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

Annual DBE Goals - FY 2017-2019

For

U.S. Department of Transportation
Federal Transit Administration

DRAFT

August 18, 2016

FTA DBE GOAL-SETTING METHODOLOGY

August 1, 2016

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 2017-2019.

NDDOT's FY 2017-2019 FTA DBE Goal = 1.25%

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 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 = 0.71%

B. **Methodology.** The base figure was initially calculated using the relative availability of DBEs (15) vs. the relative availability of non-DBE firms (2,089) in the state for the types of contracts we anticipated awarding. (15/(15 DBEs + 2,089) or 15/2,104) = 0.71 percent.

We first 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 physical facilities as well as in other areas of transit business operations. We selected information technology, landscaping, erosion control, and fencing for consideration as security; physical plant maintenance; insurance; office supplies; networking and software replacement; marketing and graphics; and training. However, in reviewing the actual expenses for each small community sub recipient, it is unclear if such services have been procured in the past three years.
Therefore, we tailored the work types considered to reflect actual contracting opportunities in substance abuse testing and compliance, information technology, graphics & marketing, office supplies, and training. Thus, the number was adjusted to 14 DBE firms and the 657 non-DBE firms available in the state providing the services recognized as contracting opportunities.

Using the following categories of contracting opportunities in training services; information technology services, i.e., networking, computer and software purchases; consulting – drug testing compliance; marketing; and office supplies, (14/(14 DBEs + 657 non-DBEs) or 14/671) = 2.09 percent.

Table 1: Determining the Base Figure

NAICS	DBE Work Type	DBE Firms	All Non-DBE Firms	Base
561499	Drug Screening & Substance Abuse Compliance Testing	2	18	
323111, 541430, 541850	Graphics & Marketing	3	66	
238210	Information Technology	2	504	
524113, 524128	Insurance	0	31	
561720	Janitorial	0	1,293	
532490	Leased Equipment	0	39	
424130, 453210	Office Supplies	1	70	
611420, 611430, 611519	Training – computer-software, truck driving, other technical and trade	7	83	
	Total Individual Firms	15	2,104	0.71%

$$\text{Step One Base Figure} = \frac{\text{Ready, willing, and able DBEs}}{\text{All firms ready, willing, and able (including DBEs and non-DBEs)}} \quad \frac{15}{2{,}119}$$

Graphics from "Tips for Goal Setting"

C. **Unified Certification Program (UCP) DBE Directory.** We supplemented the NDDOT DBE directory with data from the ND Department of Commerce, US Census Bureau - Statistics of U.S. Businesses and the Bureau's 2012 Economic Census (North Dakota), 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 132 firms listed in the online NDDOT DBE Directory, as of June 24, 2016. Of those 132 firms, 15 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 and training. Construction categories are not generally considered because funding transit facilities is costly and 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 constructed, one is under construction, and we anticipate one more to be built. However, 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 70 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 Minnesota, Alaska, Arizona, California, Idaho, Indiana, Massachusetts, Maryland, Montana, Ohio, Oregon, South Dakota, Tennessee, Texas, Utah, Washington, Wisconsin, Wyoming, Oklahoma, New Jersey, Colorado, Florida and Georgia are included in the goal setting mix.

Civil Rights Division has notified all currently certified firms by direct email, ListServ electronic notification, and direct telephone calling to communicate the items currently procured and described transit provider contracting opportunities for DBEs.

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

Each state's DBE Directory was searched specifically for transit suppliers and invitations to submit DBE applications were sent.

One Oklahoma-based DBE Longhouse Inventory Solutions, LLC expanded their Regular Dealer products to include items that are regularly purchased by transit providers. The firm contacted Local Government Transit Section to determine the number and types of items that may be supplied to transit providers. The Department requested information from the transit providers and assisted Longhouse Inventory Solutions, LLC in marketing their merchandise to transit providers. Several of our transit providers also utilized another DBE, O.G.I.H. Enterprises, who provides safety vests and reflective clothing.

Precision Compliance, a Colorado-based DBE, performing drug and substance abuse testing and compliance for NDDOT transit sub recipients is another interstate certification to which the transit section provided assistance in contacting the UCP for certification. Precision Compliance is currently under contract with the State of North Dakota to provide consultation services until May 2017, with the option to renew the contract 3 times for a period of 12 months each, based on the results of the initial contract, additional need for services and training and the revised scope of work and available funding.

E. **Contracting Opportunities.** For FY 2017-2019 the transit section estimates the annual contracting opportunities for Transit Providers to be $226,287.

