April 27th, 2021

FHWA FFY 2021-2023 DBE Goal Methodology Meeting

Hosted by Aaron Nickols, Business Development / OJT Program Manager at Alaska DOT&PF Civil Rights Office

<http://dot.alaska.gov/cvlrts/>

Video Transcript

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Okay. Good afternoon, everyone. Welcome to the Alaska Department of Transportation and public facilities proposed federal fiscal years 2021 through 2023, Federal Highway Administration Disadvantaged Business Enterprise go public, public comment meeting.

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This meeting will be recorded this this afternoon so I'm going to go ahead and start recording.

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We appreciate everybody being here.

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And again, this is one of those one of those instances where we're going to give everybody a few minutes to kind of get logged in and join the meeting, and then we'll go ahead and get started.

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I want to go ahead and start sharing my screen.

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And we'll get started here in just a minute.

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Okay, I think we got a few minutes I hope everyone can see and hear me well enough. Everybody see the presentation this afternoon.

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Just give us a, give us a heads up if you can't see something or you can't hear something just let us know and there are also the closed captions at the bottom in there'll be a transcription included with this presentation this afternoon.

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Just want to let everybody know that this will be also posted out to the Civil Rights Office Web page. So you'll be able to access the video probably in the next day or so once we get it all.

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edited and posted up.

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This presentation is also available on the Civil Rights Office Web page, and a copy of the draft CBE go presentation or the actual print the document itself is also available on the Civil Rights Office webpage.

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So, if you if you have any trouble finding those things don't hesitate reach out, give us a call our contact information here in the Civil Rights offices on the website, or you can give me a call my numbers, 907-269-0850, and we'll be happy to happy to

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help you out. Make sure that we get a get a copy of this or answer your questions, an addition on the last slide here we'll cover some of the other ways that you can submit public comments.

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In addition to today's presentation and some of the questions that you might have.

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You can always email us, that email is also available on the Civil Rights Office Web page,

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give it just a couple more minutes here and then we'll go ahead and get started.

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Okay, just a couple more minutes here and then we'll go ahead and get started. Everybody see and hear me okay.

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Yep, looks and sounds good air to go here. Okay, all right with that. Okay, I guess we'll go ahead and get started in folks drill in and hopefully they'll catch us at some point when we can continue on the discussion.

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Again, this is the Alaska Department of Transportation and public facilities proposed federal fiscal year 2021 to 2023.

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Federal Highway Administration Disadvantaged Business Enterprise TV, go public comment, eating. This is the complete third one of these that we've done and there's some revisions to the gold methodology that we've had in the past.

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So, some of the numbers may have changed but the methodology itself, largely remains the same, it's just a matter of really analyzing the data and and re crunching the numbers to kind of look at the look at the totality of the situation and the disparity

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study and what it presented us with, and how we present that in terms of setting the training of golf. In accordance with CFR 2645 so

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go ahead and move to the next slide. So today's discussion will will talk a little bit about determining the overall BB Eagle race conscious and race neutral projections, and the public, and your questions and comments, if you have those and how to continue

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during the comment period to submit comments or ask questions if you do have them again I want to say that the public comment period is open through May 12.

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That's at 5pm.

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Public kind of closes at that time.

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Okay so determining the overall DT Eagle. This is really a, it's a multiple step process and largely it's based off of the results of the 2021 DMGT disparity study in the data that that that study presented us with, and then taking that data and sort

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of putting it into a context, and into a narrative that allows us to essentially set these DB Eagles on on federal highway assisted contracts key phrases and key terms here I mean, are on the slide, it's there.

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And it really begins with the step, step one, and determining the base figure.

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And of course the one of the other key things to bear in mind with all of these calculations and all of the, the results of the gold methodology is we're considering those firms that are ready, willing and able DBS relative to the number of businesses

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that are across the board in the state, that are already in the market area which is the state in this case, that are ready, willing and able to participate on Federal Highway Administration, assisted contracts.

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Like the site says the overall goal must reflect the level of DBE participation that would be expected, absent the effects of discrimination,

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get into some of that a little bit later on when we talk about race neutral race conscious measures and things of that sort.

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So, if you have questions on that we can certainly answer those at the end of the presentation or, by all means feel free to raise your hand or post a message in the chat, can we can certainly do that too.

