

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM PROPOSED THREE-YEAR OVERALL GOAL & METHODOLOGY FOR FEDERAL FISCAL YEARS 2018 THROUGH 2020

The Illinois Department of Transportation (IDOT) submitted its three-year overall Disadvantaged Business Enterprise (DBE) goal for federal fiscal years (FFYs) 2015 through 2017 to the Federal Aviation Administration (FAA) on August 1, 2015. FAA subsequently approved IDOT's goal of 22.77 percent. In accordance with 49 Code of Federal regulations (CFR) Part 26, the United States Department of Transportation's (USDOT's) "Tips for Goal-Setting," and other official USDOT guidance, IDOT based its initial 2015 -2017 goal and methodology on information collected from the United States Census Bureau's County Business Patterns and the Illinois Unified Certification Program directory.

In 2016, IDOT commissioned BBC Research & Consulting (BBC) to conduct a disparity study related to the agency's implementation of the Federal DBE Program. BBC completed a draft of the study in December 2017 (referred to herein as the 2017 IDOT Disparity Study). Based on study results, federal guidance, and relevant case law, IDOT proposes a new three-year overall DBE goal for FFYs 2018 through 2020. To determine its new overall DBE goal, IDOT followed federal regulations including the two-step goal-setting methodology set forth in 49 CFR Part 26.45.

Step 1. Determining a Base Figure – 49 CFR Section 26.45(c)

IDOT began the process of determining its new overall DBE goal by establishing a base figure. Consistent with USDOT guidance, IDOT established a base figure based on data from a *custom census* availability analysis that BBC conducted as part of the 2017 IDOT Disparity Study. For the purposes of establishing a base figure, the availability analysis was limited to the availability of *potential DBEs*—minority- and woman-owned businesses that are currently DBE-certified or appear that they could be DBE-certified based on revenue requirements described in 49 CFR Part 26.65—for FAA-funded prime contracts and subcontracts that IDOT awarded from October 1, 2012 through September 30, 2016 (referred to herein as the study period).^{1,2} IDOT has determined that the mix of the types and sizes of transportation contracts that it anticipates awarding in FFYs 2018 through 2020 will be similar to the mix of types and sizes of transportation contracts that it awarded during the study period.

Methodology for the availability analysis. The availability analysis focused on specific work areas (i.e., *subindustries*) related to the types of FAA-funded contracts that IDOT awarded during the study period. BBC identified specific subindustries—based on 8-digit Dun & Bradstreet (D&B) industry codes—for inclusion in the availability analysis and identified the

¹ Consistent with USDOT guidance, IDOT considers any contract with at least \$1 of FAA funding as an "FAA-funded contract" and includes the total value of the contract in its pool of total FAA-funded contracting dollars.

² BBC defined woman-owned businesses specifically as *non-Hispanic white woman-owned businesses*. BBC grouped minority woman-owned businesses with their corresponding minority groups (e.g., grouping Black American woman-owned businesses with all other Black American-owned businesses). For details about BBC's definition of woman-owned businesses, see Chapter 1 of the disparity study report.

geographic areas in which IDOT awarded the vast majority of corresponding contract dollars (i.e., the relevant geographic market area). BBC based its determination of the relevant geographic market area on information about where the contractors that participated in IDOT prime contracts and subcontracts during the study period were located. The analysis indicated that during the study period 88 percent of IDOT's transportation-related contracting dollars went to businesses with locations in Illinois, indicating that Illinois should be considered the relevant geographic market area for the study.

Overview of availability surveys. The study team developed a database of potentially available businesses through surveys with local business establishments within relevant subindustries. The study team conducted telephone surveys with business owners and managers to identify businesses that are potentially available for IDOT's FAA-funded prime contracts and subcontracts.³ BBC began the survey process by collecting information about business establishments from D&B Marketplace listings. BBC collected information about all business establishments listed under 8-digit work specialization codes (as developed by D&B) that were most related to the FAA-funded contracts that IDOT awarded during the study period. BBC then contacted listed businesses to solicit their participation in availability telephone surveys.

