and multimodal access to opportunities and services while reducing transportation-related disparities, adverse community impacts, and health effects.
- **Innovate.** Advance the Department's mission of "*Excellence in Transportation*" by establishing policies, processes, and an inclusive and innovative culture to effectively serve all communities and responsibly steward the public's resources.

## III. Definitions of Terms

**Contract** means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them.

**Contractor** means one who participates, through a contract or subcontract (at any tier), in a highway, transit, or airport program.

### **Delaware Office Of Supplier Diversity**

The Office of Supplier Diversity (OSD) within the Department of State shall have, as its mission, to assist the entire supplier diversity community of minority, women, veteran, service-disabled veteran, and individuals with disabilities owned businesses as well as small businesses of a unique size in competing for the provision of commodities, services, and construction to State departments, agencies, authorities, school districts, higher education institutions and all businesses." Any firm certified as a Disadvantaged Business Enterprise (DBE) by the Delaware Department of Transportation, is automatically certified with OSD.

The Office of Supplier Diversity (OSD) shall have the following powers, duties, and functions:

- The Director of the Office of Supplier Diversity will be responsible for providing strategic advice to the Director of the Division of Small Business and the Governor pertaining to supplier diversity;

- Monitor and evaluate the Executive Branch’s Supplier Diversity Action Plan implemented by each agency;
- Certify and maintain a state directory of diverse businesses and small business enterprises;
- Educate and advocate for diverse businesses how to conduct business with the state, including eligibility in the State’s Small Business Focus Program.

**Disadvantaged Business Enterprise (DBE)** is a for-profit small business concern that is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own the business.

**DBE Directory (“The Directory”)** is an online directory of firms certified by the Delaware Department of Transportation. Firms that appear in the directory are currently certified and *may* be approved to be utilized toward meeting established contract goals in their displayed certification type(s). **The DelDOT Compliance and Certification System (dbesystem.com)**

**Good faith efforts** mean efforts to achieve a minority and/or women business enterprise requirement of this part which, by their scope, intensity, and appropriateness to the objective, are in coordination with the supplier diversity plan.

**Minority and/or women business enterprise (M/WBE)** is a for profit business which is at least 51 percent owned and managed by a minority and/or woman and certified by the Office of Supplier Diversity (OSD) or the DelDOT Disadvantaged Business Enterprise (DBE) Program. An M/WBE must be majority owned, controlled and actively managed by a minority group member (African Americans, Asian/Pacific Americans, Hispanic Americans, Native Americans, and Subcontinent Asian Americans) or by women. An M/WBE must be a for-profit business with “a commercially useful business function.”

**NAICS** The North American Industry Classification System (NAICS) is used by business and government to classify business establishments according to type of economic activity (process of production) in Canada, Mexico, and the United States. Within the official NAICS classification system, U.S. industries are defined at the 6-digit level.

**OSD Directory** is a listing of certified minority and/or women businesses in the OSD online directory that have been approved by OSD.

<https://business.delaware.gov/directory-of-certified-businesses/>

**Plan (or “the Plan”)** refers to the Supplier Diversity Plan.

**Primary industry classification** means the North American Industrial Classification System (NAICS) designation that best describes the primary business of a firm. The NAICS is described in the *North American Industry Classification Manual – United States, 2017*, and is available in print and on CD ROM from the National Technical Information Service, by calling (NTIS) at (800) 553-6847 or (703) 605-6000.

<https://www.naics.com/the-new-naics-2017-manuals-and-electronic-references-are-now-for-sale-at-naics-com/>

**Socially and economically disadvantaged individual** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is –

- Any individual found to be a socially and economically disadvantaged individual on a case-by-case basis.

Any individual in the following groups, members of which are presumed to be socially and economically disadvantaged:

- “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;
- “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
- “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
- “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
- “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
- Women;
- Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

**State contract** means any contract or purchase made between DelDOT and a contractor or supplier (at any tier) funded in whole with state financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

**State purchase** means any purchase made by or on behalf of the State of Delaware, using state funds. The established State purchasing thresholds are as follows:

- ***Material and Non-Professional Services***

If material or service value is less than \$10,000, the purchase can be made in the open market.

