

Draft as of 5/31/17

**FEDERAL FISCAL YEAR 2018 – 2020  
MONTANA DEPARTMENT OF TRANSPORTATION  
FEDERAL TRANSIT ADMINISTRATION  
DBE GOAL METHODOLOGY**

The Montana Department of Transportation (MDT), in accordance with United States Department of Transportation (USDOT) guidelines, determines MDT's Disadvantaged Business Enterprise (DBE) Goal for Federal Transit Administration (FTA) funded contracts on a staggered three-year schedule.

MDT calculates the Goal using the criteria set forth in 49 CFR Part 26.45. The determination of the level of DBE participation is based on the availability of all DBE businesses that are ready, willing, and able to participate in FTA-assisted contracts in the State of Montana in relationship to all comparable businesses which are known to be available to compete for FTA-assisted contracts.

For Federal Fiscal Year 2018 – 2020, MDT has established an overall DBE goal of 0.26% to be accomplished through the use of race-neutral means.

This methodology and the supporting evidence complies with the requirements of the federal regulations and federal guidance, as well as relevant court decisions, including *Western States Paving v. Washington State Dept. of Transportation*, 907 F.3d 963 (9<sup>th</sup> Cir. 2005).

**Step 1: Determining the Base Figure**

For the Step 1 Base Figure, MDT determined the relative DBE availability in accordance with 49 CFR Part 26.45 (c)(1), which is to use DBE Directories and Census Bureau Data. When reviewing these datasets, MDT used the State of Montana as the market area because a significant portion of the contract dollars went to firms with Montana offices.

To perform the calculation, two figures need to be determined; the number of DBE firms and the number of total firms that are ready, willing, and able to compete for FTA-assisted contracts through MDT.

***DBE Firms***

MDT evaluated the DBE Directory based on firms certified as of May 23, 2017. The NAICS codes used are consistent with the type of work MDT has performed in the past and FTA-assisted contracts MDT intends to let in the future. Table 1 provides a breakdown of the number of DBE firms by NAICS code in the market area, which is further separated by those performing the types of work MDT intends to award.

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**Table 1 – Number of DBE firms by NAICS code for FTA-Assisted Contracts**

DBE Firms	NAICS Code	Description
2	561720	Janitorial Services
5	541820	Public Relations Agencies
4	541613	Marketing Consulting Services
0	541614	Process, Physical Distribution, and Logistics Consulting Services
0	493110	General Warehousing and Storage
0	447110	Gasoline Stations and Convenience Stores
0	485113	Bus and Other Motor Vehicle Transit Systems
0	453210	Office Supplies and Stationery Stores
0	524126	Direct Property and Casualty Insurance Carriers
0	531120	Lessors of Nonresidential Buildings
1	621999	All Other Miscellaneous Ambulatory Health Care Services
0	811191	Automotive Oil Change and Lubrication Shops
0	811111	General Automotive Repair
<b>12</b>	<b>Total DBE Firms for FTA-Assisted Contracts</b>	

**Total Firms**

Using the same NAICS codes as identified in Table 1, MDT reviewed the number of businesses published in the Census Bureau County Business Patterns<sup>a</sup>. Table 2 provides a breakdown of total firms from the Census by their NAICS code.

**Table 2 – Number of total firms from Census Data by NAICS code**

Total Firms	NAICS Code	Description
334	561720	Janitorial Services
23	541820	Public Relations Agencies
94	541613	Marketing Consulting Services
28	541614	Process, Physical Distribution, and Logistics Consulting Services
22	493110	General Warehousing and Storage
384	447110	Gasoline Stations and Convenience Stores
1	485113	Bus and Other Motor Vehicle Transit Systems
38	453210	Office Supplies and Stationery Stores
48	524126	Direct Property and Casualty Insurance Carriers
143	531120	Lessors of Nonresidential Buildings
18	621999	All Other Miscellaneous Ambulatory Health Care Services
42	811191	Automotive Oil Change and Lubrication Shops
382	811111	General Automotive Repair
<b>1557</b>	<b>Total Firms from 2015 Census Data for FTA-Assisted Contracts</b>	

The relative DBE availability is calculated as follows:

$$\frac{12 \text{ DBE firms}}{1,557 \text{ Total firms}} = 0.77\% \text{ DBE availability}$$

<sup>a</sup> Published in April 2017 using 2015 data. Census Bureau County Business Patterns data is published on a one year cycle.

