

## **FLORIDA DEPARTMENT OF TRANSPORTATION**

### **METHODOLOGY FOR DETERMINING DBE GOAL (49 CFR 26.45) FEDERAL HIGHWAY ADMINISTRATION FEDERAL FISCAL YEARS 2024-2026**

#### **OVERALL GOAL**

The overall goal for the Florida Department of Transportation's (FDOT) Disadvantaged Business Enterprise (DBE) program for FHWA assisted contracts is established on a triennial basis. The overall goal for federal fiscal years 2024 - 2026 has been set at **10.71%** utilizing the methodologies described in 49 CFR Part 26. By submission of this goal methodology, FDOT commits that it will regularly monitor its progress in achieving the goal over the next three years and adjust its measures to include race conscious efforts, if necessary.

#### **METHODOLOGY**

In setting the goal for FDOT, it is required that the goal setting process begin with a base figure for the relative availability of DBEs. The overall goal must be based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on FHWA assisted contracts. The State of Florida is the primary market area for this analysis because all the dollars are spent within Florida and the vast majority of the contractors and consultants are located in Florida.

#### **Step One – 26.45(c)**

##### **1. Base Figure**

FDOT reviewed the alternatives listed in 49 CFR Part 26 and selected the use of the DBE Directory and Census Bureau Data as the best approach for goal development. FDOT gathered business establishment information and DBE certification information for its step one analysis.

In an effort to narrowly tailor our submission, we used data from the Florida Bureau of Labor Statistics, identifying firms ready, willing, and able to perform work in Highway Construction and Consultant work areas on FHWA-assisted projects. This resulted in a total of 18772 ready, willing, and able construction firms, both DBE and non-DBE; and at 38137 of ready, willing, and able consultant firms, both DBE and non-DBE. We then used the DBE Directory to identify ready, willing, and able DBE construction and consultant firms, adjusted to account for firms likely or potentially eligible to seek/obtain certification. This provided a total of 1695 DBE construction firms and 2544 consultant service firms. By dividing the number of DBE firms by all firms ready, willing, and able to participate on FHWA-assisted Highway projects, we arrived at a relative

availability for both construction and consultant services. The calculation is shown below:

$$\text{Construction} \quad \frac{1695 \text{ Ready Willing Able DBEs}}{18772 \text{ All Ready Willing Able Firms}} = 9.02\% \text{ Relative Availability}$$

$$\text{Consultant} \quad \frac{2544 \text{ Ready Willing Able DBEs}}{38137 \text{ All Ready Willing Able Firms}} = 6.67\% \text{ Relative Availability}$$

$$9.02\% + 6.67\% = 15.69\% \text{ Total Relative Availability}$$

## 2. Weighted Base Figure

Despite best efforts, FDOT was unable to fully scrub the labor market statistics of work areas common to both vertical and horizontal construction and, as FDOT is unable to effectively use its bidders list for Step One calculations, we instituted a process for weighting relative availability of firms by the FHWA funds projected for basic work categories. We believe this resulted in a more accurate and reliable Step One figure.

### CONSTRUCTION CONTRACTORS:

FDOT's PrC System now has information to identify how much dollars FDOT spends on different types of construction work. Because of this, we can use this information along with information from the EOC system to weight our calculations by NAICS codes. The following table provides the percentage of dollars that DBEs would be expected to receive by NAICS based on the following:

| NAICS Code | NAICS Description         | DBE Relative Availability (%) | FHWA Funds by NAICS (%) | FHWA Funds for DBEs (%) |
|------------|---------------------------|-------------------------------|-------------------------|-------------------------|
| 237110     | Water/Sewer Structures    | 16.67                         | 1.41                    | .24                     |
| 237310     | Highway Street Bridge     | 4.40                          | 58.55                   | 2.58                    |
| 238120     | Steel & Precast Concrete  | 23.91                         | 1.23                    | .29                     |
| 238210     | Electrical                | 32.14                         | 3.05                    | .98                     |
| 238910     | Site Preparation          | 8.41                          | 7.89                    | .66                     |
| 238990     | All Other Specialty Trade | 8.53                          | 22.96                   | 1.96                    |
| 561730     | Landscaping               | 19.86                         | 3.38                    | .67                     |

**7.38% for DBEs**

As 7.38% of FHWA Funds are projected to be available for DBEs, and as 90.99 of all FHWA are projected for construction work items, the weighted relative availability for construction DBEs is 6.72%, as shown by the following calculation:

$$.738 \times 90.99\% = 6.72\% \text{ Weighted Construction DBE Availability}$$

## CONSULTANT SERVICES FIRMS:

The median dollars received by the consultant industry over the last three years was 9.01% of the federal dollars. FDOT prequalifies all our professional services' firms by work category and also tracks the dollars spent in each of these work categories. Therefore, FDOT is able to weight our calculations by each work group. The following table provides the percentage of dollars that DBEs would be expected to receive by work category based on the following:

