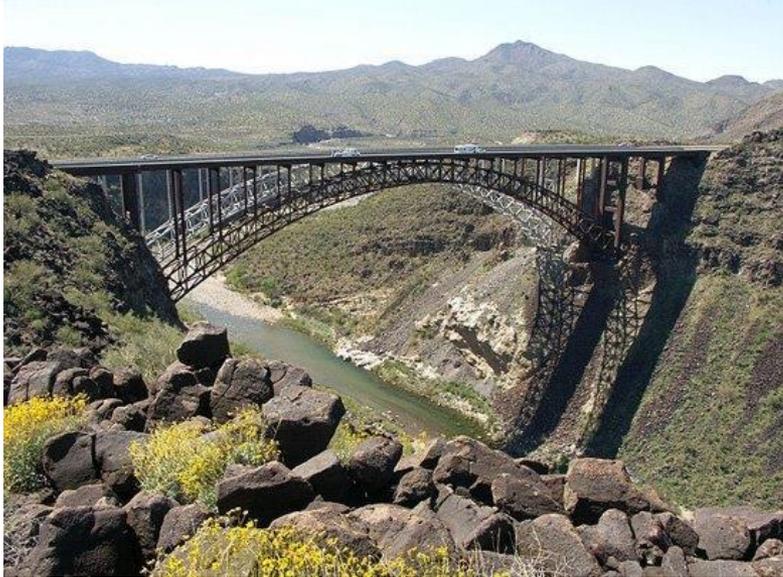


Disparity studies: The basics to how they help defensibility of a Program



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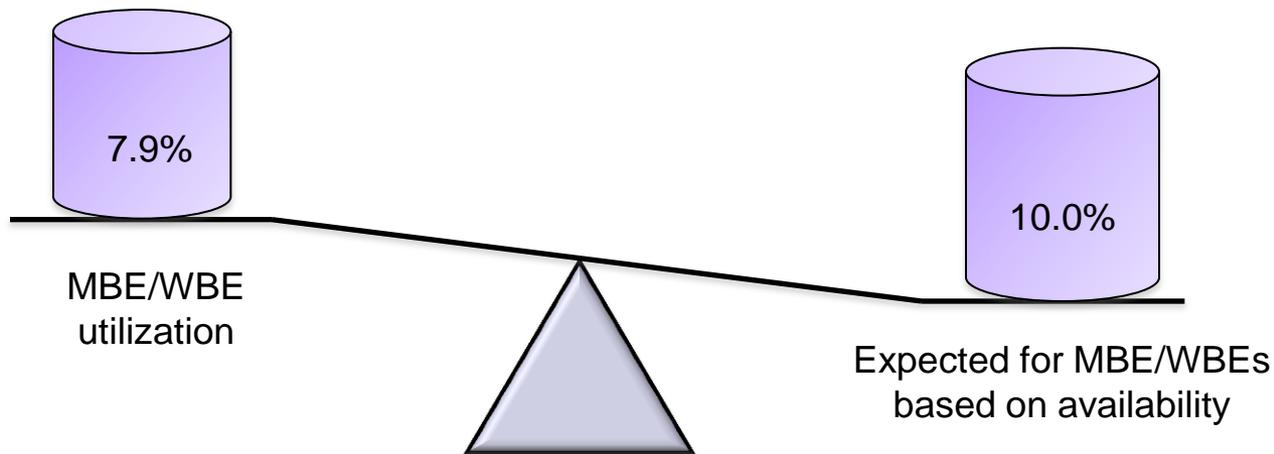


Session topics

- The basics:
 - What are disparity studies?
 - What would I do with one if I had one?
 - How much do they cost, how quickly are they done, what does a state DOT have to do?
- More difficult question – how does a study add to the defensibility of a state DOTs' implementation of the Federal DBE Program (or MBE/WBE Program)?
- Typical workscope for a state DOT disparity study

What are disparity studies?