If material or service value is between \$10,000 and \$49,999.99, the purchase requires at least three written quotes.

If material or service value is \$50,000 or over, the purchase requires a formal open bid.

<https://mymarketplace.delaware.gov/agencies/spp.shtml>

- ***Public Works (Construction)***

If the contract is estimated to cost less than \$50,000, it can be made in the open market.

If the contract is estimated to cost between \$50,000 and \$149,999.99, it requires at least three letter bids.

If the contract is estimated to cost is \$150,000 or over, it requires a formal open bid process.

- ***Professional Services***

If the service is estimated to cost less than \$100,000, it can be made in the open market.

If the service is estimated to cost is \$100,000 or over, it requires a formal request for proposal (RFP).

**Supplier** means a vendor of any type of material, service, or public works to be acquired by DeIDOT.

**Under Threshold Purchase** means a state purchase that is neither part of a mandatory state use contract nor required to be advertised through a formal open bid process or formal request for proposal.

#### **IV. General Provisions**

##### **Nondiscrimination**

DeIDOT will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract on the basis of race, color, sex, or national origin.

In administering its Supplier Diversity Plan, DeIDOT will not, through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the Plan with respect to individuals of a particular race, color, or national origin.

##### **Quotas and Set-Asides**

With the exception of those contracts designated as internal by the State Use Commission, and as a requirement of state law, DeIDOT does not use quotas or set-asides in any way on contracts or purchases funded solely with state resources, nor are quotas or set-asides used in the administration of this Supplier Diversity Plan.

### **Minority and Women Business Enterprise Liaison**

The Secretary has designated the DeIDOT Civil Rights Administrator (CRA) as the DeIDOT Supplier Diversity Liaison; the CRA will serve as the responsible contact for the DeIDOT Supplier Diversity Plan. The DeIDOT Supplier Diversity Liaison is responsible for assisting the Director of OSD and the Governor's Supplier Diversity Council in their efforts to maximize supplier diversity among state agencies. The DeIDOT Supplier Diversity Liaison has direct and independent access to the Secretary of DeIDOT concerning Supplier Diversity program matters.

The DeIDOT Supplier Diversity Liaison is responsible for developing, implementing and monitoring the Supplier Diversity program in coordination with OSD, the Governor's Supplier Diversity Council and other appropriate DeIDOT officials. Duties and responsibilities of the Liaison include the following:

- Assist the Office of Supplier Diversity and the Governor's Supplier Diversity Council, as created in Executive Order 49, in their efforts to maximize supplier diversity among State agencies;
- Direct and coordinate supplier diversity initiatives within DeIDOT, including but not limited to discussing best practices and educating staff;
- Assist in the development and implementation of the DeIDOT Supplier Diversity Action Plan, as identified in section 10 of Executive Order 49;
- Incorporate the entire supplier diversity community of businesses into the agency Supplier Diversity Plan;
- Prepare reports for the OSD and Governor's Supplier Diversity Council upon request; and,
- Undertake additional tasks relating to Executive Order 49 as directed by the OSD, which may include periodic meetings upon request.

## **V. Certification Standards**

### **Office of Supplier Diversity**

Delaware OSD is responsible for using state certification standards to determine the eligibility of firms applying for M/WBE certification. In order to be certified as an M/WBE, firms are required to be:

- At least 51 percent owned, controlled, and actively managed by: minorities, women, veterans, service-disabled veterans, and/or individuals with disability.
- Serving as a for-profit business with "a useful business function."



### **DelDOT DBE Program**

DelDOT uses the certification standards of Subpart D of 49 CFR Part 26 and the certification procedures of Subpart E of Part 26 to determine the eligibility of firms to participate as DBEs in USDOT-assisted contracts. In order to be certified as a DBE, firms are required to:

- Be a small business owned and controlled by socially and economically disadvantaged individual(s). African Americans, Hispanics, Native Americans, Asian-Pacific and Subcontinent Asian Americans, and women are presumed to be socially and economically disadvantaged. Other individuals can also qualify as socially and economically disadvantaged on a case-by-case basis.
- Prove that management, policies, major decisions, and daily business operations are independently managed and controlled by one or more of the socially and economically disadvantaged individuals who own it.
- Qualify as a Small Business Enterprise as defined by the U. S. Small Business Administration regulations (13 CFR Part 121), averaged over a three-year period. Have a personal net worth that does not exceed \$1.32 million.
- Have past 3-year average annual gross receipts that do not exceed \$23.98 million.