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So step one is to determine a base figure for the availability of DVDs relative to all businesses so that's that's essentially looking at that microcosm of how many DVD firms are there and how many of those are ready, willing and able to participate on

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the contracts relative to the number of firms in in in the entirety of the market area.

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So, in the state as a whole.

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Step two is examine all available evidence to determine what adjustments if any are needed to the base figures where I've been an overall goal. So, again, take the take the information that's presented in the disparity study, use the calculations and

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statistics that are presented there.

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Determine your step one base figure. And then examine additional evidence to determine whether or not a step to adjustment is necessary.

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That's really the that's really that that kind of long and short of it that's the nuts and bolts.

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And the third part of this process is is in establishing the either neutral or race conscious split.

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Alaska being in the Ninth Circuit, this is more bound by the applicable case law that follows their western states paving versus Washington.

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So this state is considerably more complex for us and those other, those are those states to that belong to the Ninth Circuit than it is for some other states is one of the reasons that the disparity study forms the sort of first step process of capturing

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the data and looking at the statistical figures and facts that go into the school methodology.

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So the step one based figure, again, is derived from using the disparity, study, study data, which captures five years of data, basically between federal fiscal 2015 and 2019.

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This information is supplemented with our own records internal to do T amp t f and the Civil Rights Office.

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And we look at those look at those calculations, look at those statistics and begin to calculate out this base figure.

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Federal federal regulations allow for using data from a disparity 72 calculated based figure for the overall availability of DVDs.

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And that's, that's essentially how we arrived at this step one base figure.

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Again the availability analysis from the 2021 DOTMPF disparity study accounts for both decertified DVDs and firms that could then put fear Excuse me.

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If I could talk today firms that could potentially certify these DVDs. Now one of the things that we don't do in this whole methodology is we don't account for those potentials because that's kind of a broad.

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That's kind of a broad category that we can't actually necessary necessarily account for there's it's difficult to apply a statistic to that.

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So even though there's, there's the potential for folks to become certified DVDs, we don't know how many firms out there could or will become certified these in the future.

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On the 2021 disparity study availability analysis, you'll, the most accurate data. This is important, again disparity studies something that's required by by the Ninth Circuit Court decisions under 26 dot 45 how state highway agencies and dot set their

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DB equals.

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And it's incorporating a lot of data from a lot of different places not only internal to do t but also external to do it too.

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Dun and Bradstreet. And if you have have questions about the disparity study itself, feel free to look at the disparity study reports that are on the Civil Rights Office Web page.

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Those things that that report and the and the dependencies that are included in it will will give you a much better picture of the methodology and the legal legal ramifications and requirements of a disparity study.

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So at the end of the day the process of setting our step one base figure for for this training period of 21 to 23 for federal highways to contracts yields a face figure of 10.49%.

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That includes.

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That includes a weighted base, based on the work type expenditures for the previous fiscal years. And you'll see that when you actually read the read the documents, and I'll post those in the chat here once we get further along we start taking some questions

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I'll make sure we get those posted to the chat.

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So this step to overall goal. This is also referred to as the adjustment.

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Step two adjustments portion of the goal setting process.

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So we look at any additional additional evidence that indicates that we need may need to make an additional adjustment to either downward or upward to the base figure.

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In this step we look at the current capacity of DVDs and evidence from the disparity study on self a planet anecdotal analyses that incorporate steps that were taken by MTT when they perform the disparity study to determine what barriers there to doing

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business in the state, both in terms of doing business with the OTNPF and and access to capitals.

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Also look at geographic barriers, obviously, we're a little bit different than some states, and the fact that, you know, we do it in state do T amp D E F encompasses three significant regions.

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And those three regions, obviously don't necessarily operate the same so we look at those things and determine whether or not there's evidence to support making adjustments based on those things.

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We also look at the types of contracts expected and whether there's expect expectation to see major changes in the types of contracts that might be available for folks TV or non DVD firms to bid for in the future.

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So based on all the evidence and including an accounting for the step one base figure. We make an adjustment for the overall goal. So, an adjustment was made for to account for the current capacity of DVDs to perform work that yields an overall book TV

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equal of 8.28% so this is, this is what the for the next three years between fiscal 21 and 23.

