

FLORIDA DEPARTMENT OF TRANSPORTATION

METHODOLOGY FOR DETERMINING DBE GOAL (49 CFR 26.45) FEDERAL FISCAL YEARS 2018-2020

OVERALL GOAL

The overall goal for the Florida Department of Transportation's (FDOT) Disadvantaged Business Enterprise (DBE) program for FHWA assisted contracts is established on a triennial basis. The overall goal for federal fiscal years 2018 - 2020 has been set at **10.65%** utilizing the methodologies described in 49 CFR Part 26. By submission of this goal methodology, FDOT commits that it will regularly monitor its progress in achieving the goal over the next three years and adjust its measures to include race conscious efforts, if necessary.

METHODOLOGY

In setting the goal for FDOT, it is required that the goal setting process begin with a base figure for the relative availability of DBEs. The overall goal must be based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on FHWA assisted contracts. The State of Florida is the primary market area for this analysis because all the dollars are spent within Florida and the vast majority of the contractors and consultants are located in Florida.

FDOT has reviewed the alternatives listed in 49 CFR Part 26 and selected the use of the DBE Directory and Census Bureau Data as the best approach for goal development. FDOT has gathered business establishment information and DBE certification information for its step one analysis. In an effort to narrowly tailor our submission, we targeted establishments with specific NAICS codes corresponding to the work that FDOT includes in our federally assisted projects for both Construction contractors (16,447) and Professional Services consultants (27,943). We also looked at the past three years of actual prime and DBE and non-DBE subcontractor / subconsultant results for comparison and validation of census data, and our DBE directory which consists of firms certified by FDOT and other Unified Certification Program (UCP) certifying entities as construction contractors (1,527) and professional services consultants (1,408). Both DBE figures include the anticipated increase in certified firms based on the median of yearly certifications for the past three years. Capturing three years of information also ensures that FDOT has the more complete information and would more likely include businesses that should have, but did not show up on a list that included only one year. The sources are:

- Florida Department of Economic Opportunity, Bureau of Labor Market Statistics through December 2016.

- Florida UCP DBE directory.
- Reports from AASHTOWare that list all bidders, successful bidders, and their listed subcontractors.
- Reports from the Professional Services Information System that lists all bidders, successful bidders, and their listed subconsultants.
- DBEs and MBEs entered into the Equal Opportunity Compliance system.

Step One

In the analysis of the relative availability of DBEs, FDOT reviewed the last three years to determine the median percentage of dollars expected to be available for the two major work categories: construction and consulting. Construction contractors received 90.51% of the awarded federal dollars and professional services consultants received 9.49% of the awarded federal dollars.

CONSTRUCTION CONTRACTORS:

FDOT's AASHTOWare System has adequate information to identify how much dollars FDOT spends on different types of construction work. FDOT, however, does not prequalify and does not have enough data to report on the types of work performed by all subcontractors. Therefore, FDOT cannot weight the dollars for construction by the type of work. FDOT, however, has developed a reporting system called the Equal Opportunity Compliance system. The goal is to have the system produce the necessary information for future triennial periods to weight the construction goal by type of work. The only reliable information related to weighting that can be used in construction at this time is in major and intermediate bridges where FDOT has no DBEs that can perform this work. FDOT estimates that 6.33% of our federal funds are used for major and intermediate bridges. After subtracting these dollars from this analysis, FDOT estimates that 84.18% (90.51% - 6.33%) of our dollars are available for DBEs in construction work.

Given that 84.18% of FDOT's dollars are available for DBEs in construction work and that 9.28% of the construction firms are DBEs ($1,527 / 16,447 = 9.28\%$) FDOT would expect that 7.82% of all dollars awarded would be awarded to DBEs in construction work. This is represented by the following calculation: **.928 x 84.18% = 7.81%**

PROFESSIONAL SERVICES CONSULTANTS:

The median dollars received by the consultant industry over the last three years was 9.49% of the federal dollars. FDOT prequalifies all of our professional services' firms by work category and also tracks the dollars spent in each of these work categories. Therefore, FDOT is able to weight our calculations by

each work group. The following table provides the percentage of dollars that DBEs would be expected to receive by work category based on the following:

PREQUALIFICATION AREA	DBEs & TOTAL BIDDING	DBEs BIDDING	PERCENT OF DBEs BIDDING	PERCENT FEDERAL DOLLARS	PERCENT FOR DBEs
PD & E Studies	150	26	17.33%	6.44%	1.12%
Highway Design	706	223	31.59%	48.52%	15.33%
Bridge Inspection	34	8	23.53%	2.37%	0.56%
Intelligent Transportation Systems	185	63	34.05%	1.22%	0.42%
Roadway Signal, Lighting, etc.	113	42	37.17%	0.25%	0.09%
Surveying & Mapping	463	149	32.18%	0.41%	0.13%
Geotech	416	175	42.07%	0.54%	0.23%
CEI	630	187	29.68%	36.77%	10.91%
Planning	212	57	26.89%	1.58%	0.42%
Landscape Architect	47	23	48.94%	0.54%	0.26%
Acquisition, Negotiation Closing	31	9	29.03%	1.40%	0.41%
Weighted Availability of DBEs				100.04%	29.88%

* The consultant data is the median of the past three years.

