

**FEDERAL FISCAL YEAR 2015 – 2017  
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) Program Annual Participation Goal (APG) for the Federal Transit Administration (FTA) on a staggered three-year schedule.

MDT calculates the APG 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 FTA-assisted contracts in the State of Montana in relationship to all comparable businesses which are known to be available to compete for FTA-assisted contracts.

For Federal Fiscal Year 2015 – 2017, MDT has established a proposed overall DBE goal of 0.38% based on the requirements of 49 CFR Part 26.45. MDT is proposing to meet 100% of its overall DBE goal through the use of race-neutral means.

MDT utilized a two-step process to determine its overall DBE participation goal:

**Step 1:** Determine the base figure for the overall goal by calculating the actual relative availability of DBEs to perform the types of work on FTA-assisted contracts that MDT intends to award.

MDT had previously commissioned a Disparity Study, completed in 2009, which evaluated information from Federal Fiscal Years 2000 through 2006. Section 6.4 indicates that FTA was not included in the analysis because there were only three contracts awarded during the study period which represents approximately .002 percent of the total contract dollars. MDT decided to use data from the Census Bureau County Business Patterns and DBE firms from the DBE Directory to determine the relative availability of DBEs. This figure was then weighted by the percentage of dollars for the different types of work MDT intends to award in FTA-assisted contracts for the next three years.

**Step 2:** Adjust the base figure using factors relevant to MDT's marketplace.

MDT examined all of the evidence available in its jurisdiction to determine if an adjustment was needed to the base figure to arrive at the overall goal. MDT performed an analysis of median past DBE participation as evidence for an adjustment and determined that because the numbers were similar, a step 2 adjustment was not needed.

This methodology and the supporting evidence complies 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 (9<sup>th</sup> Cir. 2005).

## **STEP 1: SETTING THE APG BASE FIGURE**

To determine the Step 1 Base Figure, MDT calculated the relative DBE availability in accordance with 49 CFR Part 26.45 (c)(1), which states:

*(1) Use DBE Directories and Census Bureau Data. Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. (Information about the CBP data base may be obtained from the Census Bureau at their web site, [www.census.gov/epcd/cbp/view/cbpview.html](http://www.census.gov/epcd/cbp/view/cbpview.html).) Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.*

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 the DBE Directory based on firms certified as of June 5, 2014. The NAICS codes used are consistent with the type of work MDT has performed in the past and FTA-assisted contracts MDT intends to let in the future. Table 1 provides a breakdown of the number of DBE firms by NAICS code, which is further separated by those performing the types of work MDT intends to award.

### **Table 1 – Number of DBE firms by NAICS code for FTA-Assisted Contracts**

<b>Number of DBE Firms</b>	<b>NAICS Code</b>	<b>Description</b>
2	561720	Janitorial Service
1	541810	Advertising Agencies
6	541613	Marketing Consulting Services
2	541614	Process, Physical Distribution, and Logistics Consulting Services
0	493110	General Warehousing and Storage
0	447110	Gasoline Stations with Convenience Stores
0	485113	Bus and Other Motor Vehicle Transit Systems
0	453210	Office Supplies and Stationery Stores
0	524126	Direct Property and Casualty Insurance Carriers
0	221122	Electric Power Distribution
0	221210	Natural Gas Distribution
0	531120	Lessors of Nonresidential Buildings
0	621999	All Other Miscellaneous Ambulatory Health Care Services
0	811198	All Other Automotive Repair and Maintenance
0	811118	Other Automotive Mechanical and Electrical Repair and Maintenance
0	811191	Automotive Oil Change and Lubrication Shops
<b>11</b>	<b>Total DBE Firms for FTA-Assisted Contracts</b>	

**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<sup>1</sup>. 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**

Number of Total Firms	NAICS Code	Description
309	561720	Janitorial Service
34	541810	Advertising Agencies
70	541613	Marketing Consulting Services
28	541614	Process, Physical Distribution, and Logistics Consulting Services
29	493110	General Warehousing and Storage
411	447110	Gasoline Stations with Convenience Stores
2	485113	Bus and Other Motor Vehicle Transit Systems
45	453210	Office Supplies and Stationery Stores
57	524126	Direct Property and Casualty Insurance Carriers
119	221122	Electric Power Distribution
26	221210	Natural Gas Distribution
143	531120	Lessors of Nonresidential Buildings
24	621999	All Other Miscellaneous Ambulatory Health Care Services
8	811198	All Other Automotive Repair and Maintenance
23	811118	Other Automotive Mechanical and Electrical Repair and Maintenance
50	811191	Automotive Oil Change and Lubrication Shops
<b>1378</b>	<b>Total Firms from Census Data for FTA-Assisted Contracts</b>	

The relative DBE availability is calculated as follows:

$$\frac{11 \text{ Ready, willing, and able DBEs}}{1,378 \text{ Total firms ready, willing, and able}} = 0.80\% \text{ DBE availability}$$

**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 dollar amounts by work type awarded on FTA-assisted contracts. These amounts exclude funds used for the purchase of transit vehicles and operating expenses such as salaries and fringe benefits.

