

OKLAHOMA DEPARTMENT OF TRANSPORTATION

**DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
GOAL ON FEDERALLY-ASSISTED PROJECTS
FOR
FEDERAL FISCAL YEARS 2017-2019**

**Prepared by:
Jenny K. Allen
Civil Rights Division**

**In Compliance with:
Title 49 Part 26 of the Code of Federal Regulations
(49 CFR Part 26)**





U.S. Department
of Transportation
**Federal Highway
Administration**

Oklahoma Division

October 25, 2016

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In Reply Refer To:
HDA-OK

J. Michael Patterson
Executive Director
Oklahoma Department of Transportation
200 NE 21st Street
Oklahoma City, OK 73105

Dear Mr. Patterson:

We have completed our review of the Oklahoma Department of Transportation (ODOT) DBE goal methodology for FY 2017-2019 and we approve ODOT's DBE goal methodology as submitted.

In accordance with the provisions of 49 CFR part 26.45, our review considered the overall goal of 9.20%, the description of the data and methodology, the projection of race neutral and race conscious portions (5.72% and 3.48% respectively), any adjustments, and the evidence of public participation in the process. Our review determined the goal setting methodology is consistent with the requirements of 49 CFR part 26.45 and that the requirements for public participation have been met.

ODOT is responsible for continually monitoring achievement toward the approved DBE goal, tallying race neutral and race conscious participation, and if warranted, coordinating any goal adjustments with the FHWA OK Division.

The next DBE goal methodology is due to FHWA on August 1, 2019. If you have any questions, please contact Steve Duskin, Civil Rights Specialist, at (405) 254-3312.

Sincerely,

Basharat Siddiqi
Division Administrator

Cc: Jenny Allen, ODOT Civil Rights Division Manager
Steve Duskin, FHWA Civil Rights Specialist
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INTRODUCTION

This report details the Oklahoma Department of Transportation's (ODOT) process for setting the Federal Fiscal Years (FFY) 2017-2019 overall goal for Disadvantaged Business Enterprise (DBE) participation in federally assisted highway projects. The goal setting methodology complies with the DBE rule set forth in the Code of Federal Regulations, 49 CFR Part 26.45. The methodology includes data from both the construction and preconstruction side.

This submission includes a description of the methodology used to establish the goal, including the base figure and the evidence by which it was calculated, evidence relied upon for any adjustments to the base figure, and a projection of the portions of the overall goal expected to be met through race-conscious and race-neutral measures, respectively.

For questions or comments contact:

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DESCRIPTION OF METHODOLOGY

Proposed DBE Goal for Federal Fiscal Years 2017-2019

The Oklahoma Department of Transportation (ODOT) proposes the following goal for participation by DBEs on federally assisted contracts for FFYs 2017-2019:

Race Neutral - 5.72%

Race Conscious - 3.48

Total DBE Goal - 9.20%

Step One Base Figure Section 26.45(c)

In determining the available pool, the relative availability (percentage) of DBEs in Oklahoma and surrounding states that bid on contracts (both prime and subcontracts) was determined. In simplest terms, this percentage, or baseline ratio, can be calculated as follows:

$$\frac{\text{Ready, Willing and Able DBEs}}{\text{All Firms Ready, Willing and Able (DBEs and non-DBEs)}}$$

Data collected for this methodology was based off the previous three Federal Fiscal Years (October 1, 2012 – September 30, 2015). ODOT used DBE Method 2 to determine our goal.

Method 2: Use a bidders list. Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on your DOT-assisted prime contracts or subcontracts in the past three years. Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.

Information on the bidders list was captured in the following ways:

Prime Contractors – business enterprises that bid, quote, or perform highway construction work by contracting directly with the Department. All Prime Contractors are required to be prequalified in order to bid on construction projects. The prequalification process is handled through the Office Engineer's Division.

For Prime Contractors, the number of DBE firms and the total number of all firms was derived from Bid Express (Trns*port System), and included all prequalified prime contractors who have submitted bids on highway projects.

Subcontractors – business enterprises that bid, quote, or perform highway construction work by contracting with Prime Contractors. For Subcontractors, the numbers of DBE subcontractors and the numbers of non-DBE subcontractors were derived from Bid Express and the DBE Directory, and included those that have submitted bids on highway projects.

Professional Services – business enterprises that bid, quote, or perform work at the Preconstruction phase, to include engineering consultants, survey firms, Right-of-Way services providers, and all other professional services. For the contracting areas of preconstruction, Prime and subcontractor data was collected from the Transportation Online Professional Services (TOPS) program, which included encumbered contracts, unencumbered contracts and solicitation responses. This information was reviewed with the DBE Directory to determine the available pool of professional services providers.