The weighted DBE consultant availability is 29.88%. Given that consultants would get 9.49% of the total federal dollars awarded, FDOT would expect that 2.84% of all dollars awarded would be awarded to DBE consultants. This is represented by the following calculation: $.2988 \times 9.49 = 2.84\%$

Step One Result:

Contractor Availability	7.81%
Professional Services Consultant Availability	2.84%
<hr/> Baseline Figure	10.65% relative DBE availability

The results of step one indicate that 10.65% is a valid base figure under current rules and processes for the determination of availability. This has been determined based on the most accurate information available.

Step Two

According to 49 CFR Part 26, step two of the calculation process should examine the evidence available to determine if adjustments are needed in the base figure to arrive at an overall goal. The last DBE Disparity Study conducted for FDOT was dated January 1999 and reviewed data from July 1991 through December 1997. This study conducted by MGT of America recommended “the suspension of current race and gender preference programs” and “the establishment of race and gender neutral programs which assist all small businesses.” The only other evidence that was available to be considered to determine if an adjustment was warranted was the capacity of DBEs measured by the past volume of work performed between 2002 and 2013.

PAST PARTICIPATION

To analyze past performance, FDOT narrowly tailored our review by reviewing the performance of contractors and consultants separately over the past 12 years. In the past twelve federal fiscal years from 2002 thru 2013, DBE contractors performed 6.71%, 5.98%, 6.16%, 5.01%, 4.88%, 6.49%, 6.83%, 7.61%, 10.31%, 8.25%, 11.29% and 11.40% respectively of the Federal-aid work, in dollars. The median past participation over these twelve years is 6.77% and the relative availability of DBE contractors as determined in step one is 7.81%. To incorporate past performance, the appropriate adjustment is to average the median past participation (6.77%) and the relative availability (7.81%). This average is 7.29%, which results in a downward adjustment to the relative availability of 0.52% for contractors.

In the same fiscal years, DBE consultants performed 1.32%, 2.17%, 1.99%, 2.74%, 3.28%, 1.78%, 1.66%, 2.70%, 1.47%, 2.43%, 2.44% and 1.19% respectively, of the Federal-aid work, in dollars. The median past participation over these twelve years is 2.08%. The relative availability of DBE consultants as determined in step one is 2.84%. To incorporate past performance, the appropriate adjustment is to average the median past participation (2.08%) and the relative availability (2.84%). This average is 2.46%, which results in a downward adjustment to the relative availability of 0.38% for consultants.

PAST PARTICIPATION

<u>Fed Fiscal</u>	<u>% work by</u>	<u>% DBE</u>	<u>% DBE</u>
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<u>Year</u>	<u>DBE</u>	<u>Contractors</u>	<u>Consultants</u>
<u>2005</u>	<u>8.03</u>	<u>6.71</u>	<u>1.32</u>
<u>2006</u>	<u>8.15</u>	<u>5.98</u>	<u>2.17</u>
<u>2007</u>	<u>8.15</u>	<u>6.16</u>	<u>1.99</u>
<u>2008</u>	<u>7.75</u>	<u>5.01</u>	<u>2.74</u>
<u>2009</u>	<u>8.16</u>	<u>4.88</u>	<u>3.28</u>
<u>2010</u>	<u>8.27</u>	<u>6.49</u>	<u>1.78</u>
<u>2011</u>	<u>8.50</u>	<u>6.83</u>	<u>1.67</u>
<u>2012</u>	<u>10.31</u>	<u>7.61</u>	<u>2.70</u>
<u>2013</u>	<u>11.78</u>	<u>10.31</u>	<u>1.47</u>
<u>2014</u>	<u>10.68</u>	<u>8.25</u>	<u>2.43</u>
<u>2015</u>	<u>13.73</u>	<u>11.29</u>	<u>2.44</u>
<u>2016</u>	<u>12.59</u>	<u>11.40</u>	<u>1.19</u>
<u>Median</u>		<u>6.77</u>	<u>2.08</u>

Therefore, the proposed DBE goal is represented by the following calculation:

Baseline Figure:	10.65%
Adjustment for Contractors:	- 0.52%
Adjustment for Professional Services Consultants:	<u>- 0.38%</u>
DBE Goal with adjustments:	9.75%

Proposed DBE Goal: 10.65%

FDOT recommends not applying the above adjustments based on our exceeding the previous triennial goal of 9.91% for the past 5 years.