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We'll be looking to set our goals that is 8.28%. The next slide here.

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The third component like we talked about a little bit before is that race conscious race neutral split.

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So we look at the disparity study and we look at additional anecdotal evidence to determine whether or not this needs to be a race conscious or a race, race neutral or a mixture of both race conscious and race neutrals split between that goal for the

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overall DVD goals so the evidence, the evidence considered obviously includes that disparity study in the information disparity study presents to us, the non goal analysis so essentially with the number of DVD firms, or non DVD firms that that were awarded

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contracts or subcontracts on projects or contracts, overall, without goals on them.

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And anecdotal evidence of discrimination so we have to take into account whether or not. Discrimination may exist that we can't necessarily prove in a statistical sense.

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This also accounts for relevant case law, again, referring back to that.

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Western States paving in the Ninth Circuit Court court case that essentially requires

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do TMDOT entities or state highway agencies within the Ninth Circuit to perform a disparity study to begin calculating this goal.

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And we also look at past race neutral participation. So, we look at what would what what the percentage of achieving the goal would be if we did not have a race conscious component so absent the effects of discrimination.

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What what percentage of folks actually did get contracts or what percentage of firms did actually get contracts there.

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So after reviewing all this evidence and looking at the calculations and the anecdotal data that was presented to us in the disparity study VOTMPF proposes a final race, race neutral race conscious split of eight to 8.28% race neutral 0.0% race conscious.

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So that is the ultimate conclusion of what this methodology is saying and all the factors that are included in it and all the calculations that were made, are included in that goal methodology document which I'm going to link here in just a few seconds.

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That really covers that really covers the creation and then the sort of process of this whole methodology to to work through it piece by piece. So I'm going to go ahead and move on to the next slide.

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This is the portion where we're happy to entertain and answer questions. I'm going to go ahead and hop into the chat real quick and I will post and link those documents that I was referring to, including the goal methodology document itself.

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Again, if you do have additional comments after this presentation is over or you read through the document and you see something that requires comment or you feel it needs to be documented, those will be entered into the record if you send a written comment

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to that email address, or you can send it to the address listed here on the bottom of the slide.

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Again this public comment period ends on May 12 at 5pm. So I'm going to go ahead and link these documents. Now, if you do have questions go ahead, raise your hand and we will take questions, comments.

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Looks like there's a question from Tim.

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Indeed.

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Yes, hi Aaron.

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I had a question concerning that last slide, we were talking about the race neutral versus race conscious. It seems that prior to this current triennial that we did have one area which was shown as race conscious.

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Is this aspirational going forward as 0.0 or is this reflect any of that previous information.

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Okay, I tend to answer your question that the the FHWA portion has been aspirational brace neutral.

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Even in the preceding periods.

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The goal methodology there.

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The goal methodology there, the 2018 to 2020 goal methodology, it's still race, race neutral, I think what you're referring to is the FAA race conscious component on FAA projects in northern region, those.

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the FAA go methodology at this time but those had a race conscious component fH who component. Goal methodology have been raised neutral for at least the last two gold methodology cycles that answer your question, it did.

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Thank you. I did confuse that I appreciate the clarity.

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Sure.

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Any other questions at the moment.

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Air there's a question in the chat.

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Can we go into a little more detail on the results of the disparity study. I'm new to reviewing the report, so I was hoping to get more insight into the tables and charts, quite frankly, I can go into a little bit of detail on the results of the disparity

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city, as it applies to the, the FHWA go methodology.

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I can't speak to exactly how MTT did their did their methodologies and calculated those things, those things are included in the disparity study report itself.

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If there's a specific table that you're looking at. We can certainly look at that table, or you can feel free to get in touch with us at some point and then we can, we can go through that and maybe try to answer those questions for you but ultimately

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those questions would be answered by MTT because they were the, they were the firm that actually completed the disparity study.

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Probably not the ideal answer that you were looking for but that's that's the honest answer that, that I can give you at this point.

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In terms of, I'm not sure which table we specifically were referring to.

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And to and just to back up with what Aaron saying, I'll go ahead and copy and paste your comment from the chat and I'll send it over to MGT, then I'll see you on that email as well.