MDT’s contracting market was evaluated on a statewide basis. MDT intends to let similar contracts in the next three federal fiscal years as it did in the past, excluding any new building construction. Therefore, Table 3 estimated the amounts by work type estimated to be expended in 2015 based on expenses from prior years, with building construction removed. Since anticipated expenses for the next three federal fiscal years is the same as 2015, the percentage of anticipated dollars expended by work type

<sup>1</sup> Published in April 2013 using 2011 data. Census Bureau County Business Patterns data is published on a one year cycle.

from 2015 in Table 3 is an accurate depiction of the percentage of work to be completed in the next three years.

**Table 3 – FTA-Assisted Amounts by Work Type**

Work Type	NAICS Code	Amount	% of Total
Janitorial	561720	\$ 14,045	0.3%
Advertising and Promote Coordination	541810, 541613	\$ 137,000	3%
Consultant	541614	\$ 120,000	3%
Bus Storage	493110	\$ 42,000	1%
Fuel	447110	\$ 1,455,099	31%
Purchased Transportation	485113	\$ 1,281,205	27%
Office Supplies	453210	\$ 85,102	2%
Insurance	524126	\$ 378,905	8%
Utilities	221122, 221210	\$ 202,312	4%
Office Space	531120	\$ 24,466	1%
Drug Testing	621999	\$ 24,323	1%
Vehicle Maintenance	811198, 811118, 811191	\$ 984,345	21%
<b>Total</b>		<b>\$ 4,748,802</b>	<b>100%</b>

The relative availability of DBEs by work type was multiplied by the amount of work projected to be available. Table 4 indicates the calculation for weighting the Step 1 Base Figure.

**Table 4 – FTA DBE Weighted Availability**

Work Type	NAICS Code	# of DBEs	# all firms	Relative Availability	Weighted Base Figure
Janitorial	561720	2	309	0.65%	0.00%
Advertising and Promote Coordination	541810, 541613	7	104	6.73%	0.19%
Consultant	541614	2	28	7.14%	0.18%
Bus Storage	493110	0	29	0.00%	0.00%
Fuel	447110	0	411	0.00%	0.00%
Purchased Transportation	485113	0	2	0.00%	0.00%
Office Supplies	453210	0	45	0.00%	0.00%
Insurance	524126	0	57	0.00%	0.00%
Utilities	221122, 221210	0	145	0.00%	0.00%
Office Space	531120	0	143	0.00%	0.00%
Drug Testing	621999	0	24	0.00%	0.00%
Vehicle Maintenance	811198, 811118, 811191	0	81	0.00%	0.00%
<b>Total</b>		<b>11</b>	<b>1,378</b>	<b>0.80%</b>	<b>0.38%</b>

The Step 1 Base Figure is calculated at 0.38% relative DBE availability.

## **STEP 2: ADJUSTMENTS TO THE APG BASE FIGURE**

During Step 2, MDT examined all of the 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 conducted an analysis of information described in 49 CFR Part 26.45 (d)(1)(i):

(1) *There are many types of evidence that must be considered when adjusting the base figure. These include:*

(i) *The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;*

**Analysis of Recent Years**

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 2011 through 2013. Table 5 indicates DBE utilization for the past three years:

**Table 5 – FTA DBE Utilization for Federal Fiscal Year 2011 through 2013**

<b>Federal Fiscal Year</b>	<b>Total Dollars of Prime Contracts Awarded</b>	<b>Total Dollars Awarded or Committed to DBEs</b>	<b>Percentage of Total Dollars to DBEs</b>
2013	\$ 9,222,288	\$ -	0.00%
2012	\$ 10,138,071	\$ 102,760	1.01%
2011	\$ 9,187,790	\$ -	0.00%

To determine DBE past participation, MDT calculated the median of the range (0%) and the average (0.34%). Since the past participation figures and the Step 1 base figure (0.38%) are very similar, MDT chose not to make an adjustment for past participation. The overall FTA DBE goal is set at 0.38%.

**RACE CONSCIOUS / RACE NEUTRAL EVALUATION**

In the past three years, MDT used race neutral measures to achieve its overall goal. Although the median past participation was 0%, the average past participation is 0.34%. The proposed overall DBE participation goal of 0.38% is only slightly higher than the average past participation. To meet the maximum feasible portion of the goal through race neutral means per 49 CFR Part 26.51(a), MDT proposes to meet the overall 0.38% goal solely through race neutral means.

In accordance with 49 CFR Part 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**

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 APG**

In trainings throughout the year, MDT DBE staff coordinates and consults with minority, women's and general contractor groups regarding availability of disadvantaged and non-disadvantaged businesses. In addition, when applying for DBE certification or completing annual recertification, the DBE staff consults with the businesses to determine any impacts on disadvantaged businesses in the industry and how MDT's programs are assisting in eliminating any of the negative barriers.

MDT published notice of the FY 2015-2017 FTA Goal Methodology on June 15, 2014, which was available for 30 days from the date of publication. MDT accepted comments until July 30, 2014, which was 45 days from the date of publication. The Public Notice was published in 7 daily newspapers throughout Montana, which provide coverage to minority groups. The notice was also published in MDT's Newslines, which is sent to Transit Providers, including those on Reservations, contractor groups including the Montana Transit Association, and other stakeholders such as Montana legislators. Information about the goal was sent to all DBE firms certified in Montana and no comments or feedback was received. The document was available for inspection during normal business hours at the MDT Headquarters Building, Civil Rights Office, and online on the MDT website. MDT did not receive any written public comments.