

FLORIDA DEPARTMENT OF TRANSPORTATION

METHODOLOGY FOR DETERMINING DBE GOAL (49 CFR 26.45) FEDERAL HIGHWAY ADMINISTRATION FEDERAL FISCAL YEARS 2021-2023

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 2021 - 2023 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 (17,858) and Professional Services consultants (30,713). 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 (1,460) and professional services consultants (1,627). 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 2019.
- 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 89.14% of the awarded federal dollars and professional services consultants received 10.86% 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. We currently have not utilized the system to weight construction projects due to the need for additional enhancements, but plan to make strides in the coming year. Our goal is still 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 8.73% of our federal funds are used for major and intermediate bridges. After subtracting these dollars from this analysis, FDOT estimates that 80.41% (89.14% - 8.73%) of our dollars are available for DBEs in construction work.

Given that 80.41% of FDOT's dollars are available for DBEs in construction work and that 8.18% of the construction firms are DBEs (1460 / 17,858 = 8.18%) FDOT would expect that 6.57% of all dollars awarded would be awarded to DBEs in construction work. This is represented by the following calculation: **.818 x 80.41% = 6.57%**

PROFESSIONAL SERVICES CONSULTANTS:

The median dollars received by the consultant industry over the last three years was 10.86% of the federal dollars. FDOT prequalifies all 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	126	32	25.40%	24.20%	6.15%
Highway Design	683	284	41.58%	25.00%	10.40%
Bridge Inspection	90	23	25.56%	0.90%	0.56%
Bridge Design	488	158	32.38%	1.40%	0.45%
Intelligent Transportation Systems	599	173	28.88%	2.40%	0.69%
Roadway Signal, Lighting, etc.	666	299	44.89%	0.90%	0.40%
Surveying & Mapping	992	313	31.55%	5.40%	1.70%
Geotech	797	289	36.26%	3.40%	1.23%
CEI	514	191	37.16%	26.60%	9.88%
Planning	239	78	32.64%	2.90%	0.95%
Landscape Architect	131	42	32.06%	0.70%	0.22%
Acquisition, Negotiation Closing	29	8	27.59%	0.30%	0.08%
Miscellaneous	280	139	49.64%	2.00%	0.99%
Weighted Availability of DBEs					33.39%

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

The weighted DBE consultant availability is 33.39%. Given that consultants would get 10.86% of the total federal dollars awarded, FDOT would expect that 3.63% of all dollars awarded would be awarded to DBE consultants. This is represented by the following calculation: **.3339 x 10.86 = 3.63%**

Step One Result:

Contractor Availability

6.57%

Professional Services Consultant Availability 3.63%

Baseline Figure 10.20% relative DBE availability

The results of step one indicates that 10.20% 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 2008 and 2019.

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 2008 thru 2019, DBE contractors performed 5.01%, 4.88%, 6.49%, 6.83%, 7.61%, 10.31%, 8.25%, 11.29%, 11.40%, 10.88%, 11.12% and 10.84% respectively of the Federal-aid work, in dollars. The median past participation over these twelve years is 9.28% and the relative availability of DBE contractors as determined in step one is 6.57%. To incorporate past performance, the appropriate adjustment is to average the median past participation (9.28%) and the relative availability (6.57%). This average is 7.93%, which results in an upward adjustment to the relative availability of 1.36% for contractors.

In the same fiscal years, DBE consultants performed 2.74%, 3.28%, 1.78%, 1.67%, 2.70%, 1.47%, 2.43%, 2.44%, 1.19%, 1.17%, 1.85% and 1.61% respectively, of the Federal-aid work, in dollars. The median past participation over these twelve years is 1.81%. The relative availability of DBE consultants as determined in step one is 3.63%. To incorporate past performance, the appropriate adjustment is to average the median past participation (1.81%) and the relative availability (3.63%). This average is 2.72%, which results in a downward adjustment to the relative availability of 0.91% for consultants.

PAST PARTICIPATION

<u>Fed Fiscal Year</u>	<u>% work by DBE</u>	<u>% DBE Contractors</u>	<u>% DBE Consultants</u>
2008	7.75	5.01	2.74
2009	8.16	4.88	3.28
2010	8.27	6.49	1.78
2011	8.50	6.83	1.67
2012	10.31	7.61	2.70
2013	11.78	10.31	1.47
2014	10.68	8.25	2.43
2015	13.73	11.29	2.44
2016	12.59	11.40	1.19
2017	12.05	10.88	1.17
2018	12.98	11.12	1.85
2019	12.46	10.84	1.61
Median		9.28	1.81

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

Baseline Figure:	10.20%
Adjustment for Contractors:	1.36%
Adjustment for Professional Services Consultants:	- 0.91%
DBE Goal with adjustments:	10.65%
Proposed DBE Goal:	10.65%

RACE CONSCIOUS PARTICIPATION

In federal fiscal year 2019, FDOT’s DBE participation goal was 10.65%. The actual DBE participation was 12.46% of federally funded contracts which was 1.81% higher than the established goal. On state funded contracts, DBE participation was 13.72%; DBE participation on federal and state funded contracts combined was 13.06%. The DBE participation goal for the current federal fiscal year is 10.65% and through May 31, 2020 DBE participation on federally funded contracts is 11.74%. On state funded contracts the DBE participation is 11.03% and federal and state funds combined is 11.31%.

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.

PUBLIC PARTICIPATION

CONSULTATION PROCESS

On June 24, 2020, the Florida Department of Transportation (FDOT) had the first of four "kick-off" meetings with both DBE and non-DBE contractors & consultants, regarding the 2021-2023 FHWA and FTA DBE goal before it was published. Due to the State's COVID-19 pandemic guidance, large in person meetings were discouraged. All kick-off meetings were done virtually through Microsoft Teams, while the three noticed public meetings were all done virtually as Go to Meeting

Webinars. On June 29, 2020, the Equal Opportunity Office published its first notice to the public regarding the posting of the 2021 Federal Highway & Federal Transit DBE goals and methodology and the ability for the public to view both draft documents and to make comments or ask questions through the dedicated email address, 2021DBEGoal@dot.state.fl.us , directly to the EOO. The notice also detailed how to register and attend the three “open to the public” Webinars. The notice was posted on the FDOT Infonet public announcement site, the Florida Administrative Register, the FDOT Facebook page and the EOO page on the FDOT website.

Three virtual public meeting webinars were noticed. The meetings were: July 20th , 21st , and 22nd . The time for the three meetings was 6:00pm. In addition to announcing these open evening webinars in the four kick-off meetings, they were also noticed by the placement of public notice advertisements in the following minority and majority newspapers: La Gaceta (minority – Tampa); Florida Sentinel Bulletin (minority – Tampa); Miami Herald (majority – Miami, Ft. Lauderdale); Tallahassee Democrat (majority – Tallahassee); El Nuevo Herald (minority – Miami); Tampa Bay Times (majority – Tampa)

FDOT’s two Supportive Service Providers, CEI and the Council, who are contracted by FDOT to assist DBE’s, SBE’s and primes sent emails to their respective database lists. Through the kick-off meetings, virtual public meetings and targeted emails, approximately 2,000 firms were notified about the public meetings. Time for questions and answers was provided after each of the webinar presentations. No comments or questions were received that would necessitate a change to the proposed goal in this document.