**Step 1 Base Figure Weighting**

Weighting can help ensure that the Step 1 Base Figure is as accurate as possible. In order to weight the relative DBE availability, MDT reviewed dollar amounts by work type awarded on FTA-assisted contracts. These amounts exclude funds used for the purchase of transit vehicles and operating expenses such as salaries and fringe benefits.

MDT’s contracting market was evaluated on a statewide basis. MDT intends to let similar contracts in the next three federal fiscal years as it did in the past. Therefore, Table 3 estimated the amounts by work type estimated to be expended in 2018 through 2020 based on expenses from prior years.

**Table 3 – FTA-Assisted Amounts by Work Type**

Work Type	NAICS Code	Amount	% of Total
Janitorial	561720	\$ 14,045	0.31%
Advertising and Promote Coordination	541820, 541613	\$ 137,000	3.01%
Transit Consultant	541614	\$ 120,000	2.64%
Bus Storage	493110	\$ 42,000	0.92%
Fuel	447110	\$ 1,455,099	32.00%
Purchased Transportation	485113	\$ 1,281,205	28.18%
Office Supplies	453210	\$ 85,102	1.87%
Insurance	524126	\$ 378,905	8.33%
Office Space	531120	\$ 24,466	0.54%
Drug Testing	621999	\$ 24,323	0.53%
Vehicle Maintenance	811111, 811191	\$ 984,345	21.65%
<b>Total</b>		<b>\$ 4,546,490</b>	<b>100.00%</b>

The relative availability of DBEs by work type was multiplied by the amount of work projected to be available. Table 4 indicates the calculation for weighting the Step 1 Base Figure.

**Table 4 – FTA DBE Weighted Availability**

Work Type	NAICS Code	DBE Firms	Total Firms	Relative Availability	% of Total	Weighted Availability
Janitorial	561720	2	334	0.60%	0.31%	0.00%
Advertising and Promote Coordination	541820, 541613	9	117	7.69%	3.01%	0.23%
Transit Consultant	541614	0	28	0.00%	2.64%	0.00%
Bus Storage	493110	0	22	0.00%	0.92%	0.00%
Fuel	447110	0	384	0.00%	32.00%	0.00%
Purchased Transportation	485113	0	1	0.00%	28.18%	0.00%
Office Supplies	453210	0	38	0.00%	1.87%	0.00%
Insurance	524126	0	48	0.00%	8.33%	0.00%
Office Space	531120	0	143	0.00%	0.54%	0.00%
Drug Testing	621999	1	18	5.56%	0.53%	0.03%
Vehicle Maintenance	811111, 811191	0	424	0.00%	21.65%	0.00%
<b>Total</b>		<b>12</b>	<b>1557</b>	<b>0.77%</b>		<b>0.26%</b>

After weighting the goal by work type, the Step 1 Base Figure is calculated at 0.26% DBE availability.

## **Step 2: Adjustments to the Base Figure**

During Step 2, MDT examined all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed to the base figure in order to arrive at the overall DBE participation goal. MDT considered the following Step 2 adjustments:

- Current capacity of DBEs to perform work, as measured by the volume of work DBEs have performed in recent years;
- Evidence from disparity studies
- Information related to employment, self-employment, education, training and unions;
- Any disparities in the ability of DBEs to get financing, bonding and insurance; and
- Other relevant factors

### ***Current Capacity***

To determine the impacts of the current local market conditions and work performed by DBE firms, MDT reviewed the FTA Uniform Report of DBE Awards or Commitments and Payments for Federal Fiscal Years 2014 through 2016. While about \$9 million in contracts were awarded each year, there was 0% DBE participation in each of the three years. Since there was no past participation, MDT chose not to make an adjustment for past participation.

### ***Evidence from Disparity Studies***

MDT engaged a consultant (Keen Independent) to conduct an Availability and Disparity Study, which focused on participation of minority- and women-owned firms in MDT's contracts from October 2009 through September 2014. The Study was completed in July of 2016. Although this Study did not examine contracts using Federal Transit Administration (FTA) funds; MDT and other agencies might review information in the report regarding DBE availability as they relate to operating the Program for FTA-funded contracts. Since the work types evaluated in the Disparity Study are different than the work types used on FTA-funded contracts, MDT elected not to use DBE availability data from the 2016 Disparity Study to adjust the goal.