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If need be, MDT is pretty pretty available whenever we call to answer some of the questions from from this study, just with our office personnel we usually don't speak to their study just because it's, you know, just the way the processes and disparity

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studies and that kind of thing but I'll definitely copy and paste this now and get it sent on a Andres from MTG

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there you got another question in there from someone a noble looks like.

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Like, I have a question. I am pretty new at this and I didn't quite understand what you meant by race neutral.

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Okay.

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The race neutral on race conscious component is dictated by the stipulation two CFR 26 dot 45.

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Sarah if maybe you can help me and kind of break down the race neutral race conscious component or at least, break it down, perhaps better than I can.

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And, in the sense that a race conscious component means there's a, there is a strict DB goal that is set with each, each contract in a race neutral environment that the ego is not necessarily.

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It's aspirational it's not necessarily required there's still a process to document the good faith effort for a contract that's under a race neutral component.

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But it doesn't necessarily require a DBE participation on that particular contract provided good faith efforts are met.

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Oh sure, yeah that's pretty good. I'm just I'll just offer a couple points of clarity here on the overall department goal or the proposed goal of 8.28% is not an aspirational goal, it is a requirement that we meet that goal.

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But we are stating that we can meet the goal through entirely race neutral means a simple way to describe to differentiate between what that means is that if a project has a race conscious component to it, it will be advertised with a DB equal.

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And in order for the potential low better to be awarded the contract. They have to either meet the DB equal or show that they did a good faith effort to meet the DB equal.

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So the good faith effort is reviewed for sufficiency.

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And in a race conscious program, or a project that is advertised with race conscious that might state somewhere in the letting what the overall departmental goal is, but the particular project is not advertised with a goal.

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So while we still do evaluate the prime contractors use of DBS on the contract, and we still look at all the same paperwork, we still evaluate the good faith effort.

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We are not valuing it for sufficiency we're evaluating it for content.

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And then some additional definitions can be found in the CFR, um, and they're pretty short so I can go ahead and read it on race conscious, major or program is one that focus specifically on assisting only DB ease, including women on DBS race neutral

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major or program is one that is or can be used to assist all small businesses.

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For the purposes of this part race neutral includes gender neutrality.

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So, yeah, I think that answers your question if you need more clarity.

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Feel free to let us know. Okay, I still didn't quite understand by reading the summary. It appears that minorities and women are at a disadvantage and that they should be considered.

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Considering like getting financing insurance and, and oftentimes the contracts are too large for for us to bid on or to handle. So, wouldn't that be considered.

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Considering that we are not able to have get the kind of financing that a large company or corporation would be able to get.

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So are you saying that to be race, neutral or neutral on this, that you don't care to consider minorities, or women.

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No, it's just a method of implementing the program, essentially, and those considerations that you mentioned, were taken into account and the disparity study Pacific, specifically chapter seven anecdotal analysis on the very points that you just brought

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up, are covered in the disparity study.

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And we incorporate that into the step two portion of the goal methodology so we address some of those.

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Some of those areas.

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But in our analysis, we didn't find that participation levels are were at such a rate that we didn't find it necessary to include a race conscious component of the program in order to meet our DB equal.

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But that doesn't take away from the implementing of the program and the helping of the DB firms, we still do all of that.

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Just, just to kind of echo what Sarah was saying there in terms of in terms of what the, what your question was, is reflective of is the actual absence or or evidence of discrimination in that those, those things are all determined by what the disparity

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studies analysis shows.

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And those documents again are available on this, and the civil rights web page.

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So the disparity city kind of breaks down and analyzes and defines the methodology that is used to determine whether or not a race conscious or a race neutral component is necessary based on the, the existence or absence of discrimination.

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If that sort of makes makes sense.

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Thank you.

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Okay.

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I thank you, appreciate it and I appreciate everyone and their questions. I'm happy to take some more questions if anybody has any.

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Also if I could, if I could get everyone to post in the chat with your with your full names and maybe you the firm you represent or.

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We have to track this stuff, because we do report it back to FHWA when we do these, these public presentations we do report these things back to us to t.

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So if everybody could post in the chat with your name and maybe what firm you represent or what entity you you belong to that would it help us out tremendously.

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Just so we have, we just so we know who actually was here today, so we appreciate that.

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Again, I do want to thank everybody for being here today. I know it's the springtime and it's, well, currently sunny here in Anchorage and I would assume we would all love to be outside but appreciate everybody being here with us this afternoon.