For Right-of-Way (ROW) services providers, data was collected from ODOT’s internal reporting system pulled from Oracle.

The table below represents the geographic market area on the distribution of contracts and subcontracts in which contracting dollars were spent. This information was based off the data that was available from Bid Express, ROW service providers, Professional Services, and DBE firms.

	Dollars to In-State Contractors	Total Dollars	Representative State Percentage
Geographic Distribution of Participating Prime Contractors	\$1,737,512,312.99	\$2,181,160,322.62	79%
Geographic Distribution of Participating Subcontractors	\$1,780,444,293.24	\$1,945,840,757.64	91%
Total State Market %	\$3,517,956,606.23	\$4,127,001,080.26	85%

The Step One calculation was performed by first determining the available pool of ready, willing and able Disadvantaged Business Enterprise firms in each work category. Then the total number of all ready, willing, and able firms was determined. The total number of firms includes both DBE firms and non-DBE firms. Finally, the number of DBE firms was divided by the number of all firms to arrive at the baseline ratio for each work category. This provides the Step One, or preliminary, calculation of the level of DBE participation one would expect absent the effects of discrimination. This ratio shows the percentage of federal dollars that one would expect to be spent directly or indirectly with DBE firms in each category.

Work Category	Total Non-DBE A	Total DBE B	Total Pool A+B	% Potential DBE Availability B/(A+B)
Bridge	31	1	32	3.13%
Erosion	14	5	19	26.32%
Fencing & Guardrail	13	1	14	7.14%
Grade & Drain	109	5	114	4.39%
Painting	11	0	11	0.00%
ROW	67	8	75	10.67%
Surfaces	44	5	49	10.20%
Staking	8	1	9	11.11%
Structures	47	13	60	21.67%
Traffic Control	13	3	16	18.75%
Trucking	2	7	9	77.78%
Preconstruction	91	30	121	24.79%
Totals	450	79	529	

Ready, Willing and Able DBEs (79)
All Ready, Willing and Able Firms(529)

Baseline Ratio = 14.93%

Weights

To further refine the base percentage, the available pool is weighted for each major area of work, consistent with the work categories contracted in the highway program. These categories include Bridge, Erosion, Fencing & Guardrail, Grade & Drain, Painting, Right-of-Way (ROW), Surfaces, Staking, Structures, Traffic Control, Trucking and Preconstruction. ODOT categorizes over 1500 construction pay items contained in the Trns*port system by item group, item number, percent of dollars contracted, and contract occurrence. The total amount of each contract and subcontract according to type was configured in a weighted percentage of contracted dollars for each of the major categories of work.

Work Category	% Contracted Dollars	% Potential DBE Available	Base Goal A X B
Bridge	32.67%	3.13%	1.02%
Erosion	0.50%	26.32%	0.13%
Fencing & Guardrail	0.17%	7.14%	0.01%
Grade & Drain	38.42%	4.39%	1.69%
Painting	0.51%	0.00%	0.00%
ROW	0.51%	10.67%	0.05%
Surfaces	17.68%	10.20%	1.80%
Staking	0.00%	11.11%	0.00%
Structures	0.88%	21.67%	0.19%
Traffic Control	3.91%	18.75%	0.73%
Trucking	0.41%	77.78%	0.32%
Preconstruction	4.32%	24.79%	1.07%
Totals	99.98%		
Weighted Baseline Goal: 7.02 %			

Once the percentage of work contracted by work category is determined, that percentage of work is then multiplied by the percentage availability of DBEs by each category. Those figures are then added together to determine the baseline goal. The resulting baseline goal is 7.02%.

Step Two Adjustments Section 26.45(d)

Past Participation

Additional evidence considered was the current capacity of DBEs to perform in the USDOT assisted program, as measured by the past participation of DBEs. The past five years of DBE goal attainment was listed to determine the median participation for consideration as an adjustment to the DBE goal. The median attainment is optional in the goal methodology process but considering that ODOT's software program was not accurately tracking, monitoring and reporting DBE participation data, this step was necessary.

FFY	Annual Goal	Attainment
2011	9.44%	12.0%
2012	9.44%	12.39%
2013	9.44%	11.39%
2014	10.04%	9.62%
2015	10.04%	8.11%
Median Participation 11.39 %		

The step one baseline goal is added to the median for past participation, then divided by two for the step two percentage for DBE participation.