Information collected in availability surveys. The study team successfully conducted telephone surveys with the owners or managers of 2,042 business establishments. Survey questions addressed many topics about each organization including:

- Status as a private business (as opposed to a public agency or nonprofit organization);
- Status as a subsidiary or branch of another company;
- Primary lines of work;
- Interest in performing work for IDOT or other local government agencies;
- Interest in performing work as a prime contractor or as a subcontractor;
- Ability to work in specific geographic regions of Illinois;
- Largest prime contract or subcontract bid on or performed in the previous five years;
- Year of establishment; and
- Race/ethnicity and gender of ownership.

Information about businesses that completed surveys was entered into an availability database that served as a basis for the availability analysis.

³ The study team offered business representatives the option of completing surveys online or via fax or e-mail if they preferred not to complete surveys via telephone.

Considering businesses as potentially available. BBC considered businesses to be potentially available for IDOT's FAA-funded prime contracts or subcontracts if they reported possessing *all* of the following characteristics:

- a. Being a private business (as opposed to a nonprofit organization);
- b. Having performed work relevant to IDOT's FAA-funded contracting;
- c. Having bid on or performed public or private sector prime contracts or subcontracts in Illinois in the past five years; and
- d. Being interested in work for IDOT.⁴

BBC also considered the following information to determine if businesses were potentially available for specific contracts that IDOT awarded during the study period:

- e. The ability to work in specific regions of Illinois;
- f. The largest contract bid on or performed in the past (to inform an assessment of *relative capacity*); and
- g. The year the business was established.

Steps to calculating availability. As part of the availability analysis, BBC collected and analyzed relevant information to develop dollar-weighted availability estimates to help IDOT set its overall DBE goal. Dollar-weighted availability estimates represent the percentage of contracting dollars that potential DBEs would be expected to receive based on their availability for specific types and sizes of IDOT's FAA-funded prime contracts and subcontracts. Only a subset of businesses in the availability database was considered potentially available for any particular prime contract or subcontract (referred to collectively as *contract elements*). BBC identified the specific characteristics of each prime contract and subcontract that the study team examined as part of the disparity study and then, for the purposes of helping IDOT establish a base figure, took the following steps to calculate the availability of potential DBEs for each contract element:

1. For each contract element, the study team identified businesses in the availability database that reported that they:
 - Are interested in performing transportation-related work in that particular role for that specific type of work (based on 8-digit D&B industry codes) for IDOT;
 - Are able to serve customers in that geographic location;
 - Have bid on or performed work of that size; and
 - Were in business in the year that IDOT awarded the contract.
2. The study team then counted the number of potential DBEs (by race/ethnicity and gender) relative to all businesses in the availability database that met the criteria specified in Step 1.

⁴ That information was gathered separately for prime contract and subcontract work.

- The study team translated the numeric availability of potential DBEs for the contract element into percentage availability.

BBC repeated those steps for each FAA-funded contract element that the study team examined as part of the disparity study. BBC multiplied the percentage availability for each contract element by the dollars associated with the contract element, added results across all contract elements, and divided by the total dollars for all contract elements. The result was a dollar-weighted estimate of the overall availability of potential DBEs and estimates of availability by each relevant racial/ethnic and gender group. Figure 1 presents the base figure for IDOT’s overall DBE goal and the percentage of the goal for which each relevant racial/ethnic and gender group accounts. As presented in Figure 1, the availability analysis shows that potential DBEs could be considered available for 27.6 percent of IDOT’s FAA-funded prime contracts and subcontracts. Thus, IDOT considers **27.6 percent as its base figure**.

Figure 1.
Availability components of the base figure
(based on availability of potential DBEs for
FAA-funded transportation contracts)

Note:

Numbers rounded to nearest tenth of 1 percent. Numbers may not add to totals due to rounding.

Source:

2017 IDOT Disparity Study.

Business group	Base figure component
Asian Pacific American-owned	0.1 %
Black American-owned	4.3
Hispanic American-owned	3.6
Native American-owned	0.0
Subcontinent Asian American-owned	2.7
Non-Hispanic white woman-owned	16.9
Total potential DBEs	27.6 %

Step 2. Determining if an Adjustment is Needed – 49 CFR Section 26.45(d)

After establishing the base figure, IDOT considered relevant information to determine whether any adjustment was needed to the base figure as part of determining the overall DBE goal and to make it as precise as possible.

