

**The North Dakota Department of Transportation
(Local Government - Transit Section)
DBE Program Plan**

Triennial DBE Goal - FY 2020-2022

For

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

August 1, 2019

FTA DBE GOAL-SETTING METHODOLOGY

The North Dakota Department of Transportation (NDDOT), in accordance with Federal Transit Administration (FTA) Guidelines (49 CFR Part 26), and in consultation with FTA documentation “Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program” have established NDDOT DBE Triennial Participation Goal for FY 2020-2022.

NDDOT’s FY 2020-2022 FTA DBE Goal = 1.12%

STEP 1 – Determining the Base Figure

- A. Job Service North Dakota provided us with the total number of North Dakota firms in each of the NAICS Codes identified as contracting opportunities. In addition, we compared U.S. Census Bureau resources and the 2012 Survey of Business Owners (released December 2015) with the results of the Job Service North Dakota data to calculate the Base Goal Calculation. Please see attached Table 1 for details of this calculation.

Base Goal = 0.34%

- B. **Methodology.** The base figure was initially calculated using the relative availability of DBEs (13) vs. the relative availability of non-DBE firms (3,870) in the state for the types of contracts we anticipated awarding. $(13/(13 \text{ DBEs} + 3,870))$ or $13/3,870 = 0.34$ percent).

We researched whether any work by construction based DBEs could be considered contracting opportunities. We reviewed the types of work for DBEs that could be done on transit facilities as well as in other areas of transit business operations. We tailored the work types considered to reflect actual contracting opportunities in substance abuse testing and compliance, insurance, janitorial, graphics & marketing, leased equipment – copiers, office supplies, software & computer and training. Thus, the number was adjusted to 12 DBE firms and the 3,162 non-DBE firms available in the state providing the services recognized as contracting opportunities.

Using the following categories of contracting opportunities in Consulting – drug testing compliance; insurance; janitorial; graphics and marketing; leased equipment-copier; office supplies; software & computer purchases; and training services $(12/(12 \text{ DBEs} + 3,162 \text{ non-DBEs}))$ or $12/3,162 = 0.38$ percent).

Table 1: Determining the Base Figure

NAICS	DBE Work Type	DBE Firms	All Non-DBE Firms	Base
621511, 621999	Drug Screening & Substance Abuse Compliance Testing	1	28	
524210	Insurance	1	1,611	
423850 423990, 561720	Janitorial	2	1,304	
541430, 541850, 323111	Graphics & Marketing	3	66	
532420, 532490	Leased Equipment	1	39	
561730	Landscaping	1	708	
453210, 424120	Office Supplies	1	72	
541512, 423430	Software & Computer	2	29	
611519, 611420, 611430	Training – computer- software, truck driving, other technical and trade	1	13	
	Total Individual Firms	13	3,870	0. 34%

Step One Base Figure= $\frac{\text{Ready, willing, and able DBEs}}{\text{All firms ready, willing, and able (including DBEs and non-DBEs)}}$

$\frac{13}{3,870}$

Graphics from “Tips for Goal Setting”

C. Unified Certification Program (UCP) DBE Directory. We supplemented the NDDOT DBE directory with data from the US Census Bureau - Statistics of U.S. Businesses and the Bureau’s 2012 Economic Census (North Dakota) released December 2015, US Small Business Administration – Office of Advocacy, and the Bureau of Labor Statistics in determining the number of ready, willing and able DBE certified firms and non-DBE firms in the state.

Using the categories noted above, we reviewed the 153 firms listed in the online NDDOT DBE Directory, as of June 18, 2019. Of those 153 firms, 13 firms were classified in the NAICS codes of the actual contracting opportunities previously noted.

The firms for transit provider categories in the list for items are advertising, marketing, specialty items, website development, digital printing, business plans, graphic design, janitorial, insurance, copier leasing, office supplies and training. Construction categories are not generally considered because funding transit facilities are costly and requests for these projects vary from year to year. Generally, capital funding is used to replace the aging transit vehicle fleet throughout the state. During the past three year period one new bus garage was completed and an addition is being added to another. As requests for new facilities/bus garages and remodeling are requested, the Transit Section will look to achieve the DBE goal through Race Neutral participation.

The online directory is searchable and lists the firm's name, owner's name, address, phone number, type of DBE designation, year formed, whether bonded, insured, area of work, labor force, equipment, and the North American Industry Classification System (NAICS) code and type of work the DBE has been certified to perform.

