

**FAA DBE Goal Methodology
West Yellowstone Airport (WYS)
Montana Department of Transportation
Federal Fiscal Year 2021**

The Montana Department of Transportation (MDT), in accordance with United States Department of Transportation (USDOT) guidelines, determines MDT's Disadvantaged Business Enterprise (DBE) Goal for Federal Aviation Administration (FAA) funded contracts on a staggered three-year schedule. The West Yellowstone Airport recently met the criteria for a primary airport. This is a one-year goal for Federal Fiscal Year (FFY) 2021 and then MDT will prepare a goal for FFY 2022-2024 to align with the three-year schedule for primary airports.

MDT calculates the goal using the criteria set forth in 49 CFR Part 26.45. The determination of the level of DBE participation is based on the availability of all DBE businesses that are ready, willing, and able to participate in FAA-assisted contracts in the State of Montana in relationship to all comparable businesses which are known to be available to compete for FAA-assisted contracts.

For FFY 2021, MDT has established an overall DBE goal of 4.7% for the West Yellowstone Airport to be accomplished through race neutral means.

This methodology and the supporting evidence comply with the requirements of the federal regulations and federal guidance, as well as relevant court decisions, including *Western States Paving v. Washington State Dept. of Transportation*, 907 F.3d 963 (9th Cir. 2005).

For FFY 2021, the following projects are anticipated for the West Yellowstone Airport:

Contract(s) FY 2021 – \$4,406,129

- Project 1. Design Terminal Improvements
- Project 2. Construct Terminal Improvements
- Project 3. Construct Runway Vertical Guidance System (PAPI)

MDT engaged a consultant (Keen Independent) to conduct an Availability and Disparity Study, which was completed in July of 2016. Although this Study did not examine contracts using Federal Aviation Administration (FAA) funds or vertical construction work types; MDT and other agencies might review information in the report regarding DBE availability as they relate to operating the Program for FAA-funded contracts. Since contractors that participated on MDT contracts during the Study period are in most cases the same contractors that are awarded FAA-funded contracts, MDT used the DBE availability data from the 2016 Disparity Study to calculate the goal for the West Yellowstone Airport.

Market Area

The market area is where most firms seeking to work with the Airport are located and where the Airport spends most of its contracting dollars. The Disparity Study found that 89% of MDT contract dollars during the study period went to firms with Montana offices. For the most recent projects at West Yellowstone Airport, 86% of the firms were based in Montana.

Therefore, MDT established the market area as the State of Montana and used Disparity Study availability data for firms that indicated they were ready, willing, and able to work in the Butte District, which includes the West Yellowstone Airport.

Step 1: Determining the Base Figure

One of the projected projects is constructing terminal improvements and the Disparity Study did not look at vertical construction. However, the anticipated initial work for terminal construction is excavation and foundation work, which was included in the Disparity Study. Therefore, for the Step 1 Base Figure, MDT determined the relative DBE availability in accordance with 49 CFR Part 26.45 (c)(3), which is to use data from a Disparity Study.

Table 1 calculates the DBE availability using the 2016 Disparity Study data and anticipated work types and associated costs for all projects in 2021 at the West Yellowstone Airport.

Table 1 – Weighted DBE Availability using 2016 Disparity Study Data

Work Type	# of DBE Firms	# of Total Firms	DBE Availability	Estimated Dollar Value	% of Total Contract	Weighted DBE Availability
Asphalt and concrete paving	5	78	6.41%	\$ 668,450	15.17%	1.0%
General road construction and widening	6	114	5.26%	\$ 668,450	15.17%	0.8%
Excavation, site prep, grading, and drainage	7	117	5.98%	\$ 700,006	15.89%	1.0%
Drilling and foundations	2	60	3.33%	\$ 499,997	11.35%	0.4%
Electrical work including lighting and signals	0	37	0.00%	\$ 75,000	1.70%	0.0%
Engineering	3	83	3.61%	\$1,794,227	40.72%	1.5%
Totals	75	1353	5.54%	\$4,406,130	100.00%	4.7%

The weighted DBE availability calculation and step 1 base figure is 4.7%.

Step 2: Adjustments to the Base Figure

During Step 2, MDT examined all evidence available in its jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at the overall DBE participation goal. MDT considered the following Step 2 adjustments:

- Current capacity of DBEs to perform work, as measured by the volume of work DBEs have performed in recent years;
- Information related to employment, self-employment, education, training and unions;
- Any disparities in the ability of DBEs to get financing, bonding, and insurance; and
- Other relevant factors

Current Capacity

The West Yellowstone Airport did not have DBE participation on projects awarded from FFY 2014 - 2018 and 1.62% DBE participation was achieved in FFY 2019. While there was recent DBE participation, the proposed projects have different work types and would not be a good indicator of what could be expected in the future. Therefore, MDT did not make a current capacity adjustment to the Step 1 figure.