Step Two Adjustments

Adjustments Based On:

- Past Participation

Step 1 Base Goal		7.02%
Median DBE Participation (2011-2015)		<u>11.39%</u>
Total		18.41%
	$\div 2$	
Adjusted Base Figure		9.20%

FFY	Attained %	RC	RN	RN % (RN/Attained%)
2011	12.0%	7.10	6.20	51%
2012	12.39%	6.19	6.20	50%
2013	11.39%	6.95	4.44	38%
2014	9.62%	3.90	5.72	59%
2015	8.11%	4.04	4.07	50%

Race Neutral and Race Conscious Projections

Based on the Race-neutral figures and attainments from Federal Fiscal Years 2011-2015, the median is 5.72%.

Race Neutral – Race Conscious Goals

The following outlines the figures based on the data reviewed from FFY 2013-FFY2015:

- A) Step One: Base Goal 9.20%
- B) Race Neutral Participation 5.72%
- C) Race Conscious Goal 3.48%

Given the above:

Neutral Goal	=	B	=	5.72%	=	5.72%
Conscious Goal	=	A-B	=	9.20%-5.72%	=	<u>3.48%</u>
Total DBE Goal for FFY2017-2019	=		=		=	9.20%

Public Outreach Section 26.45(g)

The ODOT used several different approaches in order to receive public input regarding the proposed DBE goal for FFY 2017-2019.

- The proposed goal methodology report along with an electronic comment form was posted onto ODOT’s Civil Rights website at (http://ok.gov/odot/Doing_Business/Civil_Rights/Civil_Rights_Training_Sessions_and_Events.html) on June 1, 2016. The report was posted for 45 days.
- The proposed goal methodology was published in the Oklahoman, Tulsa World, Journal Record, and Lawton Constitution on June 1, 2016. The notice informed the public of the proposed goal and its rationale. The notice also stated that the report was available for inspection during normal business hours for 30 days following the date of the notice, and that comments will be accepted for 45 days from the date of the notice. Public comment period ended July 15, 2016. No comments were received.
- An email blast was sent to all certified DBE Firms in Oklahoma, Oklahoma State Chamber, Tulsa Chamber, OKC Chamber, Hispanic Chamber, Black Chamber, Asian Chamber, American Indian Chamber, Oklahoma Women’s business center, Oklahoma Bid Assistance Network, Small Business Administration, Association of General Contractors, and those that are currently subscribed to ODOT’s news and alerts.
- A flyer was sent via mail to all certified DBE firms in Oklahoma regarding the proposed DBE goal which was available in person at ODOT and on ODOT’s website.
- Two public meetings were held: one in Tulsa, OK, and one Oklahoma City, OK. Information on both public meetings was posted onto ODOT’s Civil Rights website.
 - Notice regarding the Tulsa meeting was published in the Tulsa World on June 13th and June 14th. The Tulsa meeting was held on June 14, 2016, at:
Workforce Oklahoma – Tulsa Eastgate Center
14002 E. 21st Street
6:00 pm
Tulsa, OK 74134
There were no attendees at this meeting.
 - Notice regarding the Oklahoma City meeting was published in the Oklahoman on June 20th and June 21st. The Oklahoma City meeting was held on June 20, 2016, at:
Oklahoma Department of Transportation – Commission Room
200 NE 21st Street
6:00 pm
Oklahoma City, OK 73105
There was one attendee at this meeting. No comments were received.

Implementation of Race Neutral Methods

ODOT has implemented several of the means discussed in the federal regulation to increase the race neutral participation by DBE firms. The ODOT Civil Rights Division now has a permanent DBE Supportive Services Coordinator, which will help DBE firms by providing technical assistance and other services that will make them more marketable to Prime Contractors and Prime Consultants. In addition, the Supportive Services Coordinator has been advertising the DBE program through billboards, radio and other forums in order to increase the number of certified DBE firms.

Other avenues the agency will take to increase race neutral means is through new software programs that will help track and monitor DBE participation more effectively. The agency identified in March 2014 that the primary reason the DBE goals were not being met was due to administrative issues and not

implementation or compliance matters. The current software program, Sitemanager, for construction projects did not track actual DBE subcontract values or payments toward contract goals efficiently. Further, this program did not have the capability to determine an actual level of DBE participation at any given time. Lastly, the data that was reported was not reliable and often had to be verified. With regards to consultant contract DBE participation, there was no software program in place.

The agency now has a software program in place called Transportation Online Professional Services (TOPS) to track and monitor DBE participation on the consultant contracts. On the construction side, the Civil Rights Division has purchased software from B2GNOW. The new system is called "Civil Rights Certification and Compliance System". The Civil Rights Division is in the final stages of ensuring the software program is ready before it goes "live" and Prime Contractors are required to use it.