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Does anyone else have any questions off the top of their head or is there any anything that we can provide again I did link.

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The actual DB equal methodology present the PowerPoint itself, as well as the two documents including the comment form which you can email to that God civil rights and alaska.gov or TV.

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Go methodology@alaska.gov.

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Okay, I'm not seeing any more questions I'm not hearing any more questions nobody's got their hand raised.

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If no one has any additional questions, we, we can certainly.

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Start certainly hang around if anyone has any additional questions or concerns or just wants to take a minute to rethink through through things will be here.

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Again, like I said, you know, go ahead.

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Sorry I did just squeeze one quick question in there.

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I guess with the.

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If people are new to the this report and want to reach out to dB companies.

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Do you have a database or what are your recommended best practices for, you know, optimizing DB work.

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Okay, the best thing to do to find certified DVDs go to the Civil Rights Office Web page and you'll find the complete list of the certified DVDs for the state and interstate those sort of those firms that are certified in Alaska, or through the Alaska

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unified certification program, they're all on the civil rights web page and hang on just a second, I'll tell you what I'll do is I'll go ahead and I'll bring that page up and I will share that with everybody and show everybody exactly where to go to find

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that information.

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Any, any firms that are looking to find a DVD firm that's the way to do it is right here on the Civil Rights Office webpage you can get to our page through the Department of Transportation or, honestly.

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Most the time I just Google it and we and civil rights, Alaska and Department of Transportation and it'll bring you right here.

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bookmark it when you get there though. So if you go here to the DB directory, you scroll down a little bit.

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You'll find the deal, how to find a DVD firm, there's the entire DVD listing by alphabetical by next code so if you're looking for a specific type of firm or type of work that a firm does by work category.

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And then there's the DB email list as, in addition to the professional services consultant listing, and the AC DB listing for those firms so if you're looking for an airport concessions.

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dB, and a Did that answer your question.

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Yes, thank you, Aaron.

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And while I'm here I will go back and I will show everybody so if you do need to go back to it.

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You can find all the, all the information on the DB equal methodology for FHWA right here. It's on the Civil Rights Office Web page homepage. Under the home tabs.

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And then there's also the draft reports of the disparity study and the draft dependencies, this draft will probably be updated here shortly. I think we have to do some updating to the web page, but that that form will also be available once it's finalized

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and completed.

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And those will be available and pretty indefinitely here on the Civil Rights Office Web page. So you'll always be able to access those things.

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And maybe if you're a firm that's not a DB or you know somebody who's not a DB firm.

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And maybe they should look into it, they can always go to the DB program page and learn what it takes to become a dp or an sp, and what all the components, all the components of the DVD program and the Civil Rights Office, as it as a whole, encompasses

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so.

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All right, I'm going to stop sharing that for a quick second.

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Okay. Going back any more. any more questions any more comments at this time.

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Okay, I'm not seeing anything, somebody if somebody does have a question just go ahead, raise your hand or. Leave it. Leave us a message there in the chat will answer your question.

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We appreciate everybody being here again today and in the comments and questions that we've got.

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If anybody does have any additional questions after we conclude the presentation. Afternoon, don't hesitate to reach out, ask questions, send us an email.

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Give us a call. We're available to answer questions.

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Anytime we can just take that email and, and try to answer those questions as people get an opportunity to read through the gold methodology document itself, or through the disparity study again like with in talking about the disparity study and the difference

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between the cool methodology and the disparity study, without getting into too much detail MTT consulting can conducted the disparity study so well, those of us in the Civil Rights Office did review it and read it.

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We didn't actually do the work there so the work there goes in the end the actual answers to the questions. In terms of the disparity study will go to MTT and they can answer those questions, much better than much better than I can.

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That's for certain, so.

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Okay.

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Anybody have any last questions, otherwise we will go ahead and conclude the presentation for today. Seeing that we don't have any additional folks joining us and I don't have any additional questions again like I said here and probably the next day or

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alaska.gov.

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Okay.

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Well, again, thank you all for being here today. We appreciate it.

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Thanks.

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All right, thank you.

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Looks like we had one person join us here in just the last few seconds Sterling Good afternoon, were you just joining us.

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Okay.