### **VI. Directory of Certified Firms**

OSD currently maintains an online directory of certified M/WBEs to provide a reference source to assist bidders/proposers in employing M/WBE firms. This searchable database can be used to find M/WBEs according to products and services offered, NAICS by Description or Numeric Code, Company Name, or State Certification Number. The State Directory of Certified M/WBEs is updated daily and available via the Office of Supplier Diversity website at <https://business.delaware.gov/directory-of-certified-businesses/>

DelDOT currently maintains a directory of certified DBEs to provide a reference source to assist bidders/proposers in employing DBE firms. The directory alphabetically lists the firm's name, address, and telephone number, the firm's specialty area of work and corresponding NAICS code(s). It is the responsibility of the prime contractor/consultant to make his/her own determination regarding the capability of a DBE firm. The Delaware Directory of Certified DBE Firms is updated weekly and available on the DelDOT DBE website. The DelDOT DBE website can be accessed by visiting [www.deldot.gov](http://www.deldot.gov), clicking on *Doing Business* under the section titled Information, then clicking on *Disadvantaged Business Enterprise Program* under the External Civil Rights section. DelDOT is currently the sole certification office in Delaware responsible for maintaining a Directory of Certified DBE Firms. All firms certified by DelDOT's DBE Program are automatically eligible to participate as a state certified M/WBE.

## **VII. DelDOT Supplier Diversity Action Items**

Regarding supplier diversity action items, DelDOT's shall put forth efforts to achieve the following:

- Direct and coordinate supplier diversity initiatives within DelDOT, including but not limited to, discussing best practices, and educating staff.
- Identify potential contracting opportunities prior to advertisement and solicitation and then following advertisement, sharing these opportunities with all certified Disadvantaged Business Enterprises (DBEs) that do business with DelDOT.
- Help remove barriers and create a level playing field on which minority and/or women business enterprises can compete fairly for and participate in all DelDOT contracts and/or subcontracts.
- Recruit and identify M/WBEs by encouraging applicable vendors to certify with OSD should those vendors be ineligible or uninterested in obtaining DelDOT DBE certification.
- Employ subcontractors and suppliers who are efficient, flexible, innovative, offer the best value, and are committed to diversity within their organizations.
- Provide training and educational opportunities to DelDOT certified Disadvantaged Business Enterprises (DBEs) and small business enterprises in effort to promote economic development in the state of Delaware.
- Distribute communications developed by OSD for state supplier initiatives.
- Participate in outreach opportunities in support of economic development in the state of Delaware.

## **VIII. Information Collection and M/WBE Recruiting**

Regarding information collection and M/WBE recruiting, DelDOT's responsibilities shall include but are not limited to:

## **IX. DelDOT Procurement Process**

DelDOT's procurement responsibilities shall include but not be limited to:

- Communicating to OSD any agency-specific procurement processes, rules or regulations;
- Providing instructional guidance documents on agency-specific processes to OSD;
- Communicating federal supplier diversity requirements made part of their procurement process;
- Recognizing and working to eliminate potential barriers to new vendors attempting to solicit business;
- Reviewing past expenditures to identify potential uncertified M/WBE firms and sharing OSD's certification process with those firms.

**X. REPORTING**

DelDOT currently reports, and will continue to report, successes and opportunities for improvements for supplier diversity to OSD. DelDOT's reporting responsibilities to OSD shall include but not be limited to:

- Providing OSD feedback on best practices of proposal submission and evaluation;
- Providing agency spend data for M/WBE's on an annual basis; and
- Supplying M/WBE participation data on under-threshold contracts on an annual basis.

Nicole Majeski  
Cabinet Secretary, DelDOT

SIGNATURE:   
DATE: 12-15-22

**APPROVAL:**  
Shavonne H. White  
Director, Office of Supplier Diversity

SIGNATURE:   
DATE: 12/16/22

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