RACE CONSCIOUS PARTICIPATION

In federal fiscal year 2016, FDOT's DBE participation goal was 9.91%. The actual DBE participation was 12.59% of federally funded contracts which was 2.68% higher than the established goal. On state funded contracts, DBE participation was 14.62%; DBE participation on federal and state funded contracts combined was 13.44%. The DBE participation goal for the current federal fiscal year is 9.91% and through May 31, 2017 DBE participation on federally funded contracts is 11.74%. On state funded contracts the DBE participation is 11.94% and federal and state funds combined is 11.83%.

Race Neutral Methods

FDOT has initiated many strategies over the past twelve years and is continuing to develop and implement others. Some of the strategies that have been implemented in these years have taken time to mature and show results, but the

efforts are productive. One of the significant race neutral strategies has been the implementation of the Business Development Initiative (BDI). This Initiative was implemented on state funded projects in July 2006. FDOT originally submitted a request to apply this Initiative on federally funded contracts as a race neutral method in our DBE goal calculation methodology in FDOT's submittal to the FHWA on July 26, 2006. After much delay, FDOT was asked to request this approval separately. On March 6, 2007 FDOT submitted a proposal to the FHWA Florida Division requesting to also apply the BDI to federally funded projects. On September 25, 2007, the FHWA Florida Division forwarded the request to FHWA headquarter for approval as an SEP 14. In March 2009, the FHWA approved the BDI on federal funded projects. This approval increased the number of BDI contracts because of the smaller contracts associated with the American Recovery and Reinvestment Act (ARRA).

The Department and the State of Florida has fully supported the concept of the BDI, as proven by the fact that in April 2016, Governor Rick Scott signed House Bill 7027 to include the establishment of a Business Development Program to assist small businesses in obtaining contracts with the department. The bill went into effect July 1, 2016 and is now a FDOT way of Business (see [FS 337.027](#)).

The BDI has been successful in assisting small firms to become a prime and in growing their business to eventually compete on larger contracts.

Other race neutral methods that are being used include:

1. The Construction Management Development Program (CMDP) is a state funded program designed to improve and develop skills of owners and managers enabling them to perform successfully on FDOT projects. Courses offered are Business Management, Construction Accounting, Construction Math and Estimating, Contracts, Specifications and Law, Scheduling for FDOT and Plan Reading for FDOT. Once the owner(s) or manager(s) of a DBE firm completes the prescribed course(s), the firm will receive a Certificate of Proficiency and will graduate into the Bond Guarantee Program. These courses as well as a course on financing and bonding are held yearly in nine locations throughout the State (Ft. Myers, Ft. Lauderdale, Orlando, Jacksonville, Tallahassee, Pensacola, Miami, Ft. Pierce and Tampa).
2. Reserving contracts for small businesses under the Department's Business Development Initiative. The Department's goal is to reserve 10% of the construction/maintenance contracts and 15% of the professional services contracts to small businesses.
3. To address concerns about overconcentration in certain areas of professional services, the Department has taken measures to address the underutilization of small businesses. The Department is encouraging primes to use small businesses in areas where they are underutilized.

Underutilization is defined by the Department as 30% or less DBE and small business utilization level for advertised Work Groups.

Underutilization levels vary by district.

4. Providing technical assistance and other services throughout the year to DBEs and other small businesses with special emphasis on marketing, financing and bonding.
5. Providing assistance throughout the year in overcoming limitations such as inability to obtain bonding or financing.
6. Working with prime contractors, consultants, the Florida Transportation Builders Association, and the Florida Institute of Consulting Engineers to encourage the use of DBEs.
7. Performing a Bid Matching function through Supportive Service for DBEs to help pinpoint exact opportunities in work areas of interest to the DBE. This service also identifies prime plan holders to allow the DBE to target specific firms.
8. Bridging the Gap program designed to assist DBE owners ready to take the next step in growing their business.
9. The Bond Guarantee Program is a financial support program, which the State of Florida acts as a second surety, guaranteeing the construction bonds for DBEs working on FDOT projects. Participation in the BGP is limited to those DBEs who have been awarded a Certificate of Proficiency and have documented knowledge of the principles of construction bonding. Services under the BGP include: packaging bond applications, construction bond principles seminars, and overhead audits, a one-time free service for DBEs seeking pre-qualification as a consultant.