

**FEDERAL FISCAL YEAR 2021 – 2023
MONTANA DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION
DBE GOAL METHODOLOGY**

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 Transit Administration (FTA) funded contracts on a staggered three-year schedule.

MDT calculates the Goal using the criteria set forth in 49 CFR Part 26.45. For Federal Fiscal Year 2021 – 2023, MDT has established an overall DBE goal of 0.7% 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).

Step 1: Determining the Base Figure

For the Step 1 Base Figure, MDT determined the relative DBE availability in accordance with 49 CFR Part 26.45 (c)(1), which is to use DBE Directories and Census Bureau Data. When reviewing these datasets, MDT used the State of Montana as the market area because the different transit providers are located statewide, and a significant portion of the contract dollars went to firms in Montana.

To perform the calculation, two figures need to be determined; the number of DBE firms and the number of total firms that are ready, willing, and able to compete for FTA-assisted contracts through MDT.

DBE Firms

MDT evaluated quarterly reports from the transit providers to determine the types of work being utilized on FTA- funded contracts. Although current quarterly reports are indicating fewer expenditures due to the COVID-19 pandemic, the future purchases are anticipated to be similar to what was expended in the past. Table 1 provides a breakdown of the number of DBE firms by NAICS code in the market area for the types of work MDT intends to award.

Table 1 – Number of DBE firms^a by NAICS code for FTA-Assisted Contracts

# of DBE firms	NAICS Code	Description
3	221	Utilities
2	236210	Building Construction and Repairs
1	323111	Printing

^a DBE Firms by NAICS code was obtained from MDT DBE Directory in May 2020

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1	423120	Auto Parts
0	441320	Tire Shops
0	447110	Fuel/Gas Stations
0	453210	Office Supplies
1	485	Transit Transportation
0	488410	Towing
0	5111	Newspaper Publishers
0	515111	Radio Networks
0	51731	Phones
0	524210	Insurance
0	531120	Building Lease
0	541211	Accounting and Auditing
5	5415	IT Services and Software Subscriptions
6	5418	Advertising Services
3	561320	Temporary Help Services
2	561720	Janitorial Services
1	621999	Drug Testing
0	81111	Automotive Repair
0	811191	Oil Change Shops
25	Total DBE Firms for FTA-Assisted Contracts	

Total Firms

Using the same NAICS codes as identified in Table 1, MDT reviewed the number of businesses published in the Census Bureau County Business Patterns^b. Table 2 provides a breakdown of total firms from the Census by their NAICS code.

Table 2 – Number of total firms from Census Data by NAICS code

# of Total firms	NAICS Code	Description
211	221	Utilities
17	236210	Building Construction and Repairs
67	323111	Printing
44	423120	Auto Parts
127	441320	Tire Shops
414	447110	Fuel/Gas Stations
39	453210	Office Supplies
92	485	Transit Transportation
63	488410	Towing
115	5111	Newspaper Publishers

^b Total Firms by NAICS code for Montana were obtained from 2017 County Business Pattern Census Data in May 2020 at data.census.gov

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6	515111	Radio Networks
236	51731	Phones
722	524210	Insurance
151	531120	Building Lease
328	541211	Accounting and Auditing
367	5415	IT Services and Software Subscriptions
108	5418	Advertising Services
100	561320	Temporary Help Services
362	561720	Janitorial Services
23	621999	Drug Testing
465	81111	Automotive Repair
54	811191	Oil Change Shops
4111	Total Firms for FTA-Assisted Contracts	

The relative DBE availability is calculated as follows:

$$\frac{25 \text{ DBE firms}}{4,111 \text{ Total firms}} \times 100 = 0.6\% \text{ DBE availability}$$

Step 1 Base Figure Weighting

Weighting can help ensure that the Step 1 Base Figure is as accurate as possible. In order to weight the relative DBE availability, MDT reviewed purchases from transit provider’s quarterly reports, excluding funds used for the purchase of transit vehicles and operating expenses such as salaries and fringe benefits.

The relative availability of DBEs by work type was multiplied by the percent of work projected to be used based on prior year expenditures. Table 3 indicates the calculation for weighting the Step 1 Base Figure.

