

OKLAHOMA DEPARTMENT OF TRANSPORTATION

**DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM
GOAL ON FEDERALLY-ASSISTED PROJECTS
FOR
FEDERAL FISCAL YEARS 2020, 2021 & 2022**

**Prepared by:
Jenny K. Allen
Civil Rights Division**

**In Compliance with:
Title 49 Part 26 of the Code of Federal Regulations
(49 CFR Part 26)**





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

Oklahoma Division

October 10, 2019

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In Reply Refer To:
HDA-OK

Tim J. Gatz
Executive Director
Oklahoma Department of Transportation
200 NE 21st Street
Oklahoma City, OK 73105

Dear Mr. Gatz:

We have completed our review of the Oklahoma Department of Transportation (ODOT) DBE goal methodology for FY 2020-2022 and we approve ODOT's DBE goal methodology as submitted.

In accordance with the provisions of 49 CFR part 26.45, our review considered the overall goal of 9.33%, the description of the data and methodology, the projection of race neutral and race conscious portions (5.78% and 3.55% respectively), any adjustments, and the evidence of public participation in the process. Our review determined the goal setting methodology is consistent with the requirements of 49 CFR part 26.45 and that the requirements for public participation have been met.

ODOT is responsible for continually monitoring achievement toward the approved DBE goal, tallying race neutral and race conscious participation, and if warranted, coordinating any goal adjustments with the Federal Highway Administration (FHWA) - OK Division.

The next DBE goal methodology is due to FHWA on August 1, 2022. If you have any questions, please contact Steve Duskin, Civil Rights Specialist at (405) 254-3313.

Sincerely,

Basharat Siddiqi
Division Administrator

Cc: Jenny Allen, ODOT Civil Rights Division Manager
Steve Duskin, FHWA Civil Rights Specialist
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INTRODUCTION

This report details the Oklahoma Department of Transportation's (ODOT) process for setting the Federal Fiscal Years (FFY) 2020, 2021 and 2022 overall goal for Disadvantaged Business Enterprise (DBE) participation in federally assisted highway projects. The goal setting methodology complies with the DBE rule set forth in the Code of Federal Regulations, 49 CFR Part 26.45. The methodology includes data from both the construction and preconstruction side.

This submission includes a description of the methodology used to establish the goal, including the base figure and the evidence by which it was calculated, evidence relied upon for any adjustments to the base figure, and a projection of the portions of the overall goal expected to be met through race-conscious and race-neutral measures, respectively.

For questions or comments contact:

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DESCRIPTION OF METHODOLOGY

Proposed DBE Goal for Federal Fiscal Years 2020, 2021, and 2022

The Oklahoma Department of Transportation (ODOT) proposes the following goal for participation by DBEs on federally assisted contracts for FFYs 2020, 2021 and 2022:

Race Neutral - 5.78%

Race Conscious - 3.55%

Total DBE Goal - 9.33%

Step One Base Figure Section 26.45(c)

In determining the available pool, the relative availability (percentage) of Disadvantaged Business Enterprise (DBE) firms in Oklahoma and surrounding states that bid on contracts and submit Letter of Interests (LOIs) from solicitations was determined. In simplest terms, this percentage, or baseline ratio, can be calculated as follows:

Ready, Willing and Able DBEs

All Firms Ready, Willing and Able (DBEs and non-DBEs)

Data collected for this methodology was based off the previous three Federal Fiscal Years (FFYs) (October 1, 2015 – September 30, 2018). ODOT used DBE Method 2 to determine our goal.

Method 2: Use a bidders list. Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on your DOT-assisted prime contracts or subcontracts in the past three years. Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.

Information on the bidders list was captured in the following ways:

Prime Contractors – business enterprises that bid, quote, or perform highway construction work by contracting directly with the Department. All Prime Contractors are required to be prequalified in order to bid on construction projects. The prequalification process is handled through the Office Engineer’s Division. For Prime Contractors, the number of DBE firms and the total number of all firms was derived from Bid Express (Trns*port System), and included all prequalified prime contractors who have submitted bids on highway projects.

Subcontractors– business enterprises that bid, quote, or perform highway construction work by contracting with Prime Contractors. For subcontractors, the numbers of DBE subs and the numbers of non-DBE subcontractors were derived from Bid Express, DBE Directory and data gathered from the Bid Express (Transport System).

Professional Services – business enterprises (Prime Consultants & Sub-consultants) that bid, quote, or perform work at the Preconstruction phase, to include engineering consultants, survey firms, Right-of-Way (ROW) services providers, and all other professional services. Data was collected from the Transportation Online Professional Services (TOPS), which included encumbered contracts, unencumbered contracts and solicitation responses. This information was reviewed with the DBE Directory to determine the available pool of professional services providers.

The table below represents the geographic market area on the distribution of contracts and subcontracts in which contracting dollars were spent. This information was based off the data that was available from Bid Express, TOPS and the DBE Directory.

	Prime Contractors	Subcontractors	Total Dollars	Representative State Percentage
Dollars to In-State Contractors	\$1,733,934,670.26	\$250,363,323.05	\$1,984,297,993.31	88.49%
Dollars to Out-of-State Contractors	\$255,057,981.78	\$3,078,276.43	\$258,136,258.21	11.51%
Total	\$1,988,992,652.04	\$253,441,599.48	\$2,242,434,251.52	100.00%

The Step One calculation was performed by first determining the available pool of ready, willing and able DBE firms in each work category. Then the total number of all ready, willing, and able firms was determined. The total number of firms includes both DBE firms and non-DBE firms. Finally, the number of DBE firms was divided by the number of all firms to arrive at the baseline ratio for each work category. This provides the Step One, or preliminary, calculation of the level of DBE participation one would expect absent the effects of discrimination. This ratio shows the percentage of federal dollars that one would expect to be spent directly or indirectly with DBE firms in each category.