Current capacity of DBEs to perform work on USDOT-assisted contracting as measured by the volume of work DBEs have performed in recent years. USDOT’s “Tips for Goal-Setting” suggests that agencies should examine data on past DBE participation in their USDOT-funded contracts in recent years. USDOT further suggests that agencies should choose the median level of annual DBE participation for those years as the measure of past participation:

Your goal setting process will be more accurate if you use the median (instead of the average or mean) of your past participation to make your adjustment because the process of determining the median excludes all outlier (abnormally high or abnormally low) past participation percentages.⁵

⁵ Section III (A)(5)(a) in USDOT’s “Tips for Goal-Setting in the Federal Disadvantaged Enterprise (DBE) Program.” <https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/tips-goal-setting-disadvantaged-business-enterprise>

Figure 2 presents past DBE participation based on IDOT’s Uniform Reports of DBE Awards or Commitments and Payments as reported to FAA. According to the Uniform Reports, median DBE participation in FAA-funded contracts from FFYs 2012 through 2016 was 7.96 percent.

Figure 2.
Past certified DBE participation in FAA-
funded contracts, FFY 2012-2016

Source:
 Awards reported on IDOT’s Uniform Reports of DBE
 Awards/Commitments and Payments.

FFY	DBE Attainment	Annual DBE Goal	Difference
2012	10.40 %	22.77 %	-12.4 %
2013	7.44	22.77	-15.3
2014	7.96	22.77	-14.8
2015	7.36	22.77	-15.4
2016	13.09	22.77	-9.7

The information about past DBE participation supports a downward adjustment to IDOT’s base figure. If IDOT were to use the approach that USDOT outlined in “Tips for Goals Setting” based on Uniform Reports of DBE Awards/Commitments and Payments, the overall goal would be the average of the 27.6 percent base figure and the 7.96 percent median past DBE participation, yielding a potential overall DBE goal of 17.8 percent. BBC’s analysis of DBE participation in FAA-funded contracts in the IDOT Disparity Study indicated DBE participation (4.2%) that is also lower than the base figure. If IDOT were to adjust its base figure based on the DBE participation information from the disparity study, the overall goal would be the average of the 27.6 percent base figure and the 4.2 percent DBE participation, yielding a potential overall DBE goal of 15.9 percent.

Information related to employment, self-employment, education, training, and unions. BBC’s analyses indicate that there are barriers that certain minority groups and women face related to human capital, financial capital, and business ownership in the Illinois contracting industry. Such barriers may decrease the availability of minority- and woman-owned businesses to obtain and perform the FAA-funded contracts that IDOT awards, which supports an upward adjustment to IDOT’s base figure (for details, see Chapter 3 and Appendices C and D of the disparity study report).

Any disparities in the ability of DBEs to get financing, bonding, and insurance. BBC’s analysis of access to financing, bonding, and insurance revealed quantitative and qualitative evidence that minorities; women; and minority- and woman-owned businesses do not have the same access to those business inputs as non-Hispanic white men and businesses owned by non-Hispanic white men in the relevant geographic market area (for details, see Chapter 3 and Appendices C and D of the disparity study report). Any barriers to obtaining financing, bonding, and insurance might affect opportunities for minorities and women to successfully form and operate businesses in the local marketplace. Any barriers that minorities; women; or minority- and woman-owned businesses face in obtaining financing, bonding, and insurance would also place those businesses at a disadvantage in obtaining IDOT prime contracts and subcontracts. Thus, information from the disparity study about financing, bonding, and insurance also supports an upward adjustment to IDOT’s base figure.

Other relevant data. The Federal DBE Program suggests that federal funding recipients also examine “other factors” when determining whether to make any adjustments to their base figures.⁶

Success of businesses. There is quantitative evidence that certain groups of minority- and woman-owned businesses are less successful than businesses owned by non-Hispanic white men and face greater barriers in the marketplace, even after accounting for race- and gender-neutral factors (for details, see Chapter 3 and Appendices C and D of the disparity study report). There is also qualitative evidence of barriers to the success of minority- and woman-owned businesses. Some of that information suggests that discrimination on the basis of race/ethnicity and gender adversely affects minority- and woman-owned businesses in the local contracting industry (for details, see Appendix D of the disparity study report). Thus, information about the success of businesses also supports an upward adjustment to IDOT’s base figure.

