

FLORIDA DEPARTMENT OF TRANSPORTATION

METHODOLOGY FOR DETERMINING DBE GOAL (49 CFR 26.45) FEDERAL HIGHWAY ADMINISTRATION FEDERAL FISCAL YEARS 2024-2026

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 2024 - 2026 has been set at **10.54%** 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.

Step One – 26.45(c)

1. Base Figure

FDOT 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 gathered business establishment information and DBE certification information for its step one analysis.

In an effort to narrowly tailor our submission, we used data from the Florida Bureau of Labor Statistics, identifying firms ready, willing, and able to perform work in Highway Construction and Consultant work areas on FHWA-assisted projects. This resulted in a total of 18772 ready, willing, and able construction firms, both DBE and non-DBE; and 38137 of ready, willing, and able consultant firms, both DBE and non-DBE. We then used the DBE Directory to identify ready, willing, and able DBE construction and consultant firms, adjusted to account for firms likely or potentially eligible to seek/obtain certification. This provided a total of 1695 DBE construction firms and 2544 consultant service firms. By dividing the number of DBE firms by all firms ready, willing, and able to participate on FHWA-assisted Highway projects, we arrived at a relative

availability for both construction and consultant services. The calculation is shown below:

$$\text{Construction} \quad \frac{1695 \text{ Ready Willing Able DBEs}}{18772 \text{ All Ready Willing Able Firms}} = 9.03\% \text{ Relative Availability}$$

$$\text{Consultant} \quad \frac{2544 \text{ Ready Willing Able DBEs}}{38137 \text{ All Ready Willing Able Firms}} = 6.67\% \text{ Relative Availability}$$

$$9.03\% + 6.67\% = 15.70\% \text{ Total Relative Availability}$$

2. Weighted Base Figure

CONSTRUCTION

For the 2024-2026 triennial goal methodology, FDOT intended to employ a new platform for weighting relative availability by FHWA funds using its PrC System. However, FDOT was unable to validate the completeness or accuracy of the data and the resulting calculation could not be reconciled with work program information. FDOT will continue researching its construction data and reporting systems so that more comprehensive weighting is possible for the 2027-2029 submission. In the meantime, FDOT can confidently provide weighting based on the overall percentage of FHWA funds it projects to spend on construction, 90.99%

As 9.03% of FHWA Funds are projected to be available for DBEs, and as 90.99% of all FHWA funds are projected for construction, the weighted relative availability for construction DBEs is 8.22%, as shown by the following calculation:

$$\mathbf{.903 \times 90.99 = 8.22\% \text{ Weighted Construction DBE Availability}}$$

CONSULTANT SERVICES:

To ensure consistency, FDOT followed the same process to weight the projected expenditures for consultant services. As with construction, FDOT will research and refine reporting systems so that it can rely on the resulting data for goal setting during for the 2027-2029 submission. For now, FDOT is confident that 9.01% of FHWA funds will be spent on consultant contracts.

As 6.67% of FHWA Funds are projected to be available for DBEs, and as 9.01% of all FHWA funds are projected for consultant services, the weighted relative availability for consultant DBEs is .60%, as depicted in the following calculation:

$$\mathbf{.0667 \times 9.01\% = 0.60\% \text{ Weighted Consultant DBE Availability}}$$

Step One Result:

DBE Contractor Weighted Availability		8.22%
DBE Consultant Weighted Availability	+	0.60%
Weighted Base Figure		8.82%

The results of step one indicates that 8.82% 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.

3. Description of Data Used

FDOT used a number of sources to both identify relative availability of firms and to test the accuracy of its data. In all cases, FDOT reviewed the data sources to ensure that no firm was counted more than once. We also ensured that data reflected all firms ready, willing, and able to work on FHWA-assisted projects, whether as prime contractors/consultants or subcontractors/subconsultants, or whether the projects were state or locally administered.

