

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

Triennial DBE Goal - FY 2023-2025

For

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

August 1, 2022

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 2023-2025.

NDDOT’s FY 2023-2025 FTA DBE Goal = 1.9%

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 2019 Survey of Business Owners (released February 2022) with the results of the Job Service North Dakota data to calculate the Base Goal Calculation. Please see Table 1 for details of this calculation.

Base Goal = 1.9%

- B. **Methodology.** The base figure was calculated using the relative availability of DBEs (25) vs. the relative availability of non-DBE firms (1,288) in the state for the types of contracts we anticipated awarding. $(25/(25 \text{ DBEs} + 1,288))$ or $25/1,313 = 1.9$ 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. Anticipated projects identified during the grant application process were limited, so work types were tailored to reflect actual contracting opportunities in accounting and tax services, substance abuse testing and compliance, insurance, janitorial, graphics & marketing, leased equipment – copiers, and office supplies.

Table 1: Determining the Base Figure

NAICS	DBE Work Type	DBE Firms	All Firms Available (including DBEs)	Base
541211, 541213, 541214, 541219	Accounting & Tax Service	3	288	
621511, 621999	Drug Screening & Substance Abuse Compliance Testing	1	20	
524210	Insurance	1	639	
423850, 423990, 561720	Janitorial	10	248	
541430, 541850, 323111	Graphics & Marketing	7	58	
532420, 532490	Leased Equipment	2	36	
453210, 424120	Office Supplies	1	24	
	Total Individual Firms	25	1,313	1.90%

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

$\frac{25}{1,313}$

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 2019 Economic Census (North Dakota) released December 2021, 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 194 firms listed in the online NDDOT DBE Directory, as of June 24, 2022. Of those 194 firms, 25 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 accounting, tax services, marketing, specialty items, website development, digital printing, graphic design, janitorial, insurance, copier leasing, and office supplies. The majority of transit funding is used for operating. Construction categories are not generally considered because funding transit facilities is 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 bus garage was remodeled and another is being considered. 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 59 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 Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Indiana, Massachusetts, Maryland, Michigan, Minnesota, Missouri, Montana, Nevada, New York, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Washington, and Wisconsin, are included in the goal setting mix.

State transit agencies were contacted to request the names of their DBEs currently serving transit entity needs. Several transit agencies contract with Seven Fires Office Solutions, a current DBE, however since this is a supply contract, the DBE participation can only be counted as 60 percent. One transit agency is contracted with a DBE who provides drug and alcohol testing.

Outreach has been performed by several of our transit providers to recruit local businesses to become a DBE. As a result of local outreach, Badlands Integrity Group was certified as a DBE in 2020 and transit providers have begun to use their services.

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 2023-2025 the transit section estimates the annual contracting opportunities for Transit Providers to be \$118,932.

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 1.9 percent, a total of \$2,259.71 would be the funding target for DBEs.

Step 2 – Adjust the Base Figure

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. No Step 2 adjustments are proposed due to past participation.

FY	Achieved Participation	\$ Amount Achieved
2019	0.00%	\$338
2020	0.00%	\$1,712
2021	0.00%	\$4,123

Further Analysis. Although 5311 CARES and 5310 ARP emergency funding were received due to the Pandemic, those funds were mainly used to keep staff employed and maintain existing services. 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 and services, 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 2 - Calculate the Race Neutral and Race Conscious Split

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	936	3.10%	36	0.1192%
Hispanic American	1,117	3.70%	17	0.0563%
Native American/Alaskan Native	1,660	5.50%	18	0.0596%
Sub-continent Asian American	483	1.60%	5	0.0166%
Asian Pacific American	30	0.10%	4	0.0132%
Women	2,234	7.4%	92	0.3047%
Total Businesses in North Dakota	6,461	21.40%	172	0.57%
	30,190			

For the purpose of reporting, the transit section has provided the Race/Gender information as required (see Table 2 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 BlackCat 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.

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 during 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;
- e. Publish legal notices in the daily newspapers around the state requesting public comment on Public Transit DBE goal;
- f. Hold a public meeting to inform and provide the public an opportunity to comment on the Public Transit DBE goal;
- g. Place a notice of the DBE goal on the NDDOT Transit and Civil Rights webpages;

Annual Contracting Opportunity FY 2023-2025

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	\$118,932	\$118,932
Section 5311 (b) Rural Transit Assistance Program	\$0	\$0
Section 5339 Capital Program	\$0	\$0
TOTAL	\$118,932	\$118,932

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 and urban operating funds. Currently there are no DBEs certified by the Department, as transit providers or are contractors 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 and provide funds to the Dakota Transit Association for technical assistance. Every effort is made to encourage transit employees to attend in-state and 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 in 2014. 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%. The 2020 – 2022 Goal was 1.12%. Transit providers currently utilized two DBEs, one for office supplies and one for substance abuse and testing. However, the purchases were far below the amount needed to meet our goal and the DBE for supplies can only be counted as 60% since it is a supply contract. The pandemic also impacted services and the needs of our transit providers.

NOTIFICATION ON CONTRACTING OPPORTUNITIES

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 a relevant area. About a third of DBEs are located in the small urbanized areas. However, most DBEs are located in the rural 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, supply chain delays, 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 2022, North Dakota was ranked as the eleventh lowest state with an unemployment rate of 2.8 percent. (https://www.bls.gov/regions/midwest/north_dakota.htm). Many DBEs listed as having goods and services available for contracting opportunities are from out-of-state. Presently, North Dakota transit providers are very much a 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, 60 percent of North Dakota firms have either no employees or less than 5 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 fuel.

NDDOT Transit staff members have encouraged sub recipients to reach out to local women and minority owned firms to inform them of the benefits of certification. Information on the certification process and the DBE Supportive Services consultant will be sent to each of the firms expressing interest. The Department is committed to forwarding the requests, via email, for all proposals and notices to bid to all applicable 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 2023 –2025 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 will hold a public meeting on July 28, 2022 at the NDDOT Building in Bismarck, ND to inform the public about the proposed FTA DBE goal for 2023 - 2025. The public meeting notice was advertised in the 10 daily newspapers. NDDOT Communication Division will also sent out a press release one week prior to the meeting as a reminder to the public.