- Independent research about whether there is evidence of discrimination affecting minority- and women-owned transportation contracting firms in your local marketplace
- One element is comparing:
 - % of agency \$ going to minority- and women-owned firms (utilization)
 - % of \$ expected to go to minority- and women-owned firms (availability)



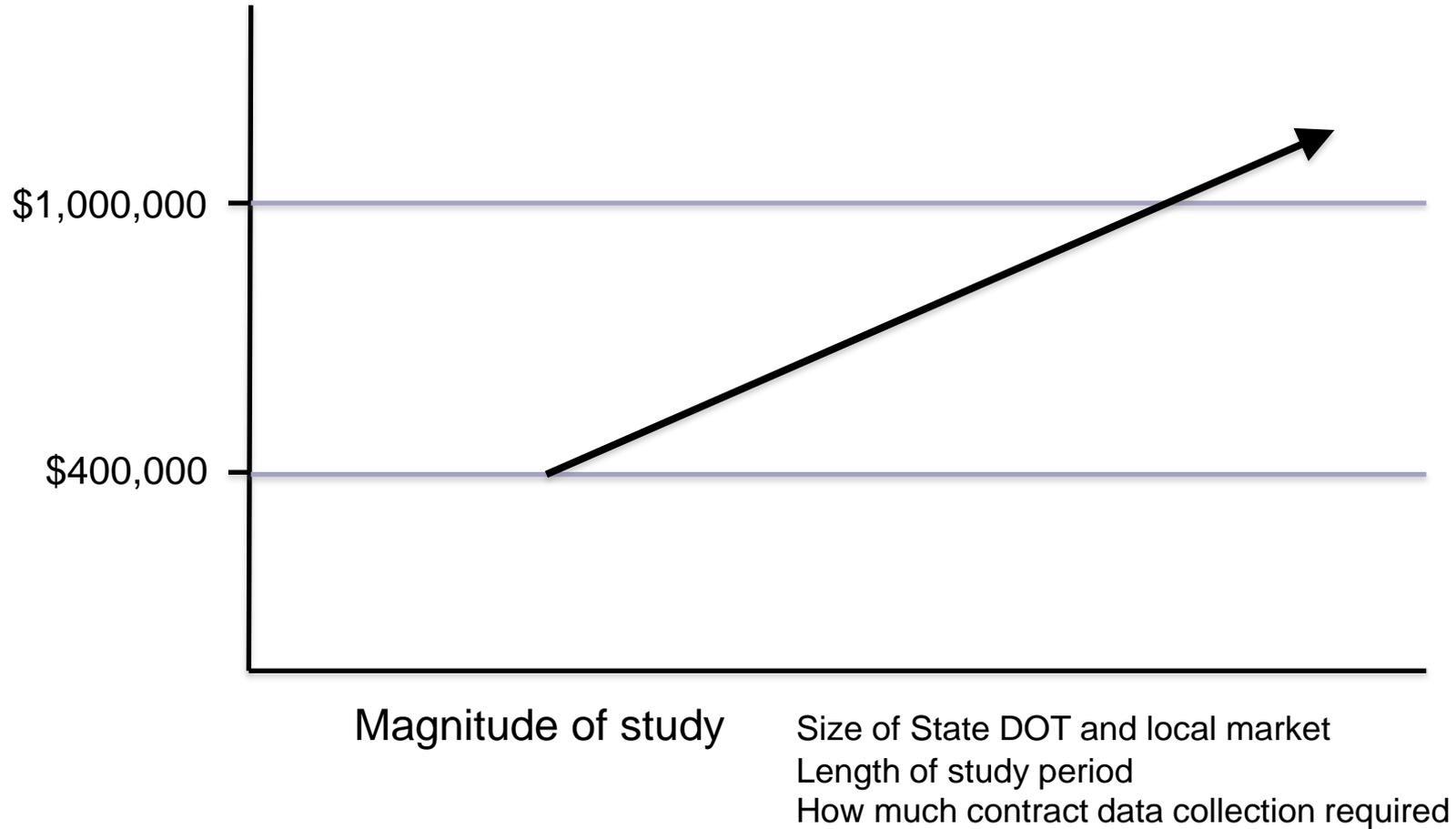
Why useful?