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 0.71 percent, a total of $1,606.64 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, insurance, janitorial, and lease equipment, were removed since there were no available DBEs in these categories and landscaping, erosion control, and fencing were 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)
	323111, 541430, 541850,	Marketing & Graphics	$55,237	24.41%
	238210	Information Technology	$49,047	21.68%
	424130, 453210,	Office Supplies	$67,811	29.97%
	611420, 611430, 611519	Training	$29,697	13.12%
	561499	Consultation - Substance Abuse Compliance	$24,495	10.82%
	Total FTA – Assisted Contract Funds		$226,287	**100%**

Past Participation. DBE participation for the past three fiscal years is summarized in the following table. **No adjustments were made due to past participation.**

FY	Achieved Participation
2014	0.00%
2015	1.36%
2016	0.00%

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
	323111, 541430, 541850	Marketing & Graphics	3	66	4.55
	238210	Information Technology	2	504	0.40
	424130, 453210	Office Supplies	1	70	1
	611420, 611430, 611519,	Training	6	13	46.15
	561499	Consultation - Substance Abuse Compliance	2	18	11.11
	Total FTA – Assisted Contract Funds		**14**	**671**	**2.09%**

Weighting. The transit section utilized the *DBE Weighting* worksheet to further refine the DBE Goal for FY 2017-2019. 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 2.09%. 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 2.09% would require an annual funding target of $4,721.34 for the DBE Program during FY 2017-2019.

The goal was adjusted up to 2.09% 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	1,477	2.40%	8	0.0130%
Hispanic American	2,154	3.50%	8	0.0130%
Native American/Alaskan Native	3,385	5.50%	20	0.0325%
Sub-continent Asian American	862	1.40%	4	0.0065%
Asian Pacific American*	0	0.00%	5	0.0081%
Women**	18,316	29.76%	87	0.1414%
	26,194	**42.56%**	**132**	**0.21%**
Total Businesses in North Dakota	**61,546**			

*Asian Pacific American population in North Dakota was 0.1% which rounded to zero.
**Includes 1 Asian Pacific American Woman; 6 Black American Women; and 3 Native American Women.

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 (http://quickfacts.census.gov/qfd/states/38000.html)

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 quarterly 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 and report DBE participation semi-annually through the Black Cat Grant system.

NDDOT will continue to evaluate contracting opportunities to determine if setting Race Conscious goals is necessary and will incorporate a contract 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. Transit section has a seat on the UCP Board. As a board member, the responsibilities include reviewing new applications from transit related businesses and participating in the Certification Board interviews. Being an active board member will allow the transit section to have visibility with new businesses and once certified, assist them in communicating with the transit providers around the state.

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 1.25% based on the following DBE Weighting worksheet. The NDDOT FTA DBE Goal Race Conscious Race Neutral split to achieve the **1.25% goal** (met entirely through Race Neutral means) and would require a funding target of **$2,828.59**

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

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

Table 5 -

NAICS Code	Work Item	Weight		Relative Availability		Weighted Base Figure
323111, 541430, 541850	Marketing & Graphics	0.2441	+	0.0455	=	0. 2896
238210	Information Technology	0.2168	+	0.0040	=	0.2208
424130, 453210	Office Supplies	0.2997	+	0.0100	=	0.3097
611420, 611430, 611519	Training	0.1312	+	0.0843	=	0.4615
561499	Consultation - Substance Abuse Compliance	0.1082	+	0.1111	=	0.2193
				Total – expressed as a % (*100)		1.25%
				Weighted Base Figure:		
						1.25%

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 quarterly meetings to better prepare sub recipients for their role in completing the Semi-Annual Report of DBE Awards and Commitments/Payments;
d. 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 2017-2019

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	$226,287	$226.287
Section 5311 (b) Rural Transit Assistance Program	$0	$0
Section 5339 Capital Program	$0	$0
TOTAL	$226,287	$226,287

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 rolling stock.

Section 5311

These dollars are for rural capital and operating funds. Currently there are no DBEs certified by the Department, as bus suppliers or 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 certified by the Department, providing this type of training at national conferences.

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 bus shelters, transit fare boxes, fare card bending 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%. Although we were under contract with Precision Compliance for our drug and substance abuse testing and compliance and also utilized two other DBEs for supplies and reflective clothing, NDDOT did not meet this goal. 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 annual 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 22 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 June 2016, North Dakota was ranked as the fourth lowest state with an unemployment rate of 3.2 percent. (http://www.bls.gov/web/laus/laumstrk.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, 78.5 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 storage 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, Precision Compliance. Three additional firms have been 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. 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 OHITIKA designs, Inc. who is a certified Disadvantaged Business Enterprise in North Dakota.

All newly certified transit DBEs will be announced in the Transit Newsletter that is posted on the NDDOT website at https://www.dot.nd.gov/divisions/localgov/transit-operator-services.htm and emailed to all providers.

Their certification will be announced in the DBE Newsletter and published via ListServ. 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.

Bank of North Dakota
ND Department of Commerce
ND Impact Procurement Assistance Center
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.**