



**IDOT
2017 Interim
Overall DBE
Goal Setting Report**

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I. INTRODUCTION AND METHODOLOGY

Per 49 CFR Part 26.45(f)(5), the Illinois Department of Transportation (IDOT) requests the approval for an interim aspirational goal of 22.77% based on the relative availability of DBEs in our local market area given the data currently available to IDOT. On June 15, 2015 IDOT released a RFI for a new disparity study. Subsequently, IDOT released an RFP to secure a vendor to prepare a new disparity study to support the FAA DBE goal setting. This request for approval of an interim goal is to provide IDOT with additional time to award the contract, collect data, and develop an approach to setting an overall goal that is based on data reflective of our market area.

The regulations require that the overall goal be prepared using a two-step process. According to the *USDOT Tips for Goal Setting*, the recipient must first determine a base figure for the relative availability of certified and non-certified minority and woman-owned business enterprises in the relevant market area, hereafter collectively referred to as DBEs. Next, the recipient must examine all relevant evidence to determine what adjustment to the base figure, if any, is needed in order to arrive at an overall goal. The final adjusted figure is the recipient's overall goal, and represents the proportion of federal transportation funding the recipient is expected to allocate to DBEs during the subsequent three federal fiscal years (FFY). Once the adjusted overall goal is determined, the process requires considering what portion of the goal will be met by race and gender-neutral measures.

If a recipient purports that it can meet its overall goal with race and gender-neutral measures, those measures must be utilized solely. In contrast, if the recipient determines it cannot achieve the entire overall goal using only race and gender-neutral measures, it must establish a race and gender-conscious portion of the overall goal, pursuant to 49 CFR §26.51(f)(1) and 26.51(d).

II. STEP ONE - RELATIVE AVAILABILITY

A. Base Figure Determination

The base figure is intended to be a measurement of the current ready, willing, and able DBEs, as a percentage of all ready, willing and able businesses to perform the recipient's anticipated FAA-assisted contracts. The regulations present five options for establishing a base figure for relative availability of DBEs. According to Section 26.45(c) and *USDOT*

Tips, the overall goal must be based on demonstrable evidence of available ready, willing, and able DBEs relative to all ready, willing, and able non DBEs to participate on IDOT’s federally assisted contracts. Specifically, IDOT adopted the bidder’s list methodology from Section 26.45, and reviewed the approved 2014-16 FAA Goal Setting Document as the basis for the interim goal and for the base figure and weighted base figure calculations, as substantially demonstrated below.

The relevant data considered for the Step One analysis includes the following:

- Definition of the market area from an analysis of contracts awarded July 1, 2011 to June 30, 2012
- Classification of procurement areas by NAICS code

1. IDOT’s Relevant Market Area

The relevant market area was determined to specify the geographical area for seeking available businesses. Contracts awarded by the IDOT’s Division of Aeronautics included 33 Prime Contracts throughout IDOT’s 9 Districts. All awards were within the State of Illinois.

Table 1: Location of Contracts Awarded during the Study Period

BUSINESS LOCATION	TOTAL CONTRACTS	PERCENT OF DOLLARS
State of Illinois	33	100.00%
Outside of Illinois	0	0.00%
TOTAL	33	100.00%

2. Classification of Procurement Areas by NAICS Codes

All 33 contracts awarded during the study period from July 1, 2011 to June 30, 2012 were classified using the North American Classification System (NAICS) categories. Table 2 below presents the balance of IDOT’s 2011-2012 Aeronautics contracts by NAICS code and industry.

Table 2: 2011-2012 Contracts by NAICS Title and Industry

NAICS CODE	INDUSTRY	NAICS TITLE
236220	Construction	Commercial and Industrial Building Construction
237110		Water and Sewer Line Related Construction
237310		Highway, Street, and Bridge Construction
237990		Other Heavy and Civil Engineering Construction
238210		Electrical Contractors
238910		Site Preparation Contractors
238990		All Other Specialty Type Trades

Relative Base Figure

USDOT Tips requires the calculation of the relative base figure by dividing the number of market area DBEs by all market area businesses (DBEs and non-DBEs combined), which produces a relative base figure of **8.20 percent**, as shown in Table 3 for available firms during FY 2011-2012.

Table 3: Base Figure

NAICS CODE	Number of Available Businesses		Percent of Available Businesses		
	DBEs	All	DBEs	Non-DBEs	All
236220	68	1357	0.90	17.13	18.03
237110	25	386	0.33	4.80	5.13
237310	166	438	2.21	3.61	5.82
237990	57	209	0.76	2.02	2.78
238210	78	2693	1.04	34.74	35.78
238910	170	1162	2.26	13.18	15.44
238990	53	1281	0.70	16.32	17.02
TOTAL	617	7526	8.20	91.80	100.00%

$$\text{Relative Base Figure} = \frac{\text{Ready, willing and able DBEs}}{\text{All ready, willing and able businesses (Including DBEs and non - DBEs)}}$$

$$\text{Relative Base Figure of } \mathbf{8.20\%} = \frac{\mathbf{617DBEs}}{\mathbf{7526 Total Businesses}}$$

This number is simply the percentage of DBEs in the market area. The relative base figure calculation essentially over counts the number of available DBEs, as it assumes that every DBE has equal weight and equal opportunity to perform IDOT contracts. However, in the practical application of the overall DBE goal, not all DBEs have equal opportunity for participation, as opportunity is dependent on the expenditures in each NAICS code. To more accurately reflect the nature and the scope of work, the *USDOT Tips* recommends a weighted calculation of availability. This calculation, based on the expenditures in each NAICS code, is also presented.