- Answer any questions raised about equity/effectiveness of your current program
- Improve how set overall three-year DBE goal
- Have more information to narrowly tailor your implementation of the Federal DBE Program, including whether race-conscious elements are needed
- If have or are considering MBE/WBE program for state-funded contracts, develop better information to determine whether supportable or how it should be designed (including any overall MBE/WBE goal)
- Answer questions important to courts before any legal challenge (e.g., what Caltrans did before AGC, *San Diego v. Caltrans*)



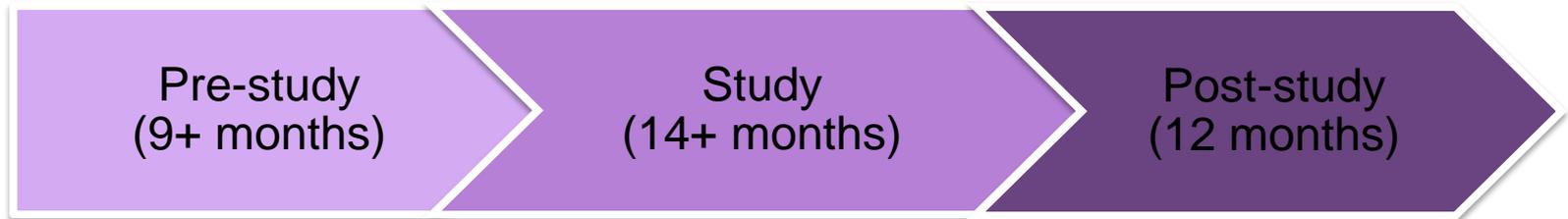
What do they cost?

For a state DOT, typically \$400,000 to more than \$1 million



How long do they take?

- Up to one year to budget, plan and go through procurement and contract execution
- About 14 months for consultant to complete study, including time for public comment/meetings concerning draft report
- Up to one year to develop new goal and plan



What does a state DOT have to do?

Responsibilities include:

1. Before study, consistently collect information about transportation contracts:
 - Construction and engineering-related contracts
 - State DOT's contracts and subrecipients' contracts
 - Prime contracts and subcontracts
 - USDOT-funded and state-funded contracts (i.e., goals contracts and non-goals contracts)
 - Performed by DBEs and non-DBEs
 - \$ for each contract/subcontract and type of work involved
2. Provide consultant access to above information if not consistently collected
3. Once study complete, carefully review and consider results for future implementation of the Federal DBE Program or any state MBE/WBE program

Example of data matrix from a Keen Independent study

Working matrix of contracts and subcontracts examined in the disparity study	Sources of contract data for July 1, 2007-June 30, 2013					
	Need dollars by contract by firm (DBEs and non-DBEs) Data might be in electronic or hard-copy form					
	Construction		Engineering-related		Transportation-related Procurement	
Transportation contract types	Prime contracts	Subcontracts	Prime contracts	Subcontracts	Prime contracts	Subcontracts
ADOT Highway						
FHWA-funded With DBE goals						
Without DBE goals						
State-funded (no goals)						
ADOT Transit						
FTA-funded						
State-funded						
ADOT Aviation						
FAA-funded						
State-funded						
Subrecipient Highway						
FHWA-funded With DBE goals						
Without DBE goals						
State-funded (no goals)						
Subrecipient Transit						
FTA-funded						
State-funded						
Subrecipient Aviation						
FAA-funded						
State-funded						
Other?						

How does a study add to the defensibility of a state DOT's implementation of the Federal DBE Program?

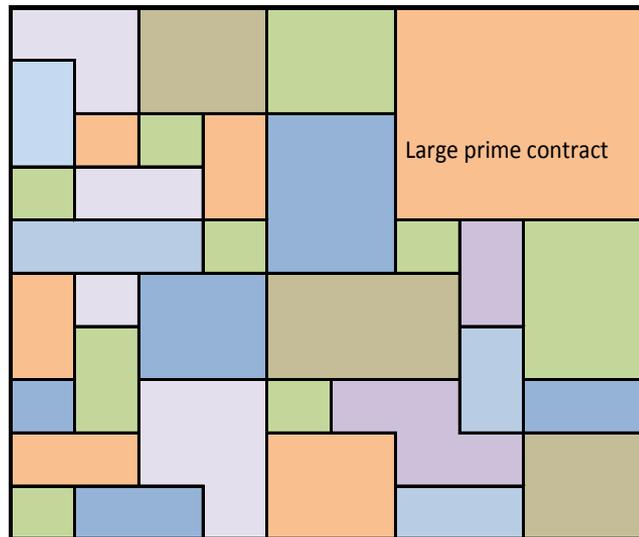
Provides information for state DOT to narrowly tailor program:

