

## Memorandum

To: Commissioner Zelle, Minnesota Department of Transportation  
Kim Collins, Director Office of Civil Rights, Department of Transportation  
From: MnDOT DBE and Workforce Collaborative  
Re: Recommendations for Policy and Program Considerations  
Date: December 7, 2015

### Legislative/Policy Ideas.

The following recommendations are submitted to you for your consideration. They are a result of a process of discussion by both the Leadership Team and the full Collaborative. They represent some priorities for action during the coming year from our perspective. We understand that many other initiatives are underway and we hope that some of our recommendations provide additional support for those efforts and others provide fresh ideas for your review.

- Funding for a DBE incubator. The Collaborative believes that DBE's need concerted and focused attention. A small business/DBE incubator might include a centralized space, model DBE best practices, provide focused training and one-on-one consulting, provide opportunities for DBEs to socialize, give/receive support, gain knowledge. Taking this more comprehensive approach might be more effective than what the system now provides.
- Increase the Working Capital Loan funding amount and expand eligibility to allow the fund to be used for equipment, bonding and other issues identified by DBE's as barriers to working on MnDOT contracts. The fund currently requires the applicant to already have a contract with MnDOT and is essentially a bridge loan for cash flow. There are many more capital and cash issue barriers to full participation by DBE's and we encourage the Department to seek ways that a modified Working Capital Loan Fund could at least partially address them.
- Prompt payment law (retainage). Some sub-contractors have been asked to agree to hold back on payment for completed work, even if it is not allowed in Federal law for DBE's. We realize there is a systemic issue related to prime contractor liability, closing of projects by MnDOT and cash flow. However, it is a significant barrier to participation for small businesses and DBE's. We encourage enforcement of the law, awareness to sub-contractors of their rights under the law, and considerations of ways to address the root causes and perhaps mitigate the risks for prime contractors.
- Assess impact of changes in OJT Program aimed at ensuring the training opportunity lead to a career rather than short-term experience. A few years ago at the initiative of the Collaborative and with the support of OCR staff, changes were made to the length of time an OJT employee could work, the number of projects he/she could work on, and other administrative changes. The goal was to ensure the OJT experience led to a career in the field and integration into the construction field rather than having a short term experience that ended up not

being sufficient for re-call, learning multiple skills, and an overall career path – including union membership if desired. We are fully aware that the OJT program is not intended to exclusively serve union eligible workers, but that is one career path that has worked for many. We recommend a review of the program to determine if the changes had their desired impact.

- The Collaborative states its unanimous support for increased transportation funding. Increased funding is a jobs and economic/livability issue. But it is also related to safety and overall quality of the transportation infrastructure. This industry was hit hard during the last recession and has still not recovered. We believe the State should no longer delay meeting one of Minnesota’s most pressing transportation needs.
- Conduct a pro/con analysis of including professional and technical services contracts in DBE “count” by using federal funds. This issue has been raised by Collaborative members in the past and was mentioned by Dr. Myers in his presentation during his study of establishing the new goals. Commissioner Zelle also raised this as a possibility in a presentation to the Collaborative. However, we understand that the use of federal funds in small technical or consulting contracts could create a barrier to participation for small firms and result in having a negative impact. A review of the impact should be made before making changes to how these contracts are funded. However, we are interested in the possibility of seeing more minority and women contractors being both in this pool as well as recognized for their contributions.
- Contractors indicate that the electronic reporting system CRL has been a barrier for some DBEs – causing late or inaccurate reports and perhaps some lack of overall participation. DBE’s have reported that the system is a barrier as well. We recommend a review of the CRL and its impact on small businesses and a resolution that might include additional resources either at the DBE or contractor site, more training, or alternative ways to reduce the system’s negative impact on DBE’s and other small businesses.
- Generally the Collaborative recognizes that the systems we have are not effective enough. Some members would like to engage in a larger discussion of different models of business and the overall concern of an exclusively “low cost” system if we are genuinely interested in engaging small businesses in the industry.

December 7, 2015

Barbara Raye, Facilitator

Approved by the Collaborative on October 8, 2015