Employment, Education, Training, and Unions

The 2016 Disparity Study conducted analysis related to marketplace conditions in Montana and found that there are barriers that certain minority groups and women face related to entry and advancement and business ownership in the Montana construction and engineering industries. Specifically, Native Americans working in the Montana construction industry were less likely than non-minorities to own construction businesses and women working in the Montana engineering industry were less likely than men to own engineering companies.

Keen Independent estimated the availability of minority- and women-owned firms but for the effects of race- and gender-based discrimination and determined there could be a possible upward adjustment to the base figure (calculation shown in Figure 9-3 in the Disparity Study). The amount as it relates to the work types at the West Yellowstone Airport is not quantifiable, therefore, MDT chose not to make a step 2 adjustment based on this data.

Financing, Bonding, and Insurance

The 2016 Disparity Study found quantitative and qualitative evidence of disadvantages for minorities, women, and minority- and women-owned firms relating to access to financing and bonding. Although the analysis indicates an upward adjustment could be made to address these barriers, the impact of those factors could not be quantified (2016 Disparity Study, Chapter 9, Page 9). As a result, MDT chose not to make this Step 2 adjustment.

Other Factors

The other factors examined in the 2016 Disparity Study were related to success of minority- and women-owned firms relative to majority-owned businesses in the Montana marketplace. The Study noted quantitative evidence that minority- and women-owned firms are less successful than majority-owned firms and face greater barriers in the marketplace. There was also qualitative information that suggests discrimination based on race, ethnicity and gender affects minority- and women-owned firms in the Montana transportation contracting industry. Although the analysis indicates an upward adjustment could be made to address these barriers, the impact of those factors could not be quantified (2016 Disparity Study, Chapter 9, Page 9). As a result, MDT chose not to make this Step 2 adjustment.

Final Step 2 Adjustments to Step 1 Base Figure

After examining all evidence available and evaluating all Step 2 adjustment options, MDT elected to not make any adjustments to the Base Figure. The overall DBE participation goal for West Yellowstone Airport (WYS) for FFY 2021 is 4.7%.

Race Conscious / Race Neutral Evaluation

The 2016 Disparity Study indicated that race- and possibly gender-conscious means may need to be implemented for the portion of the overall goal that cannot be met solely through race neutral measures. While race- and possibly gender-conscious methods may be used, MDT has shown through DBE utilization at other airports and through other Department of Transportation Operating Administrations that it can meet its overall DBE goal solely through race neutral measures. Furthermore, to comply with 49 CFR 26.51, where the maximum feasible portion of the overall DBE goal must be met through race- and gender-neutral measures MDT proposes to meet the overall goal solely through race neutral measures. If the Uniform Report indicates that the Airport fell short or will fall short of meeting the overall goal, MDT will re-evaluate how much of the overall goal can be met through race neutral means and implement race conscious measures (i.e. project specific goals) to meet the remainder of the goal.

Race Neutral Initiatives

To meet the overall 4.7% DBE goal, MDT is committed to implementing race neutral measures that encourage small business and DBE participation. MDT has implemented several race neutral measures to ensure the maximum feasible portion of the overall goal is achieved through race neutral means, in accordance with 49 CFR 26.51. These include:

- A Quote Request System that allows a prime contractor to solicit bids from DBE and SBE firms. <https://app.mdt.mt.gov/dbeq/>
- Ensuring a reasonable number of prime contracts are of a size that small businesses can reasonably perform. As indicated in the 2016 Disparity Study, more than one-half of MDT's projects were categorized as being

Draft FAA Goal Methodology for 2021-2023 at West Yellowstone Airport as of 7/14/2020
small contracts (under \$250,000). The proposed projects at the Airport are broken into phases to allow for smaller contract sizes.

MDT provides the following Supportive Services for DBEs and SBEs:

- Long-term development assistance to increase opportunities
- Trainings in contracting procedures
- Assistance to start-up firms; and
- Identification of potential DBEs and SBEs

Submission and Publication of Goal

On July 14, 2020, MDT published its proposed DBE goal and methodology (2021-2023) for contracts at West Yellowstone Airport using FAA funds. MDT posted the information on MDT's website and sent the information to interested parties, including transit providers and MDT's certified DBE firms.

The proposed Goal Methodology is available for review on MDT's website and at MDT's Headquarters Building, Office of Civil Rights, 2701 Prospect Avenue, Room 201, Helena, Montana.

MDT will hold a virtual public hearing on July 21, 2020 concerning the proposed overall DBE goal. MDT is seeking public comments about its proposed overall three-year DBE goal. Comments can be provided in the following ways:

- Verbal testimony: at virtual public hearing
- Email: mdtcrform@mt.gov
- Mail: MDT Office of Civil Rights, PO Box 201001, Helena, MT 59620

MDT will review all comments and make any necessary adjustments to the goal and submit to FAA by August 1, 2020.