B. Weighted Base Figure Determination

Weighting is recommended in *USDOT Tips* to ensure that the overall goal accurately reflects the amount of work available to the relative firms ready to do work. The first step is to calculate a weight for each NAICS code, which is based upon the percentage of the budget spent for past contracts by NAICS code. Due to the fact that IDOT's federally funded contracts are identified on a contract-by-contract basis after federal funding is received, weights cannot be calculated based on anticipated contracts. Therefore, weights were calculated by the contracts awarded during the 2011 – 2012 period.

The second step to weight availability is to divide the number of DBEs by the total number of total businesses in each NAICS code. The results are then multiplied by the corresponding weight in each NAICS code. Lastly, the sum of these weighted percentages in each NAICS code then provide the weighted base figure. Table 4 presents the calculation of IDOT’s weighted availability on FAA contracts during the 2011-2012 period, which was determined to be **26.07 percent** for DBEs and **73.93 percent** for non-DBEs.

$$\text{Weight (as a percent of contract Dollars for NACIS Category 2011-2012)} \left[\frac{\text{\# of DBEs in category}}{\text{\# of all firms in category}} \right] = \text{Weighted Percent for NACIS Category}$$

Table 4: Weighted Base Figure

NAICS Code	Percent of Businesses		Awarded Contract Amount	Weight	Weighted Availability	
	DBEs	All			DBEs	Non-DBEs
236220	68	1357	\$756,375.00	0.72	0.04	0.68
237110	25	386	\$165,939.00	0.16	0.01	0.15
237310	166	438	\$61,892,941.00	59.09	22.39	36.70
237990	57	209	\$27,000.00	0.03	0.01	0.02
238210	78	2693	\$16,985,990.00	16.22	0.47	15.75
238910	170	1162	\$21,628,776.00	20.65	3.02	17.63
238990	53	1281	\$3,280,192.00	3.13	0.13	3.00
TOTAL	617	7526	\$104,737,213.00	100.00	26.07	73.93

III. STEP TWO ADJUSTMENT

A. Consideration for Adjustments to the Base Figure

The Step Two base figure adjustment, as recommended in *USDOT Tips*, requires examining relevant and reliable data in the recipient’s market area to determine if an adjustment to the base figure is warranted. The consideration of an adjustment is intended to account for any impact the relevant factors may have on DBEs’ contracting opportunities with IDOT. The following factors were considered for the Step Two adjustment and it was determined that a modest adjustment to the weighted base figure would be made due to past DBE participation and saturation of the market area.

1. Past DBE Participation

DBE participation, hereafter referred to as utilization, was generated from IDOT's Uniform Report of DBE awards, commitments and payments. Table 5 details DBE utilization, measured by actual payments on contracts completed from 2011 to 2015. The determination of past DBE utilization includes several years outside the period studied for the 2012 IDOT DBE Availability Study. This five-year range (2011-2015) presents a more accurate reflection of DBE utilization than the shorter study-based period (2011-2012). The longer range of data points is less resistant to outliers and presents a fuller picture of past DBE utilization. The median race and gender-neutral DBE utilization achieved by IDOT was 1.00 percent if the highest and lowest years (0.016 and 1.23) are removed as potential outliers. Therefore, IDOT proposes that the interim race neutral split goal be raised to 1.00 percent achievement during the interim goal period.

Table 5 also demonstrates past utilization in the form of achievements on IDOT's Uniform Reports. The overall median past utilization is 7.96% if the highest and lowest achievements are removed as potential outliers (7.00 and 9.45) for the time period of 2011-2015.

Table 5: Past DBE Achievement

YEAR	TOTAL FAA AWARDS	RACE NEUTRAL DBE ACHIEVEMENT	TOTAL DBE ACHIEVEMENT
2011	\$32,250,142	\$517,671 (0.016%)	\$3,046,254 (9.45%)
2012	\$30,458,982	\$727,791 (0.024%)	\$2,719,819 (8.93%)
2013	\$34,951,028	\$688,089 (1.0%)	\$2,601,709 (7.00%)
2014	\$37,898,650	\$611,784 (0.23%)	\$3,017,920 (7.96%)
2015	\$21,406,314	\$365,568 (1.23%)	\$1,575,481 (7.36%)

2. Saturation of the Market Area

IDOT's market area was examined to determine if the relevant area may be saturated with contracting opportunities from other public agencies. For example, there are several major construction and architecture and engineering projects that will be initiated by other local governments receiving federal financial assistance that will generate substantial competing DBE contracting opportunities in IDOT's market area. Table 7 below presents the additional upcoming projects in the market area, and the DBE goals set by other public bodies for each project.