Table 3 – FTA DBE Weighted Availability

Description	# of DBE firms	# of Total firms	Relative DBE Availability	% Expenditures	Weighted DBE Availability
Utilities	3	211	1.4%	3.2%	0.0%
Building Construction and Repairs	2	17	11.8%	0.7%	0.1%
Printing	1	67	1.5%	0.3%	0.0%
Auto Parts	1	44	2.3%	1.0%	0.0%
Tire Shops	0	127	0.0%	3.3%	0.0%
Fuel/Gas Stations	0	414	0.0%	17.7%	0.0%
Office Supplies	0	39	0.0%	1.0%	0.0%
Transit Transportation	1	92	1.1%	36.2%	0.4%

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Towing	0	63	0.0%	0.4%	0.0%
Newspaper Publishers	0	115	0.0%	2.3%	0.0%
Radio Networks	0	6	0.0%	2.2%	0.0%
Phones	0	236	0.0%	1.6%	0.0%
Insurance	0	722	0.0%	7.0%	0.0%
Building Lease	0	151	0.0%	0.6%	0.0%
Accounting and Auditing	0	328	0.0%	1.3%	0.0%
IT Services and Software Subscriptions	5	367	1.4%	4.5%	0.1%
Advertising Services	6	108	5.6%	0.6%	0.0%
Temporary Help Services	3	100	3.0%	3.2%	0.1%
Janitorial Services	2	362	0.6%	0.6%	0.0%
Drug Testing	1	23	4.3%	0.5%	0.0%
Automotive Repair	0	465	0.0%	10.2%	0.0%
Oil Change Shops	0	54	0.0%	1.6%	0.0%
Total	25	4111	0.6%	100.0%	0.7%

After weighting the goal by work type, the Step 1 Base Figure is calculated at 0.7% DBE availability.

Step 2: Adjustments to the Base Figure

During Step 2, MDT examined evidence available in its jurisdiction to determine what adjustment, if any, is needed to the base figure in order 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;
- Evidence from disparity studies;
- 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

To determine the impacts of the current local market conditions and work performed by DBE firms, MDT reviewed the FTA Uniform Report of DBE Awards or Commitments

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and Payments for Federal Fiscal Years 2017 through 2019, which is summarized in Table 4.

Table 4 – Past DBE Participation

Federal Fiscal Year	DBE Participation
2017	0%
2018	0%
2019	0.25%

The USDOT’s Tips for Goal Setting in the DBE Program recommends using the median to calculate past participation. In this case, the median is 0%, so MDT elected to not make an adjustment for past participation.

Evidence from Disparity Studies

MDT engaged a consultant (Keen Independent) to conduct an Availability and Disparity Study, which focused on participation of minority- and women-owned firms in MDT’s contracts from October 2009 through September 2014. The Study was completed in July of 2016. Although this Study did not examine contracts using Federal Transit Administration (FTA) funds; MDT and other agencies might review information in the report regarding DBE availability as they relate to operating the Program for FTA-funded contracts. Since the work types evaluated in the Disparity Study are different than the work types used on FTA-funded contracts, MDT elected not to use DBE availability data from the 2016 Disparity Study to adjust the goal.

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). Keen Independent’s adjustment analysis was based on road construction and did not factor in work types used on FTA-funded contracts. As a result, 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 (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 on the basis of 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 (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 chose not to make any step 2 adjustments. The overall DBE participation goal for FTA-funded contracts for Fiscal Years 2021 through 2023 is 0.7%.

Race Conscious / Race Neutral Evaluation

Last year, MDT obtained 0.25% participation from a DBE firm certified part way through the year. Transit providers anticipated work to continue with the firm. In addition, MDT has been working more closely with transit providers and implementing the race neutral measures outlined in this document. 49 CFR 26.51 requires that the maximum feasible portion of the goal is met through race neutral means. As such, MDT is proposing to meet the goal of 0.7% using solely race neutral methods for Fiscal Years 2021 through 2023.

In accordance with 49 CFR 26.47(d), MDT will continue to monitor DBE participation and if the trends make it unlikely that the overall goal will be achieved through race neutral means, race conscious measures may be added for the remainder of the fiscal year.

MDT will continue to monitor participation of minority- and women-owned firms in its contracts and collect qualitative data concerning marketplace conditions.

Race Neutral Initiatives

In order to meet the overall 0.7% DBE goal, MDT is committed to implementing race neutral measures that encourage small business and DBE participation. MDT will offer trainings throughout the year to Transit providers to enhance their knowledge of the DBE program and improve collaboration between providers and DBE firms.

In addition, MDT provides the following Supportive Services for DBEs:

- Long-term development assistance to increase opportunities

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- Trainings in contracting procedures
- Assistance to start-up firms; and
- Identification of potential DBEs

Submission and Publication of Goal

On July 14, 2020, MDT published its proposed DBE goal and methodology (2021-2023) for contracts using FTA 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 FTA by August 1, 2020.