

**FEDERAL FISCAL YEAR 2024 – 2026
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 2024 – 2026, MDT has established an overall DBE goal of 2.7% 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. The future purchases are anticipated to be similar to what was expended in the past. MDT used its DBE Directory to determine the number of DBE firms by NAICS code.

Total Firms

Using the same NAICS codes, MDT reviewed the number of businesses published in the Census Bureau County Business Patterns^a.

^a Total Firms by NAICS code for Montana were obtained from 2021 County Business Pattern Census Data in July 2023 at data.census.gov

Step 1 Base Figure Weighting

Weighting can help ensure that the Step 1 Base Figure is as accurate as possible. To weight the relative DBE availability, MDT reviewed purchases from transit provider's quarterly reports.

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 1 indicates the calculation for weighting the Step 1 Base Figure.

Table 1 – FTA DBE Weighted Availability

NAICS (2022/2017)	Description	% Expenditures	Number of DBEs	Total Firms	Availability	Weighted Availability
221210	Natural Gas Distribution	0.8%	0	23	0.0%	0.0%
236220	Commercial and Institutional Building Construction	33.5%	9	175	5.1%	1.7%
238110	Poured Concrete Foundation and Structure Contractors	4.2%	15	242	6.2%	0.3%
238210	Electrical Contractors and Other Wiring Installation Contractors	2.7%	5	504	1.0%	0.0%
238220	Plumbing, Heating, and Air-Conditioning Contractors	6.9%	3	669	0.4%	0.0%
238290	Other Building Equipment Contractors	1.5%	2	39	5.1%	0.1%
238990	All Other Specialty Trade Contractors	4.6%	17	304	5.6%	0.3%
323111	Commercial Printing (except Screen and Books)	0.3%	1	62	1.6%	0.0%
441330/441310	Automotive Parts and Accessories Retailers	5.0%	0	202	0.0%	0.0%
441340/441320	Tire Dealers	1.8%	0	122	0.0%	0.0%
444140/444130	Hardware Retailers	0.3%	0	111	0.0%	0.0%
459410/453210	Office Supplies and Stationery Retailers	1.0%	0	9201	0.0%	0.0%
485113	Bus and Other Motor Vehicle Transit Systems	25.8%	0	0	0.0%	0.0%
513110/511110	Newspaper Publishers	0.5%	0	66	0.0%	0.0%
516120/515120	Television Broadcasting Stations	0.5%	0	15	0.0%	0.0%
541211	Offices of Certified Public Accountants	0.6%	0	320	0.0%	0.0%
541330	Engineering Services	0.4%	18	358	5.0%	0.0%
541613	Marketing Consulting Services	0.7%	8	143	5.6%	0.0%
561311	Employment Placement Agencies	3.5%	1	16	12.5%	0.4%
561720	Janitorial Services	0.4%	2	457	0.4%	0.0%
561730	Landscaping Services	0.5%	10	636	1.6%	0.0%
811121	Automotive Body, Paint, and Interior Repair and Maintenance	4.3%	0	175	0.0%	0.0%
811122	Automotive Glass Replacement Shops	0.3%	0	43	0.0%	0.0%

Total		100.0%	91	13883	0.7%	2.7%
-------	--	--------	----	-------	------	------

The relative DBE availability is calculated as follows:

$$\frac{91 \text{ DBE firms}}{13,883 \text{ Total firms}} \times 100 = 0.7\% \text{ DBE availability}$$

After weighting the goal by work type, the Step 1 Base Figure is calculated at 2.7% 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 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 and Payments for Federal Fiscal Years 2020 through 2022, which is summarized in Table 4.

Table 4 – Past DBE Participation

Federal Fiscal Year	DBE Participation
2020	0.6%
2021	0.7%
2022	0.3%

FTA conducted a State Management Review (SMR) of MDT in 2023, which indicated issues with uniform report data. MDT is in the process of correcting past uniform reports thus elected not to make an adjustment for past participation.

Evidence from Disparity Studies

MDT engaged a consultant (BBC) to conduct an Availability and Disparity Study, which focused on participation of minority- and women-owned firms in MDT's contracts from October 2015 through September 2020. The Study was completed in October of 2022. Although this Study did not examine contracts using 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 2022 Disparity Study to adjust the goal.

Employment, Education, Training, and Unions

The 2022 MDT 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 human capital, financial capital, and business ownership in Montana. Specifically, Native Americans working in the Montana construction industry were less likely than non-minorities to own construction businesses and Hispanic Americans were less likely than non-minorities to own a professional services business. Based on information related to barriers in business ownership, BBC estimated the base figure could be adjusted upward. BBC'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 2022 MDT Disparity Study found quantitative and anecdotal evidence that minorities, women, and minority- and women-owned firms in Montana do not have the same access to financing, bonding, and insurance as those owned by white American men. Although the analysis indicates an upward adjustment could be made to address these barriers, the impact of those factors could not be quantified.^b As a result, MDT chose not to make this Step 2 adjustment.

Other Factors

The other factors examined in the 2022 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 and anecdotal evidence that minority- and women-owned firms are less successful than majority-owned firms and face greater barriers in the marketplace.^c Although the analysis indicates an upward adjustment could be made to address these barriers, the impact of those factors could not be quantified. 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 2024 through 2026 is 2.7%.

Race Conscious / Race Neutral Evaluation

MDT's SMR indicated that it has been underreporting DBE utilization. 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

^b 2022 MDT Disparity Study, Chapter 10.

^c 2022 MDT Disparity Study, Chapter 10.

portion of the goal is met through race neutral means. As such, MDT is proposing to meet the goal of 2.7% using solely race neutral methods for Fiscal Years 2024 through 2026.

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 2.7% 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
- Trainings in contracting procedures
- Assistance to start-up firms; and
- Identification of potential DBEs

Submission and Publication of Goal

On July 25, 2023, MDT published its proposed DBE goal and methodology (2024-2026) for contracts using FTA funds. MDT posted the information on MDT's website and sent the information to interested parties, including MDT's certified DBE and SBE firms and transit providers in Montana.

The proposed Goal Methodology was 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 held a virtual public hearing on July 31, 2023 concerning the proposed overall DBE goal, which had six attendees. The hearing was recorded and added to MDT's website for those unable to attend the meeting. Public comments were accepted through verbal testimony at the hearing, email, or mail. Two questions were received. One question was regarding contract language that transit provider subrecipients should use and the other question was regarding the weighting of availability. No comments were received; therefore, no adjustments were made to the overall goal methodology.