### ***Employment, Education, Training, and Unions***

The 2016 Disparity Study conducted analysis related to marketplace conditions in Montana and found that there are barriers that certain minority groups and women face related to entry and advancement and business ownership in the Montana construction and engineering industries. Specifically, Native Americans working in the Montana construction industry were less likely than non-minorities to own construction businesses and women working in the Montana engineering industry were less likely than men to own engineering companies.

Keen Independent estimated the availability of minority- and women-owned firms but for the effects of race- and gender-based discrimination and determined there could be a possible upward adjustment to the base figure (calculation shown in Figure 9-3). Keen Independent's adjustment analysis was based on road construction and did not factor in work types used on FTA-funded contracts. As a result, MDT chose not to make a step 2 adjustment based on this data.

### ***Financing, Bonding, and Insurance***

The 2016 Disparity Study found quantitative and qualitative evidence of disadvantages for minorities, women, and minority- and women-owned firms relating to access to financing and bonding. Although the analysis indicates an upward adjustment could be made to address these barriers, the impact of those factors could not be quantified (Chapter 9, Page 9). As a result, MDT chose not to make this Step 2 adjustment.

### ***Other Factors***

The other factors examined in the 2016 Disparity Study were related to success of minority- and women-owned firms relative to majority-owned businesses in the Montana marketplace. The Study noted quantitative evidence that minority- and women-owned firms are less successful than majority-owned firms and face greater barriers in the marketplace. There was also qualitative information that suggests discrimination on the basis of race, ethnicity and gender affects minority- and women-owned firms in the Montana transportation contracting industry. Although the analysis indicates an upward adjustment could be made to address these barriers, the impact of those factors could not be quantified (Chapter 9, Page 9). As a result, MDT chose not to make this Step 2 adjustment.

### ***Final Step 2 Adjustments to Step 1 Base Figure***

After examining all evidence available and evaluating all Step 2 adjustment options, MDT chose not to make any step 2 adjustments. The overall DBE participation goal for FTA-funded contracts for Fiscal Years 2018 through 2020 is 0.26%.

## **Race Conscious / Race Neutral Evaluation**

Within the past 6 years, MDT has achieved between 0% and 1% in race neutral DBE participation. 49 CFR 26.51 requires that the maximum feasible portion of the goal is met through race neutral means. MDT has shown that it can meet the goal of 0.26% using solely race neutral methods and therefore proposes to use that method for Fiscal Years 2018 through 2020.

In accordance with 49 CFR 26.47(d), MDT will continue to monitor DBE participation and if the trends make it unlikely that the overall goal will be achieved through race neutral means, race conscious measures may be added for the remainder of the fiscal year.

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MDT will continue to monitor participation of minority- and women-owned firms in its contracts and collect qualitative data concerning marketplace conditions.

### **Race Neutral Initiatives**

In order to meet the overall 0.26% DBE goal, MDT is committed to implementing race neutral measures that encourage small business and DBE participation. MDT will offer trainings throughout the year to Transit providers to enhance their knowledge of the DBE program and improve collaboration between providers and DBE firms.

In addition, MDT provides the following Supportive Services for DBEs:

- Long-term development assistance to increase opportunities
- Trainings in contracting procedures
- Assistance to start-up firms; and
- Identification of potential DBEs

### **Submission and Publication of Goal**

On May 31, 2017, MDT published its proposed DBE goal and methodology (2018-2020) for FTA-funded contracts. MDT posted the information on its website and distributed to MDT's certified DBE firms and partnering agencies.

MDT will hold a public hearing on June 13, 2017 in Helena and via webinar concerning the proposed overall DBE goal. The proposed Goal Methodology is available for review on MDT's website and at MDT's Headquarters Building, Office of Civil Rights, 2701 Prospect Avenue, Room 201, Helena, Montana.

MDT is asking for public comments about its proposed overall three-year DBE goal and the availability of disadvantaged and non-disadvantaged businesses. Comments will be accepted through July 13, 2017 and can be done verbally at the public hearing or sent to the following:

Mail: MDT Office of Civil Rights  
PO Box 201001  
Helena, MT 59620

Email: [mhandl@mt.gov](mailto:mhandl@mt.gov)

MDT will review and summarize any comments and adjust the goal methodology document as necessary. The revised goal methodology will be submitted to FTA for review and approval prior to August 1, 2017.