Work Category	Total Non-DBEs	Total DBEs	Total Pool	% DBE Availability
Bridge	26	1	27	3.70%
Erosion	18	9	27	33.33%
Fencing & Guardrail	11	2	13	15.38%
Grade & Drain	59	5	64	7.81%
Painting	21	0	21	0.00%
ROW	32	1	33	3.03%
Surfaces	111	11	122	9.02%
Staking	15	7	22	31.82%
Structures	59	13	72	18.06%
Traffic Control	12	2	14	14.29%
Trucking	13	14	27	51.85%
Preconstruction	79	26	105	24.76%
Total	456	91	547	

Ready, Willing and Able DBEs (91)
All Ready, Willing and Able Firms(547)

Baseline Ratio = 16.63%

Weights

To further refine the base percentage, the available pool is weighted for each major area of work, consistent with the work categories contracted in the highway program. These categories include Bridge, Erosion, Fencing & Guardrail, Grade & Drain, Painting, ROW, Surfaces, Staking, Structures, Traffic Control, Trucking and Preconstruction. ODOT categorizes over 1500 construction pay items contained in the Trns*port system by item group, item number, percent of dollars contracted, and contract occurrence. The total amount of each contract and subcontract according to type was configured in a weighted percentage of contracted dollars for each of the major categories of work.

Work Category	Contracted Dollars (A)	% DBE Available (B)	% Base Goal (AxB)
Bridge	19.86%	3.70%	0.73%
Erosion	0.76%	33.33%	0.25%
Fencing & Guardrail	0.01%	15.38%	0.00%
Grade & Drain	55.24%	7.81%	4.32%
Painting	0.36%	0.00%	0.00%
ROW	0.16%	3.03%	0.00%
Surfaces	8.86%	9.02%	0.80%
Staking	0.20%	31.82%	0.06%
Structures	3.61%	18.06%	0.65%
Traffic Control	2.57%	14.29%	0.37%
Trucking	0.23%	51.85%	0.12%
Preconstruction	8.16%	24.76%	2.02%
Base Goal 9.33%			

Once the percentage of work contracted by work category is determined, that percentage of work is then multiplied by the percentage availability of DBEs by each category. Those figures are then added together to determine the baseline goal resulting in 9.33%. The ODOT elected not to continue with a Step Two adjustment to the baseline goal. The ODOT is not aware of any disparities in financing, bonding, and insurance or effects of past discrimination. In addition, the last disparity study conducted for Oklahoma was in 2010, which is outdated. A new disparity study for Oklahoma will be conducted in the near future.

Race Neutral and Race Conscious Projections

Based on the race neutral figures and attainments from FFYs 2014-2018, the median is 5.78%.

FFY	Attained %	RC	RN	RN % (RN/Attained%)
2014	9.62%	3.90%	5.72%	59%
2015	8.11%	4.04%	4.07%	50%
2016	8.81%	3.03%	5.78%	65%
2017	12.57%	3.48%	9.09%	72%
2018	11.29%	3.94%	7.35%	65%

Race Neutral – Race Conscious Goals

The following outlines the figures based on the data reviewed from FFYs 2015-2018:

- A) Step One: Base Goal 9.33%
- B) Race Neutral Participation 5.78%
- C) Race Conscious Goal 3.55%

Given the above:

$$\begin{aligned}
 \text{Neutral Goal} &= B = 5.78\% = 5.78\% \\
 \text{Conscious Goal} &= A-B = 9.07\%-5.78\% = \underline{3.55\%} \\
 \text{Total DBE Goal for FFYs 2020, 2021 and 2022} &= 9.33\%
 \end{aligned}$$

Public Outreach Section 26.45(g)

The ODOT used several different approaches in order to receive public input regarding the proposed DBE goal for FFYs 2020, 2021 and 2022.

- A public meeting was held in Oklahoma City, OK. Information in regards to the public meeting was posted on the CRD's website and in the Oklahoman and Tulsa World on June 10, 2019. The public meeting was held on June 18, 2019, at:

Oklahoma Department of Transportation – Commission Room
200 NE 21st Street
Oklahoma City, OK 73105
6:00 pm

There were no attendees.

- The proposed goal methodology report along with an electronic comment form was posted on the CRD website, the Oklahoman, Tulsa World and Journal Record on June 24, 2019. The notice informed the public of the proposed goal and its rationale. The notice also stated that the report was available for inspection during normal business hours and that comments would be accepted until July 26, 2019. No comments were received.

Implementation of Race Neutral Methods

The ODOT will continue its current procedures for ensuring the participation of DBEs in all of its contracting activities. These processes consist of, but are not limited to:

- Free technical assistance and other services that will assist DBE firms and make them more marketable to Prime Contractors and Prime Consultants;
- Monthly articles about the DBE program in the Oklahoma's Association of General Contractors magazine to bring more aware about the program to Primes;
- Advertisement of the DBE program through billboards, benches and shelters in order to increase the number of certified DBE firms;
- Developing the AASHTOware Civil Rights & Labor software product, which will help the agency track and monitor DBE participation;
- Work with our DBE Consultant, McMahon Marketing, whose contract was extended for another year. McMahon Marketing has been working with DBE firms on the development of bids/quotes and securing contracts at ODOT.
- Continuation of the DBE Advisory Board, which was created in January 2019. The DBE Advisory Board meets quarterly to:
 - Facilitate communication and relationships between DBE firms, ODOT, Primes and FHWA;
 - Identify areas of training to enhance DBE firm capabilities;
 - Facilitate opportunities for DBE firms;
 - Make the program stronger to increase overall DBE utilization goals; and
 - Advise the department on suggested changes to the DBE program, policies, specifications and special provisions.