

November 14, 2018

Meeting to address INDOT/KYTC DBE Exchange Program Questions

Attendees: Jamir Davis – KYTC; Taryn “Sissy” Guynn – INDOT; Derrick Casson – INDOT; Libby Kiefner – INDOT; Josh Culver – American Structurepoint

Is this effort designed to add to the DBE bench?

Yes, this program came about in part due to a 6 year study that included the Milton-Madison bridge and ORB bridge projects. Libby also stated that “selfishly” this was also designed to help avoid requiring another standalone agreement for the new I-69 bridge near Evansville (standalone agreements were used previously for ORB in the Louisville market, and the Milton-Madison Bridge).

How do the pre-qualifications differ in Indiana and Kentucky? Does work in Indiana prequalify you in Kentucky? All categories and services?

For contractors (excluding haulers/manufacturers/brokers) –

Indiana requires pre-qualification for all Prime contractors and all subcontractors with an unearned book of work >\$300k. Libby noted that the guidelines for unearned work were written in 1991 and have not been updated since, something that is on the to-do list for the near future.

Kentucky requires pre-qualifications for all services

For Professional Services –

Both Indiana and Kentucky follow same guidelines as for contractors, the difference is that a separate agency in Kentucky handles professional service pre-qualifications (but requirements should match that of contractor). Same office handles contractors and professional services in Indiana.

Under this program, becoming certified in one state would meet your certification requirement in the other, but pre-qualification is STILL a separate issue and must be attained in each state.

Haulers, Manufacturers, and brokers do not require pre-qualification in either state, but certification is still a requirement

KYTC is considering removing financial requirements of the pre-qualification process. It can be viewed that requiring review of financials ALONG with requiring bonding is having two separate entities (KYTC and a bond company) review the same information. It was noted that INDOT does NOT have bonding requirements for subcontractors, but is looking to streamline the process by moving to an all-electronic pre-qualification process by 2020 and combining pre-qualification and certification within the same database.

Libby offered to share a policy document that exists to assist prime contractors in “asking the proper questions” of their DBE’s to help ensure that prime contractors understand how using a particular DBE impacts their utilization goal.

Must a firm be licensed in Kentucky to qualify?

Yes, this process ONLY addresses certification, not licensing or pre-qualification. It was acknowledged that all 3 present hurdles to companies. Certification is the easiest hurdle to tackle and begin to remove the red tape – thus some of the purpose of this program, pre-qualification may be something down the road that can be addressed, licensing is far more difficult.

In addition to the value of not having to complete new certification forms, what other benefits does this initiative provide to engineering firms?

As a somewhat parallel project to this program, efforts are being made to “clean up” the pre-qualification lists and make it quicker and easier to determine the work types that DBE’s hold pre-qualifications. INDOT is working to match up work types with NAICS codes in an effort to consolidate information into one concise, up to date, database.

Sissy acknowledged that professional services companies have somewhat been “forgotten about” in the past. They are now working to understand the full process of how professional services would become certified, pre-qualified, and then eventually procure work. Once they understand the process, they feel they can identify the hurdles that existing along the way and then develop an orientation packet specifically geared toward professional services to help guide companies through all the DBE “hoops”. Libby also pointed out that while professional services are obviously a vital component to the process, they represent less than 5% of the dollars spent, alluding to this being the reasoning (right or wrong) for having been “forgotten” in the past.

How will this be evaluated after the 1 year trial?

Evaluation is ongoing currently. To date only 2 companies have attempted to take advantage of this program, however it was acknowledged that many companies had already completed the separate steps in each state to perform work. It is anticipated that this program will see more impact with newer companies that have not had the opportunity to establish themselves in both states under the “old” system. Libby stated that her intention is to request a 4 year extension (maximum allowable by law) of this program in January of 2019 to allow for a 5 year total timeframe to judge the success. Jamir responded that he is certainly in favor of extending it, but hadn’t yet looked into possible duration and if 4 years would even be possible from the KYTC side. Both sides acknowledged the framework for the program has already been put in place and it makes sense to stay the course. Jamir also noted that he been charged by his superiors to “streamline the DBE process and eliminate red tape”. In regards to the 1 year trial period, all seemed in agreement that it seemed companies were cautious to view this as a lasting program, and hoped that a substantial extension would increase interest in the program.

What is the potential for the future of this program and reaching out to other states?

Currently there is zero interest in reaching out to other states. This is due in large part to the DBE models utilized by other surrounding states and the multiple agencies involved in certifying DBE's (Illinois for instance has 9 different agencies). Processes at INDOT and KYTC closely mirrored each other prior to this program and seemed to be a natural fit in this region. Jamir stated a request from contractors to possibly do something similar with Tennessee, primarily due to the heavy work load near the Tennessee state line (400 upcoming bridges within 1 hour of the border), but given the timing and the previously mentioned differing models of administering DBE programs, it didn't seem feasible. In regards to the recent beginning of the Bridging Kentucky program, Jamir pointed out that this DBE program HAS to be a success for KYTC to realize their goals of completing the ambitious amount of upcoming work. In his opinion, there simply are not enough companies to provide services existing within the state borders as of today.

How do you feel the program is going so far this year?

Still slow with only 2 companies having taken advantage of it, but it was noted that the number of new applicants does appear to be trending up, and as stated previously, this program should show most value with newer companies.

Both states have outreach efforts somewhat related to this program. INDOT has a partnership with ICI to provide Pre-Qualification "counseling" for companies. This program has assisted 5 companies this year in Indiana. KYTC has an "Entrepreneurial Development Institute" that provides 3 month long classes to assist companies in becoming pre-qualified. KYTC's program is designed to walk a company through the "entire process" from writing/re-writing a business plan, performing SWAT analysis, preparing bid cost calculations, fulfilling bonding requirements, etc. An office devoted to this outreach just opened in Convington and is staffed Monday – Friday to assist. New class starts in January of 2019. INDOT and KYTC both noted that these services are offered free of charge.

When asked "What does success look like for this program." Libby's response was that they are looking for an increase in utilization rates and for an increase in dollars to DBE's. Jamir agreed with that simple metric of measuring success. Libby also noted that INDOT achieved their utilization goal for the "first time in a long time" last year and they want to continue that success. It was also discussed that success for this program should also alleviate some of the "headaches" that prime contractors experience when trying to meet their DBE goals.

Have you noticed any un-intended consequences thus far with the program?

Libby noted that one prime had submitted a subcontractor's Kentucky certification instead of the same subcontractor's Indiana certification. She noted that upon further review it did appear to be an honest mistake, but that clarifications were made to the program language to state that a company's "home" state must be used.

What has been the biggest or most common misconception that has come up since this program was started?

The quick and decisive answer from INDOT and KYTC was that this program deals ONLY with certification, not with pre-qualification. Pre-qualification is indeed an area they may try to address down the road, but is not something that is addressed by the program in its current state.

CLOSING MISCELLANEOUS REMARKS

Both KYTC and INDOT welcome any and all feedback or follow up questions that the committee may have. Both agencies feel they have been empowered to make changes and streamline the process. Currently a one page marketing flyer has been developed and is currently being edited to provide information about this program. Once complete, the flyer will be distributed to ACEC.

In regards to the KYTC Bridging Kentucky program, it was mentioned that KYTC will be utilizing both Design-Bid-Build and Design-Build procurement strategies. Libby mentioned that FHWA has recently put out a document providing guidelines on DBE utilization on Design-Build projects and would share that with Jamir and the ACEC committee.