- D. Local Market.** Although the State of North Dakota is generally considered the local market for purposes of this calculation, more than 69 percent of the DBEs certified in North Dakota are home-based out-of-state. The UCP list includes qualified DBE firms from out-of-state that have expressed an interest to work on Federal Aid Projects in North Dakota. Therefore, firms from Alaska, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Massachusetts, Maryland, Minnesota, Missouri, Montana, New Jersey, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, and Wyoming, are included in the goal setting mix.

State transportation agencies were contacted to request the names of their DBEs currently serving transit entity needs.

In 2017, neighboring state's DBE Directories were searched specifically for transit related companies and invitations to submit DBE applications were sent. Five firms expressed interest and were sent information on the certification process, however none completed the certification process.

Outreach has been performed by several of our transit providers to recruit local businesses to become a DBE. As a result of local outreach, Seven Fires Business Solutions, LLC was certified as a DBE in 2018 and transit providers have begun to use their services.

Our DBE Supportive Services Consultant is also working with a company who performs substance abuse testing in hopes of certifying them.

Additional outreach was performed by the Civil Rights Division and the DBE Supportive Services consultant who conducted presentations and/or attended events at United Tribes Technical College, SBA Public Webinar, Bonding Workshop, CIHAND Conference, Air Force Industry Day, Strengthening Government Partnerships and Relationships (hosted by ND Indian Affairs Commission, and CORE Women's Networking Event.

- E. Contracting Opportunities.** For FY 2020-2022 the transit section estimates the annual contracting opportunities for Transit Providers to be \$301,117.

For purposes of calculating this funding, the salaries for agency employees and other non-contract expenses were deducted from the gross funding total. This allows for the office supplies and other contracting opportunities to be accounted for. Utilizing the base figure of 0.34 percent, a total of \$1,023.80 would be the funding target for DBEs.

Step 2 – Adjust the Base Figure

Determine the weight of each type of work by NAICS Code:

* Project amounts are assigned relevant NAICS Code(s). Graphics from “Tips for Goal Setting”

Table 2

When reworking the goal calculations, landscaping was removed from the calculation because the expenses in these categories had not been represented in the actual expenses for small community sub recipients within the past three years.

$$\left[.9 \left(\frac{\# \text{heavy construction DBEs}}{\# \text{heavy construction firms}} \right) + .1 \left(\frac{\# \text{trucking DBEs}}{\# \text{all trucking firms}} \right) \right] \times 100 = \text{Step One Base Figure, weighted by type of work to be performed}$$

NAICS Code	Work Item	Amount of DOT funds on project	% of total DOT funds (weight)
621511, 621999	Consultation – Substance Abuse Compliance	\$8,859	2.942%
524210	Insurance	\$155,708	51.71%
423850, 423990, 561720	Janitorial	\$2,859	0.949%
541430, 541850, 323111	Graphics & Marketing	\$41,272	13.706%
532420, 532490	Lease Equipment	\$13,525	4.492%
453210, 424120	Office Supplies	\$25,454	8.453%
541512, 423430	Software & Computer	\$50,774	16.862%
611519, 611420, 611430	Training	\$2,666	0.885%
Total FTA – Assisted Contract Funds		\$301,117	100%

Past Participation. DBE participation for the past three fiscal years is summarized in the following table. **Although transit providers were able to make minimal purchases from DBEs, it was not adequate to meet the goal. Adjustments were considered due to past participation.**

FY	Achieved Participation	\$ Amount Achieved
2017	0.00%	\$20,834
2018	0.00%	\$ 41
2019	0.00%	\$ 161

Further Analysis. The transit section analyzed contracting opportunities in its small community sub recipients to establish its goal. No adjustments were made due to past participation.

The number of DBEs fluctuates in our state due to changes in businesses, perceived contracting opportunities, business capacity, and the distance out-of-state contractors need to travel to work here. Even though two DBE firms were identified that could provide supplies, sub recipients were forced to limit purchases due to financial constrains caused by the reduction of State Aid funds caused by the downturn of the economy in the state.