- Collects and analyzes qualitative and quantitative information about contracts and local marketplace conditions
 - e.g., is there any evidence that a “good ol’ boy” network negatively affects minority- and women-owned firms?
- Includes many voices ... DBEs and non-DBEs
 - e.g., white men in a Keen Independent study said there was a “good ol’ boy” network negatively affecting minorities and women
- Takes a hard look at an agency's own contracting practices
 - e.g., state DOT review of firm trying to get work includes whether it has done work for the agency before (“catch 22”)
 - Good opportunity for reforms (some of the best “neutral” remedies)

Sophisticated analysis of MBE and WBE availability

- Collects information on firms available for different types of state DOT prime contracts and subcontracts (suggest telephone interviews)
- Then determines subset of firms that fits each contract/subcontract
- Divides number of MBE/WBEs available by total firms available
 - 19 MBE/WBEs ÷ 55 total firms = 35% MBE/WBE availability for subcontract
- Then weights results by \$ involved to calculate total

\$22,000 electrical subcontract on a 2010 state DOT-awarded contract in District II
 -
19 MBE/WBEs
 55 total firms



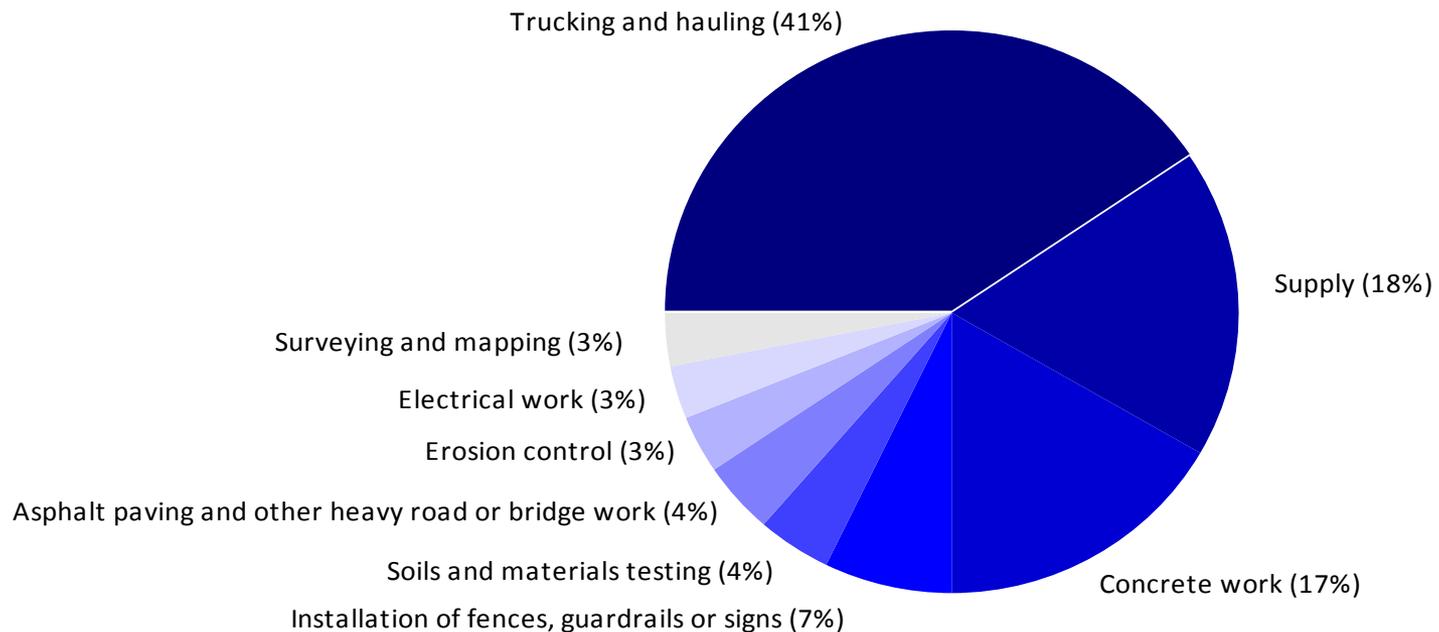
Note: only some consultants use this approach, many availability analyses are very simplistic

