

OKLAHOMA DEPARTMENT OF TRANSPORTATION

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

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



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 utilized 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.

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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	-	<u>6.29%</u>
Total DBE Goal	-	12.01%

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 two Federal Fiscal Years (October 1, 2013 – September 30, 2015). ODOT used a combination of DBE Method 2 and 5 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 business 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.

Method 5: Alternative Methods. Except as otherwise provided in this paragraph, you may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to 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 services providers, data was collected from ODOT’s internal reporting system pulled from Oracle.

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	% DBE Availability B/(A+B)
Bridge	36	2	38	5%
Erosion	8	5	13	38%
Fencing & Guardrail	78	0	78	0%
Grade & Drain	59	5	64	7%
Painting	12	1	13	7%
ROW	33	4	37	10%
Surfaces	52	7	59	11%
Staking	8	1	9	11%
Structures	31	10	41	24%
Traffic Control	11	4	15	26%
Trucking	3	6	9	66%
Preconstruction	141	71	212	33%

DBE Prime Contractors (10) + DBE Subcontractors(33) + DBE Preconstruction(71)
 All Prime (149) + All Subcontractors (219) + All Preconstruction (141)

Ready, Willing and Able DBEs (114)
 All Ready, Willing and Able Firms(509)

Baseline Ratio = 22%

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	% DBE Available	Base Goal A X B
Bridge	32.45%	5%	1.62
Erosion	0.87%	38%	0.33
Fencing & Guardrail	0.37%	0%	0.00
Grade & Drain	43.62%	7%	3.05
Painting	0.48%	7%	0.03
ROW	0.34%	10%	0.03
Surfaces	15.64%	11%	1.72
Staking	0.02%	11%	0.13
Structures	1.54%	24%	0.36
Traffic Control	3.87%	26%	1.00
Trucking	0.96%	66%	0.63
Preconstruction	11.35%	33%	3.74
Baseline Goal:			12.64 %

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 12.64%.

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 averaged 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		12.64%
Median DBE Participation (2011-2015)		<u>11.39%</u>
Total		24.03%
	$\div 2$	
Adjusted Base Figure		12.01%

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 12.01%
- B) Race Neutral Participation 5.72%
- C) Race Conscious Goal 6.29%

Given the above:

$$\begin{aligned}
 \text{Neutral Goal} &= B = 5.72\% = 5.72\% \\
 \text{Conscious Goal} &= A-B = 12.01\% - 5.72\% = \underline{6.29\%} \\
 \text{Total DBE Goal for FFY2017-2019} &= 12.01\%
 \end{aligned}$$

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's 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 as well as 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.