| FDOT Consultant Prequalification | DBE Relative Availability (%) | FHWA Funds by NAICS (%) | FHWA Funds for DBEs (%) |
|----------------------------------|-------------------------------|-------------------------|-------------------------|
| PD & E Studies                   | 15.70                         | 24.20                   | 3.80                    |
| Highway Design                   | 34.30                         | 25.00                   | 8.58                    |
| Bridge Inspection                | 18.52                         | 0.90                    | 0.17                    |
| Bridge Design                    | 15.24                         | 1.40                    | 0.21                    |
| Intelligent Transportation       | 31.56                         | 2.40                    | 0.76                    |
| Roadway Signalization            | 36.79                         | 0.90                    | 0.33                    |
| Surveying & Mapping              | 25.98                         | 5.40                    | 1.40                    |
| Geotech                          | 45.19                         | 3.40                    | 1.54                    |
| Engineering & Inspection         | 31.07                         | 26.60                   | 8.27                    |
| Planning                         | 31.71                         | 2.90                    | 0.92                    |
| Landscape Architect              | 21.74                         | 0.70                    | 0.15                    |
| Realty & ROW Services            | 25.00                         | 0.30                    | 0.08                    |
| Miscellaneous Services           | 7.46                          | 2.00                    | 0.15                    |

**26.36% for DBEs**

As 26.35% of FHWA Funds are projected to be available for DBEs, and as 9.01% of all FHWA are projected for consultant services, the weighted relative availability for consultant DBEs is 2.37%, as depicted in the following calculation:

**.2635 x 9.01% = 2.37% Weighted Consultant DBE Availability**

### Step One Result:

|                                      |   |              |
|--------------------------------------|---|--------------|
| DBE Contractor Weighted Availability |   | 6.72%        |
| DBE Consultant Weighted Availability | + | 2.37%        |
| <b>Weighted Base Figure</b>          |   | <b>9.09%</b> |

The results of step one indicates that 9.09% is a valid base figure under current rules and processes for the determination of availability. This has been determined based on the most accurate information available.

### 3. Description of Data Used

FDOT used a number of sources to both identify relative availability of firms and to test the accuracy of its data. In all cases, we reviewed the data sources to ensure that no firm was counted more than once. We also ensured that data

reflected all firms ready, willing, and able to work on FHWA-assisted projects, whether as a prime contractors/consultants or subcontractors/subconsultants, or whether the projects were state or locally administered.

The following is a list of the data used and its source(s):

- Florida Department of Economic Opportunity, Bureau of Labor Market Statistics through December 2022.
- Florida UCP DBE directory.
- Reports from AASHTOWare – Project Construction (PrC) that list bidders, successful bidders, and their listed subcontractors.
- Reports from the Procurement Development Application (PDA) that lists bidders, successful bidders, and their listed subconsultants.
- DBEs and MBEs entered into the Equal Opportunity Compliance (EOC) system.

## **Step Two – 26.45(d)**

According to 49 CFR Part 26, step two of the calculation process should examine the evidence available to determine if adjustments are needed in the base figure to arrive at an overall goal. The last DBE Disparity Study conducted for FDOT was dated January 1999 and reviewed data from July 1991 through December 1997. This study conducted by MGT of America recommended “the suspension of current race and gender preference programs” and “the establishment of race and gender-neutral programs which assist all small businesses.” The only other evidence that was available to be considered to determine if an adjustment was warranted was the capacity of DBEs measured by the past volume of work performed between 2011 and 2022.

### **PAST PARTICIPATION**

To analyze past performance, FDOT narrowly tailored our review to the performance of contractors and consultants separately over the past 12 years. In the past twelve federal fiscal years from 2011 thru 2022, DBE contractors performed 6.84%, 7.61%, 10.31%, 8.25%, 11.29%, 11.40%, 10.88%, 11.12%, 10.84%, 9.40%, 13.03% and 9.06% respectively of the Federal-aid work, in dollars. The median past participation over these twelve years is 10.58% and the relative availability of DBE contractors as determined in step one is 6.72%. To incorporate past performance, the appropriate adjustment is to average the median past participation (10.58%) and the relative availability (6.72%). This average is 8.65%, which results in an upward adjustment to the relative availability of 1.93% for contractors.

In the same fiscal years, DBE consultants performed 1.66%, 2.70%, 1.47%, 2.43%, 2.44%, 1.19%, 1.17%, 1.85%, 1.61%, 1.87%, 1.56% and 3.60% respectively, of the Federal-aid work, in dollars. The median past participation over these twelve years is 1.76%. The relative availability of DBE consultants as determined in step one is 2.37%. To incorporate past performance, the

appropriate adjustment is to average the median past participation (1.76%) and the relative availability (2.37%). This average is 2.07%, which results in a downward adjustment to the relative availability of 0.31% for consultants.