Table 3

Relative availability of DBEs

Determine the relative availability of DBEs by NAICS Code: *Used DBE Directory, US Census Bureau statistics, and US Small Business Administration data to enter the number of available DBE firms and the number of available firms and to determine DBEs' relative availability

	NAICS Code	Work Item	Number of DBEs	Number of All Firms	Relative Availability
	621511, 621999	Consultation – Substance Abuse Compliance	1	28	3.57
	524210	Insurance	1	1,611	0.06
	423850, 423990, 561720	Janitorial	2	1,304	0.15
	541430, 541850, 323111	Graphics & Marketing	3	66	4.55
	532420, 532490	Lease Equipment	1	39	2.56
	453210, 424120	Office Supplies	1	72	1.39
	541512, 423430	Software & Computer	2	29	6.90
	611519, 611420, 611430	Training	1	13	7.69
	Total FTA – Assisted Contract Funds		12	3,162	0.38%

Weighting. The transit section utilized the *DBE Weighting* worksheet to further refine the DBE Goal for FY 2020-2022. The first step in weighting is the relative availability of DBEs. Details of the worksheet begin above in Table 3. The weighting process is illustrated in Tables 3-5 of this submission (DBE/All Firms = Weight). The calculated DBE participation under the weighted method would be 0.38%. This is considered by the transit section to be the most accurate indication of the actual contracting opportunity in the Transit Program as it incorporates the anticipated projects that are programmed for the next three years.

The Table 3 weighted goal of 0.38% would require an annual funding target of \$1,142.76 for the DBE Program during FY 2020-2022.

The goal was adjusted up to 0.38% based on this DBE Weighting worksheet.

Calculate the Race Neutral and Race Conscious Split

Table 4 Base Calculation

Category	Number of North Dakota Minority Businesses	Percentage of Minority Businesses in North Dakota	DBEs Certified in ND	Ratio of DBEs to North Dakota Business
Black American	2,166	3.1%	27	0.0395%
Hispanic American	2,526	3.70%	11	0.0161%
Native American/Alaskan Native	3,755	5.50%	22	0.0322%
Sub-continent Asian American	1,092	1.60%	3	0.0044%
Asian Pacific American*	68	0.10%	3	0.0044%
Women	20,316	29.76%	87	0.1274%
	29,874	43.76%	153	0.22%
Total Businesses in North Dakota	68,270			

*Asian Pacific American population in North Dakota was 0.1% which rounded to zero.

For the purpose of reporting, the transit section has provided the Race/Gender information as required (see Table 4 above). Source: DBE Directory and North Dakota QuickFacts from Census.gov (<https://www.census.gov/quickfacts/ND>)

The NDDOT DBE Goal Split for Race Conscious and Race Neutral: The Department intends to achieve its three year goal initially through Race Neutral means and if necessary employ the use of specific stated goals on projects. The Department will continue to disseminate information at transit meetings and compliance reviews to assist sub recipients in recognizing the level of their DBE goal achievement and meeting the DBE goal. The Transit section will give sub recipients direction through various means to cultivate and recognize contracting opportunities.

Additionally, reporting measures have been put in place to refine the information required in generating the Semi-Annual Report for DBE Awards and Commitments/Payments. All sub recipients are required to log purchases and report DBE participation semi-annually through the Black Cat System.

NDDOT will continue to evaluate contracting opportunities to determine if setting Race Conscious goals is necessary and will incorporate a project goal only when needed. The goal as calculated for this document is an aggregate goal and NDDOT transit section will work with our sub recipients to meet the DBE requirements.

- A. Public Participation.** For FTA Projects, NDDOT transit section is reliant upon the UCP program when identifying DBEs certified to complete work in North Dakota. The transit section works closely with the Civil Rights Division.
- a. Sub recipients and the transit section will connect potential DBE firms to DBE Supportive Services for assistance in applying and/or determining their eligibility.
 - b. The transit section will work with sub recipients to identify work items appropriate to contract and assist in identifying DBEs ready, willing and able to perform the work.

(Weight) X (Availability) = Weighted Base Figure

The goal was adjusted down to 0.63% based on the following DBE Weighting worksheet and past participation. The NDDOT FTA DBE Goal Race Conscious Race Neutral split to achieve the **1.12% goal** (met entirely through Race Neutral means) and would require a funding target of **\$3,372**.

$$\left[.9 \left(\frac{44 \text{ heavy construction DBEs}}{300 \text{ heavy construction firms}} \right) + .1 \left(\frac{14 \text{ trucking DBEs}}{150 \text{ trucking firms}} \right) \right] \times 100 = \left[.9 \left(\frac{44}{300} \right) + .1 \left(\frac{14}{150} \right) \right] \times 100 =$$

$$\left[.9(.1467) + .1(.0933) \right] \times 100 = \left[.1320 + .0093 \right] \times 100 = 14.13$$