Prime contracts and subcontracts come in many types and sizes

Examines issue of potential overconcentration

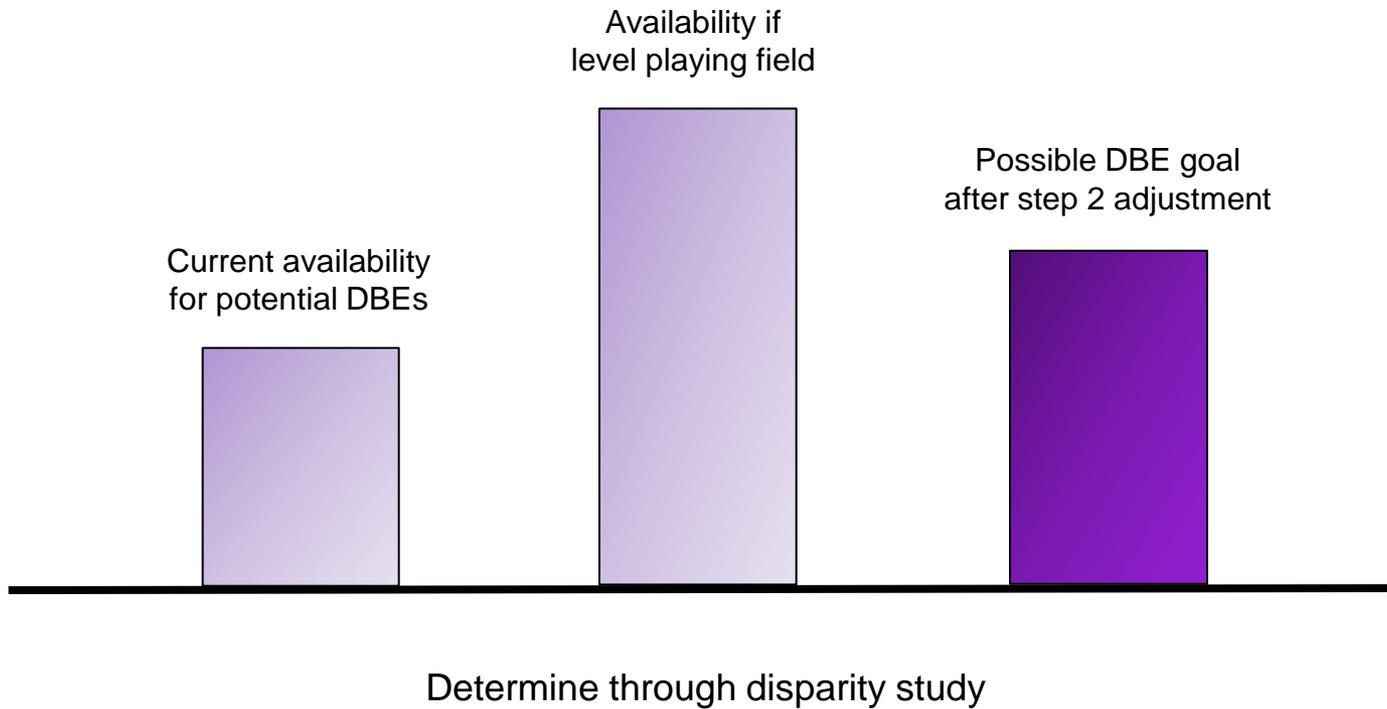
Are DBE firms so overconcentrated in a certain type of work as to unduly burden the opportunity of non-DBE firms to participate in this type of work?
- 49 CFR 26.33(a)

Several ways of examining, including distribution of \$ going to DBEs



Helps to establish overall DBE goal

- The study examines “but for” conditions for potential DBEs
- Important in making any step 2 adjustments to overall DBE goal



Typical workscope of a state DOT disparity study

- Project initiation and monthly reporting
- Legal analysis
- Contract data collection
- Analysis of relevant geographic market area and types of work to be studied
- Utilization analysis (by racial/ethnic/gender group)
- Availability analysis (by racial/ethnic/gender group)
- Disparity analysis (by racial/ethnic/gender group)
- Quantitative information about local marketplace
- Qualitative information about local marketplace
- Review of contracting processes and any barriers to MBE/WBE participation
- Analysis of base figure and possible step 2 adjustment
- Analysis of whether overall goal can be met through neutral measures
- Report and presentations
- Public comment — after release draft report can incorporate comments into final report

See, for example, Nevada DOT Disparity Study at www.keenindependent.com