#### PAST PARTICIPATION

| Fed Fiscal Year | DBE Achievement |
|-----------------|-----------------|
| 2011            | 8.50            |
| 2012            | 10.31           |
| 2013            | 11.78           |
| 2014            | 10.68           |
| 2015            | 13.73           |
| 2016            | 12.59           |
| 2017            | 12.05           |
| 2018            | 12.97           |
| 2019            | 12.45           |
| 2020            | 11.27           |
| 2021            | 14.59           |
| 2022            | 12.66           |

} **12.32%  
Median**

The proposed DBE goal is represented by the following calculation:

|                                   |                 |
|-----------------------------------|-----------------|
| <b>Baseline Figure:</b>           | <b>9.09%</b>    |
| <b>Median Past Participation:</b> | <b>12.32% +</b> |
|                                   | <hr/>           |
|                                   | <b>21.41</b>    |
|                                   | <b>2</b>        |

**DBE Goal = 10.71% (reflecting an upward adjustment of 1.62%)**

#### RACE CONSCIOUS PARTICIPATION

In federal fiscal year 2021-2022, FDOT's DBE participation goal was 10.65%. The actual DBE participation was 12.66% on federally funded contracts which was 2.01% higher than the established goal. On state funded contracts, DBE participation was 12.84%; DBE participation on federal and state funded contracts combined was 12.76%. Through May 31<sup>st</sup>, of the current federal fiscal year, DBE participation on federally funded contracts is 13.61%. On state funded contracts the DBE participation is 11.92% and federal and state funds combined is 12.55%.

#### RACE NEUTRAL METHODS

FDOT has initiated many strategies over the past twelve years and is continuing to develop and implement others. Some of the strategies that have been implemented in these years have taken time to mature and show results, but the

efforts are productive. One of the significant race neutral strategies has been the implementation of the Business Development Initiative (BDI). This Initiative was implemented on state funded projects in July 2006. FDOT originally submitted a request to apply this Initiative on federally funded contracts as a race neutral method in our DBE goal calculation methodology in FDOT's submittal to the FHWA on July 26, 2006. After much delay, FDOT was asked to request this approval separately. On March 6, 2007 FDOT submitted a proposal to the FHWA Florida Division requesting to also apply the BDI to federally funded projects. On September 25, 2007, the FHWA Florida Division forwarded the request to FHWA headquarter for approval as an SEP 14. In March 2009, the FHWA approved the BDI on federal funded projects. This approval increased the number of BDI contracts because of the smaller contracts associated with the American Recovery and Reinvestment Act (ARRA).

The Department and the State of Florida has fully supported the concept of the BDI, as proven by the fact that in April 2016, Governor Rick Scott signed House Bill 7027 to include the establishment of a Business Development Program to assist small businesses in obtaining contracts with the department. The bill went into effect July 1, 2016 and is now a FDOT way of Business (see [FS 337.027](#)).

The BDI has been successful in assisting small firms to become a prime and in growing their business to eventually compete on larger contracts.

Other race neutral methods that are being used include:

1. The Construction Management Development Program (CMDP) is a state funded program designed to improve and develop skills of owners and managers enabling them to perform successfully on FDOT projects. Courses offered are Business Management, Construction Accounting, Construction Math and Estimating, Contracts, Specifications and Law, Scheduling for FDOT and Plan Reading for FDOT. Once the owner(s) or manager(s) of a DBE firm completes the prescribed course(s), the firm will receive a Certificate of Proficiency and will graduate into the Bond Guarantee Program. These courses as well as a course on financing and bonding are held yearly in nine locations throughout the State (Ft. Myers, Ft. Lauderdale, Orlando, Jacksonville, Tallahassee, Pensacola, Miami, Ft. Pierce and Tampa).
2. Reserving contracts for small businesses under the Department's Business Development Initiative. The Department's goal is to reserve 10% of the construction/maintenance contracts and 15% of the professional services contracts to small businesses.
3. To address concerns about overconcentration in certain areas of professional services, the Department has taken measures to address the underutilization of small businesses. The Department is encouraging primes to use small businesses in areas where they are underutilized.

Underutilization is defined by the Department as 30% or less DBE and small business utilization level for advertised Work Groups.

Underutilization levels vary by district.

4. Providing technical assistance and other services throughout the year to DBEs and other small businesses with special emphasis on marketing, financing and bonding.
5. Providing assistance throughout the year in overcoming limitations such as inability to obtain bonding or financing.
6. Working with prime contractors, consultants, the Florida Transportation Builders Association, and the American Council of Engineering Companies of Florida to encourage the use of DBEs.
7. Performing a Bid Matching function through Supportive Service for DBEs to help pinpoint exact opportunities in work areas of interest to the DBE. This service also identifies prime plan holders to allow the DBE to target specific firms.
8. Bridging the Gap program designed to assist DBE owners ready to take the next step in growing their business.
9. The Bond Guarantee Program is a financial support program, which the State of Florida acts as a second surety, guaranteeing the construction bonds for DBEs working on FDOT projects. Participation in the BGP is limited to those DBEs who have been awarded a Certificate of Proficiency and have documented knowledge of the principles of construction bonding. Services under the BGP include packaging bond applications, construction bond principles seminars, and overhead audits, a one-time free service for DBEs seeking pre-qualification as a consultant.

## **PUBLIC PARTICIPATION**