Table 5 -

NAICS Code	Work Item	Weight		Relative Availability		Weighted Base Figure		
621511, 621999	Consultation – Substance Abuse Compliance	0.02942	+	0.03571	=	0.0011		
524210	Insurance	0.51710	+	0.00062	=	0.0003		
423850, 423990, 561720	Janitorial	0.00949	+	0.00153	=	0.0000		
541430, 541850, 323111	Graphics & Marketing	0.13706	+	0.04545	=	0.0062		
532420, 532490	Lease Equipment	0.04492	+	0.02564	=	0.0012		
453210, 424120	Office Supplies	0.08453	+	0.01389	=	0.0012		
541512, 423430	Software & Computer	0.16862	+	0.06900	=	0.0116		
611519, 611420, 611430	Training	0.00885	+	0.07692	=	0.0007		
				Total – expressed as a % (*100)		0.0223%	Adj. Approach 2 Median & Weighted Goal	
						Weighted Base Figure:		\$3,372.51
						2.23%	1.12%	= (2.23 + 0)/2

Methods to Meet the DBE Goal

49 CFR 26.51. Requires an overall goal submitted with the methodology to meet the DBE participation within a program. The following is a list of those methods to be implemented by NDDOT transit section:

- a. Discuss importance of DBE program with transit providers at annual compliance reviews;
- b. Provide one-on-one training and group training to sub recipients throughout the state as appropriate;
- c. Provide information at transit meetings to better prepare sub recipients for their role in completing the Semi-Annual Report of DBE Awards and Commitments/Payments;
- d. Provide transit providers updated DBE information by sharing the DBE Newsletter when new DBEs have been certified; Publish legal notices in the daily newspapers around the state requesting public comment on Public Transit DBE goal;
- e. Hold a public meeting to inform and provide the public an opportunity to comment on the Public Transit DBE goal;
- f. Place a notice of the DBE goal on the NDDOT Transit and Civil Rights webpages;

Table 6 Annual Contracting Opportunity FY 20120-2022

TYPE OF FUNDING	Funding Amount	Total Available
Section 5304 – Rural Transit Planning	\$0	\$0
Section 5307 Urban/MPO Areas	\$0	\$0
Section 5310 Elderly Persons & Persons with Disabilities	\$0	\$0
Section 5311 Rural Transit Program	\$301,118	\$301,118
Section 5311 (b) Rural Transit Assistance Program	\$0	\$0
Section 5339 Capital Program	\$0	\$0
TOTAL	\$301,117	\$301,117

FHWA State Planning and Research (SPR)

SPR funds are used for a number of different projects from transit employee salaries to travel expenses. If the department's transit section needs to do any planning studies they are also charged to SPR funds. DBEs certified by the Department, in this area, will be afforded the opportunity to bid on these projects.

Section 5310

These dollars are for rural and urban capital funds. Currently there are no DBEs certified by the Department, with expertise in this area. A majority of this apportionment funds are used to fund rolling stock.

Section 5311

These dollars are for rural and inter-city capital and operating funds. Currently there are no DBEs certified by the Department as transit providers.

Section 5311b

These dollars are training funds for rural providers. Every effort is made to encourage transit employees to attend out-of-state training such as that provided by CTAA. Currently there are no DBEs providing this type of training certified by the Department

Section 5339

These dollars are for both rural and urban capital expenses. Funding will be allocated for purchase of rolling stock and other items such as construction or rehabilitation of bus storage and administration facilities, bus shelters, transit fare boxes, fare card vending kiosk, and bus washer system. Currently there are no DBEs certified by the Department, supplying these products or services.

The Department began determining a separate DBE Goal for its transit programs several years ago. Prior to the 2014 – 2016 DBE Goal, the transit program DBE goal had been zero (0.00) percent. The 2014 – 2016 DBE Goal was 1.15%. The 2017 – 2019 DBE Goal was 1.25%. During those years, we were under contract with the DBE firm Precision Compliance for our drug and substance abuse testing and compliance. In December 2016, Precision Compliance was purchased by RLS & Associates. The company was no longer eligible as a DBE due to graduation from the DBE program. This affected our ability to achieve our DBE Goal for 2016-2019. Transit providers utilized two other DBEs for supplies and reflective clothing, however the purchases were far below the amount needed to meet our goal. In addition, the downturn in the State's economy and reduction in State Aid funds impacted the sub recipient's ability to purchase products the DBE's were supplying.