The following is a list of the data used and its source(s):

- Florida Department of Economic Opportunity, Bureau of Labor Market Statistics through December 2022.
- Florida UCP DBE directory.
- Reports from AASHTOWare – Project Construction (PrC) that list bidders, successful bidders, and their listed subcontractors.
- Reports from the Procurement Development Application (PDA) that lists bidders, successful bidders, and their listed subconsultants.
- DBEs and MBEs entered into the Equal Opportunity Compliance (EOC) system.

Step Two – 26.45(d)

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 2011 and 2022.

PAST PARTICIPATION

To analyze past performance, FDOT narrowly tailored our review to the total performance of DBEs over the past twelve years, FFY 2011 – 2022. To adhere

to USDOT guidance for goal setting, FDOT then arranged the numbers in order from lowest to highest, identifying 12.05% and 12.45% as the two middle numbers. Taking the average of the two provided us with a median past participation of 12.25%. The table below pertains:

Fed Fiscal Year	DBE Achievement by Year	Fed Fiscal Year	DBE Achievement by Lowest to Highest
2011	8.50	2011	8.50
2012	10.31	2012	10.31
2013	11.78	2014	10.68
2014	10.68	2020	11.27
2015	13.73	2013	11.78
2016	12.59	2017	12.05
2017	12.05	2019	12.45
2018	12.97	2016	12.59
2019	12.45	2022	12.66
2020	11.27	2018	12.97
2021	14.59	2015	13.73
2022	12.66	2021	14.59

**12.25%
Median**

The proposed DBE goal is calculated by averaging the baseline weighted figure by the median past participation, as shown below:

Baseline Figure:	8.82%
Median Past Participation:	12.25% +
	<u>21.07</u>
	2

DBE Goal = 10.54% (reflecting an upward adjustment of 1.72%)

RACE NEUTRAL AND CONSCIOUS PARTICIPATION

In federal fiscal year FFY 2022, FDOT’s DBE participation goal was 10.65%, race neutral. The actual DBE participation was 12.66% on federally funded contracts which was 2.01% higher than the established goal. Through May 31st of the current federal fiscal year, DBE participation on federally funded contracts is 13.61%, 2.96% over the race neutral goal. Given the trends in recent performance, FDOT believes it will meet or exceed the 2024-2026 overall goal through 100% race neutral means.

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 American Council of Engineering Companies of Florida 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

Florida Department of Transportation (FDOT) had a total of six in-person kickoff meetings with both DBE and non-DBE contractors & consultants, regarding the 2024-2026 triennial goal:

Meeting Location	Meeting Date
Jacksonville	March 28, 2023
Chipley	April 3, 2023
Bartow	April 24, 2023
Deland	May 8, 2023
Tampa	May 9, 2023
Ft. Lauderdale	May 10, 2023

On June 22, 2023, the Equal Opportunity Office published notice to the public regarding the posting of the 2024-2026 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, 2023DBEGoal@dot.state.fl.us, directly to the EOO. The notice also detailed how to register and attend the hybrid virtual and in-person FHWA and FTA Goal Setting Methodology meeting. The notice was posted on the Florida Administrative Register, the FDOT Facebook page and the EOO page on the

FDOT website. The notice was also sent to the Florida Transportation Builders Association (FTBA) and the American Council of Engineering Companies of Florida (ACEC) presidents to disseminate to their members.

The noticed hybrid in-person and virtual public meeting was held July 11th, at 6:00pm, and was taped live for posting on the EOO page. In addition to announcing the hybrid DBE goal meeting, the meeting was also noticed by the placement of public notice advertisements in the following minority and majority newspapers: West Side Gazette (minority – Ft. Lauderdale); Miami Herald (majority – Miami, Ft. Lauderdale); Tallahassee Democrat (majority – Tallahassee); El Nuevo Herald (minority – Miami); Tampa Bay Times (majority – Citrus, Hernando, Hillsborough, Pinellas and Pasco Counties),

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 meeting and targeted emails, approximately more than 2,000 firms were notified about the hybrid public meeting. Time for questions and answers was provided after the presentation.

FDOT received no comments or questions that would necessitate a change to the proposed goal in the documents.