



American Recovery & Reinvestment Act

(Recovery Act)

NATIONAL REVIEW TEAM CLOSE-OUT REPORT			
STATE	REVIEW ID	DATE OF REVIEW	RISK AREA(S)
30 - Montana	MT20110321	03/21/2011	DBE, DQI
FEDERAL PROJECTS REVIEWED		REVIEW TEAM	
1011004, 5805013, 5822002, 8109002, 8119001		Dave Nelson, Carey Shepherd, Anne Luedders	

PROGRAM-LEVEL OBSERVATIONS

Priority: 1
Risk Area: DBE
Observation: Like many states, the MDT has not officially updated its DBE program plan since 2000; thus, its program plan, needs to be updated and submitted to FHWA for approval. However, unlike many states, MDT has sent FHWA official program updates as it has submitted annual overall goal information. The Montana Division has approved each of these individual updates. However, since the approved program updates are not part of the program document, per se, it is difficult to determine whether the DBE program is being implemented, as approved, which is required by 49 CFR 26.21(b)(1).
Recommendation: The MDT DBE Program document should be revised to incorporate all of the MDT's current policies and practices into one, comprehensive, "stand alone" program document, which should be submitted to FHWA for approval. This program plan should include such areas such as prompt pay, MDT's return of retainage policy, joint checks, trucking, the project goal setting methodology to be used, the annual overall goal setting methodology, and other required provisions. Once approved, this plan should be placed on MDT's website so that all program stakeholders will be able to determine easily how the MDT DBE program is administered.
Compliance Issue: N

Priority: 2
Risk Area: DBE
Observation: MDT has regularly submitted the US DOT form "Uniform Report of DBE Awards or Commitments and Payments – Construction" to FHWA. The form states that data is to reflect information for each distinct six month period. MDT's 2010 report was submitted on time and provided data for each six month period. Nevertheless, in 2006 FHWA issued a policy memorandum which changed how this report is to be prepared. The policy memorandum calls for the second report, due December 1, to reflect data for the total year of achievement. Since this National Review Team started making this observation during reviews, we have seen problems with completion of this form in virtually every state reviewed. Thus, this problem is not at isolated to Montana and appears to be a wide-spread, programmatic concern.
Recommendation: The Montana Division should work with the MDT to ensure the December 1 "Uniform Report of DBE Awards or Commitments and Payments – Construction" is completed in accordance with current FHWA policy. Since lack of compliance with this policy directive appears to be widespread, FHWA should also take steps to ensure that this policy is widely communicated and understood by the state and federal staff responsible for administering the DBE program.
Compliance Issue: Y

Priority: 3
Risk Area: DBE

<p>Observation: The MDT DBE special provision is somewhat outdated and does not incorporate DBE related contract clauses such as proper crediting of DBE participation, the Bidders List requirements, prompt pay provisions, and commercially useful function. If/when MDT chooses to implement contract goals, the special provision will also need to incorporate all necessary provisions for administering contracts with contract goals.</p> <p>Recommendation: MDT should update the DBE special provision so it is inclusive of all contract provisions that impact DBE's.</p> <p>Compliance Issue: N</p>
<p>Priority: 5</p> <p>Risk Area: DQI</p> <p>Observation: NRT commends MDT for the quality and completeness of its RADs data. In fact, the team noted no errors or deficiencies in the data for any of the selected projects. Moreover, MDT staff stated that data quality is of critical importance to Leadership, and its collection and tracking processes include multiple checks and reviews to ensure a high degree of accuracy.</p> <p>Recommendation: * This recommendation has been qualified as a successful practice</p> <p>Compliance Issue: N</p>
<p>Priority: 5</p> <p>Risk Area: DBE</p> <p>Observation: MDT has a number of effective practices for increasing DBE participation in a race neutral environment. For example, it has an extensive DBE Toolbox which it provides to each newly certified DBE and, upon request, to other DBEs. The Toolbox contains valuable information on marketing, business growth, doing business with MDT; and available resources. Further, MDT conducts annual onsite visits with each DBE to perform needs assessments and provide technical assistance, and it has an exceptionally user-friendly website that helps Primes locate and contact prospective DBEs. These and other strong initiatives help DBEs understand program parameters and benefits as well as encourage race neutral participation.</p> <p>Recommendation:</p> <p>Compliance Issue: N</p>

PROJECT-LEVEL OBSERVATIONS

REVIEW SUMMARY

From March 21, 2011 through March 25, 2011, this FHWA National Review team conducted DBE reviews of five (5) American Recovery and Reinvestment Act (ARRA) projects in Montana. The team also conducted a data quality review of RADS data for those same projects. Based on the data comparisons conducted for our review, the RADS data entered on these projects is very accurate. The DBE review involved DBE program and project areas such as CUF determinations, DBE program plan implementation, DBE monitoring and reporting, contract compliance, etc. The team conducted on-site project level reviews as well as interviewing MDT DBE Program and Construction Staff to assess implementation of the DBE program. The Team also conducted interviews with eight (8) DBE subcontractors which equates to over 10% of the in-state DBEs in Montana. The team notes that the MDT DBE program is very strong. While MDT has struggled in recent years to meet its overall goal due to its inability to set contract goals, the MDT Civil Rights staff appears to have worked hard to further the DBE program. MDT Civil Rights staff appears to be professional, highly competent and should be recognized for running a very successful program within its legally mandated parameters. The observations and recommendations made on this DBE Program Review indicate a Satisfactory assessment.

OVERALL RISK ASSESSMENT

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	DBE	DQI
Satisfactory:	X	X
Needs Improvement:		
Unsatisfactory:		

ADDITIONAL POTENTIAL RISK AREAS