Many of these planned construction and architecture and engineering projects are scheduled to be let by 2016, for major airports and are expected to draw heavily upon the capacity of all construction and construction-related businesses, including DBEs. In addition to the projects listed below, the Illinois Tollway Board of Directors adopted a 15-year, \$12 billion capital program called *Move Illinois: The Illinois Tollway Driving the Future*, and many FTA-funded transit agencies utilize robust DBE programs. IDOT applauds these increased opportunities for DBEs, but the impact of the projects must be

considered, and may lower the actual availability of DBE businesses to perform IDOT projects.

Table 6: Upcoming Market Area Projects during FFY 2014 - 2016

PROJECT TITLE	ESTIMATED BUDGET	DBE GOAL	ESTIMATED DBE AWARDS
2016 Airport Improvement Projects	\$28,200,200	10%	\$2,800,200
2017 Airport Improvement Projects	\$30,500,000	11%	\$3,360,300
2017- 2018 O'Hare Modernization Project	\$880,000,000	30%	\$52,800,000
South Suburban Airport*	\$700M	n/a	n/a
TOTAL	\$105,559,181	10.5%	\$58,960,500

**IDOT anticipates DBE participation; however goals have not been determined on this project.*

B. Step Two Adjustment Summary

IDOT understands the overall DBE goal to be an aspirational one, which would reflect the level of DBE participation in the absence of discrimination in the marketplace. The United States District Court for the Tenth Circuit once observed “it would be ‘sheer speculation’ to even attempt to attach a particular figure to the hypothetical number of minority enterprises that would exist without discriminatory barriers to minority DBE formation.”¹ As a result, guidance for a Step Two adjustment does not provide a prescriptive formula, and merely suggests examining the relevant marketplace conditions in order to narrow the impact of the effects of discrimination on the base figure.²

Accordingly, the regulations caution that any adjustment to the base figure, to account for the continuing effects of past discrimination or the effects of an ongoing DBE program, must be based on “demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.” 26.45(d)(3). The regulations provide that a recipient must attempt to set a goal that will best reflect the possibility for maximum DBE participation to remediate past discrimination with an expectation for achievement. After careful consideration of past utilization, not exceeding the aspirational goal, and especially, as a result of competing DBE programs in Illinois’ contracting universe, it was determined that a modest adjustment to the 26.07 percent weighted base figure from the 2014-16 goal methodology will be adjusted to **22.77 percent**.

¹ *Adarand VII*, 228 F.3d 1147, 1174 (2000) (See *City of Richmond v. Croson*, 488 U.S. at 499).

² Jon Wainwright and Colette Holt, Guidelines for Conducting a Disparity and Availability Study for the Federal DBE Program, p. 83, Transportation Research Board, 2010.

IV. RACE AND GENDER-NEUTRAL GOAL

A. Formulation of the Race and Gender-Conscious/Neutral Portions of the Goal

The final requirement of the goal-setting process is to determine the portion of the overall goal that will be achieved by race and gender-neutral means. As required by 49 CFR 26.51, the maximum feasible portion of the overall DBE goal should be achieved using race and gender-neutral means. Utilizing the most up to date data available to the Agency, the race neutral portion has been increased for the FFY 2017 interim goal. The median past race and gender-neutral DBE participation during 2011-2015 was 1.00 percent, as indicated in Table 5. As such, IDOT projects it shall meet **1.00 percent** of its interim overall DBE goal through race and gender-neutral measures, and the remaining **21.77 percent** through race and gender-conscious measures.

Race and gender-conscious goals will be limited to contracts with subcontracting opportunities. Furthermore, the subcontracting goals will be set on a contract-by-contract basis.

OVERALL DBE GOAL
22.77 percent

B. Public Participation

In accordance with 49 CFR 26.45(g), IDOT provided an opportunity for public participation in establishing its overall DBE goal. The notification process has two objectives:

- To provide public notice of the proposed overall goal by making the goal setting methodology and rationale available for public inspection
- To consult with minority, women, and general contractor groups; community organizations; and other officials that could be expected to have information concerning DBE and non-DBE availability, the effects of discrimination on opportunities for DBEs, and IDOT's efforts to establish a level playing field for the participation of DBEs

To this end, a public notice of the proposed goal has been published on the IDOT website, emailed to the IL UCP Directory, and has been made available in print at the IDOT District offices and at central office.

IDOT will hold a public hearing on July 26, 2016 and facilitate a 30 day comment period for public participation. A court reporter will be present to record all public comment collected during the hearing. A special email address has been established for electronic submission of public comment for the 30 day period at: **DOT.DBEPublicComment@illinois.gov**.