Evidence from disparity studies conducted within the jurisdiction. USDOT suggests that federal fund recipients also examine evidence from disparity studies conducted within their jurisdictions when determining whether to make adjustments to their base figures. The data from the 2017 disparity study indicates that the availability of DBEs and minority- and women-owned businesses that could qualify for DBE certification for FAA-funded construction and professional services contracts that IDOT awards is 27.6 percent. However, BBC was only able to evaluate 328 FAA-funded prime contracts and subcontracts as part of the availability analysis (representing \$120 million). In addition to FAA-funded contracts, BBC analyzed the availability of potential DBEs for Federal Highway Administration (FHWA)-funded contracts as part of the disparity study. That analysis showed that potential DBEs are available for 17.6 percent of IDOT’s FHWA-funded contracting dollars, supporting a downward adjustment to IDOT’s base figure for FAA-funded contracts. Although IDOT’s FHWA-funded contracts often differ in terms of size and type from the agency’s FAA-funded contracts, many work types associated with FAA-funded contracts—including construction services and construction materials—were also included as part of BBC’s analysis of FHWA-funded contracts.

Adjustment. To ensure that IDOT’s overall DBE goal is as precise as possible, the agency has considered information relevant to a potential adjustment and proposes to make a downward adjustment to its base figure to reflect:

- Past participation of DBEs in IDOT’s FAA-funded contracts; and
- Availability of potential DBEs for IDOT’s FHWA-funded contracts.

IDOT first adjusted its base figure to account for the availability of potential DBE’s for its FHWA-funded contracts. IDOT did so because FHWA-funded contracts represent the vast majority of the agency’s contracting, providing statistically robust information about the current availability of minority- and woman-owned businesses in the marketplace. To make that adjustment, IDOT took the average of the base figure for its FAA-funded contracts (27.6%) and the availability of potential DBEs for its FHWA-funded contracts (17.6%), resulting in an adjusted based figure of

⁶ 49 CFR Section 26.45.

22.6 percent. IDOT then further adjusted its base figure to account for past participation of DBEs in its FAA-funded contracts. To do so, IDOT took the average of the 22.6 percent figure and the median past DBE participation (7.96 percent), yielding an **adjusted overall DBE goal of 15.3 percent**.

Race-/Gender-Neutral and Race/Gender-Conscious Split – 49 CFR Section 26.51 (c)

In accordance with federal regulations and USDOT guidance, IDOT will attempt to meet the maximum feasible portion of its proposed 15.3 percent overall DBE goal through the use of race- and gender-neutral measures. IDOT considered median DBE participation as the result of race- and gender-neutral efforts during FFYs 2012 through 2016 to project the portion of its overall goal that it will meet using race- and gender-neutral measures during FFYs 2018-2020. Figure 3 presents past DBE participation as the result of race- and gender-neutral efforts during FFYs 2012-2016. Median DBE participation as the result of race- and gender-neutral efforts for those five years was 1.97 percent.

Figure 3.
Past DBE race- and gender-neutral participation

Source:
Awards reported on IDOT’s Uniform Reports of DBE Awards/Commitments and Payments.

FFY	DBE Attainment
2012	4.10 %
2013	1.97
2014	1.61
2015	1.71
2016	2.72

Figure 4 presents IDOT’s proposed race- and gender-neutral and race- and gender-conscious split for its overall DBE goal. IDOT used myriad race- and gender-neutral measures to encourage DBE participation in its FAA-funded contracts during the study period (for details, see Chapter 10 of the disparity study report), and DBE participation on those contracts was 1.97 percent. The agency still uses most of those measures and will continue using them through FFY 2020. Based on that information, IDOT projects that it will be able to meet 1.97 percent of its proposed DBE goal for FFYs 2018 through 2020 through the use of race- and gender-neutral measures. IDOT projects that it will meet the remainder of its proposed 15.3 percent overall DBE goal—13.3 percent—through the use of race- and gender-conscious measures (i.e., DBE contract goals).

Figure 4.
Race- and gender-neutral and race- and gender-conscious split

Source:
Awards reported on IDOT’s Uniform Reports of DBE Awards/Commitments and Payments.

Goal portion	Percent Allocation
Race- and gender-neutral	1.97 %
<u>Race- and gender-conscious</u>	<u>13.3</u>
Overall DBE goal	15.3 %

Public Participation – 49 CFR Section 26.45(g)

Public participation is a key component of IDOT’s process for setting its overall DBE goal. IDOT published the FAA Goal Document on IDOT’s website and allowed for public comment prior to submitting the document to FAA on August 1, 2018.