NOTIFICATION ON CONTRACTING OPPORTUNITIES

All requests for proposals are forwarded to the Department's Civil Rights Division for notification of all DBE firms via the ListServ.

The Department's sub recipients have agreed to use the Department's Triennial FTA DBE goal setting methodology and approved DBE program. The Department has limited DBE firms certified in any relevant area.

About a third of DBEs are located in three larger communities. However, most DBEs are located in the smallest communities and are spread out all over the state. DBEs are located in 15 of North Dakota's 53 counties.

The state's population density is fewer than ten (10) people per square mile; consequently the choice of vendors is limited. Sub recipients' face the challenge that the work they are looking to contract is often very small jobs. Many contractors view these small jobs as unprofitable and are unwilling to bid on them due to the cost of towing equipment, shipping costs, or other issues of logistics for the contractor. Most of those DBEs certified to perform in the present contracting opportunities are located out-of-state; therefore the cost of doing business other than via the internet is higher than hiring local contractors or purchasing small items locally.

Additionally, North Dakota's unemployment rate is extremely low. According to the Bureau of Labor Statistics, in April 2019, North Dakota was ranked as the second lowest state with an unemployment rate of 2.3 percent. (https://www.bls.gov/regions/midwest/north_dakota.htm). Every DBE listed as having goods and services available for contracting opportunities is from out-of-state. Presently, North Dakota transit providers are very much part of their small communities and therefore, procure most of their goods and services from local sources. Many of the local firms maintain close personal and professional relationships with their customers. Therefore, it may take some time to make significant headway into hiring out-of-state firms. Furthermore, 10.6 percent of North Dakota firms have no employees; thus customers are working directly with the individual who supplies their insurance, communications solutions, and other items that need to be

purchased. Many DBEs are smaller businesses that may not have the wherewithal to bid prime on transit bus facilities, or may choose to work as subcontractors rather than bidding prime.

There are no DBEs currently certified who supply tires, batteries, gasoline, or diesel fuel.

Transit section staff members have encouraged sub recipients to reach out to local women and minority owned firms to inform them of the benefits of certification; one has taken advantage of the opportunity, Seven Fires Business Solutions, LLC. Northern Testing Inc. and The Envelope Company were identified in the last year by transit providers as potential DBEs. Information on the certification process and the DBE Supportive Services consultant was sent to each of the firms expressing interest. One transit provider contacted us requesting information which she forwarded to potential DBE on the certification process. Nonetheless, the department is committed to forwarding the requests, via email or ListServ, for all proposals and notices to bid to all applicable Department certified DBE firms.

The Department annually allocates DBE Supportive Services funds to provide technical assistance to DBE firms. Technical assistance is provided in the area of DBE certification, orientation, networking, home office reviews and to facilitate training. This technical assistance is provided by Project Solutions Inc. who is a certified Disadvantaged Business Enterprise in North Dakota.

Newly certified DBEs will be announced in the DBE Newsletter and published via ListServ. The transit section forwards all DBE Newsletter containing new DBEs to the transit providers. The Department encourages all DBEs to register with the State Procurement Office to receive proposals from all areas of the state.

ADJUSTMENTS

In determining whether adjustments in the goal were needed, the following were contacted to determine whether these agencies recognized effects of discrimination in lending, etc.

- ND Attorney General
- Department of Financial Institutions
- Department of Human Services
- ND Office of Management & Budget
- ND University System
- ND Department of Commerce
- ND Small Business Development Centers

The Department received no information from these sources indicating that adjustment based on this evidence is warranted. **No adjustment has been made for this factor.**

PUBLIC COMMENTS

The proposed FTA DBE Goal for 2020 –2022 was posted on the NDDOT website and notice sent to all certified DBEs via ListServ. Transit agencies were informed by email it was available for public comment.

NDDOT Transit Section held a public meeting on July 25, 2019 at the NDDOT Building in Bismarck, ND to inform the public about the proposed FTA DBE goal for 2020 – 2022. The public meeting notice was advertised in the 10 daily newspapers. NDDOT Communication Division also sent out a press release one week prior to the meeting as a reminder to the public. One person attended the public meeting. No comments were received.