

**EXPLANATION FOR APPROVAL OF
NEW MEXICO DEPARTMENT OF TRANSPORTATION
DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL SETTING
METHODOLOGY FOR FEDERAL FISCAL YEARS (FFYs) 2021-2023**

This document sets forth the Federal Highway Administration's (FHWA) reasons for approving the New Mexico Department of Transportation's (NMDOT) DBE goal methodology and goal to be attained by race- and gender- neutral means for FY 2020 through 2023. NMDOT is expected to make a good faith effort to meet its overall annual DBE goal each year during the three-year period. Any mid-cycle adjustment needed to reflect a substantial change in circumstances requires prior FHWA approval. The next regularly scheduled DBE goal submission by NMDOT will be due to FHWA August 1, 2023.

Goal Setting Methodology Section 26.45

The FHWA New Mexico Division Office has reviewed the revised methodology used by NMDOT and finds it acceptable. The overall DBE goal for FY 2020 through 2023 is 12.30%.

A. Step One- Base Figure Section 26.45(c)

NMDOT's relevant market area is the state of New Mexico. Projects that were awarded in Federal fiscal years 2017 through 2019 were analyzed by locations, by counties, of the prime and subcontractors. It found that over eighty-seven percent (87%) of firms awarded prime and subcontracts were located in New Mexico. States constituting the remaining 13% include: Arizona, California, Colorado, Illinois, Maryland, Ohio, Texas, Utah, Virginia, Florida, Oklahoma, Oregon, and Wisconsin.

NMDOT determined the base figure for the relative availability of DBEs using its bidder's list and potential DBEs identified from Small Business Administration's 8(a) program. The bidders list covers the period of October 2016 to September 2019.

All firms bidding on NMDOT Federal-aid projects, both construction and design, are required to submit a list of all list of bidders with their bids/proposals as a matter of responsiveness. The list includes all successful and unsuccessful bidders, primes and subs, and DBEs and non-DBEs. From this NMDOT contacts the listed firms to obtain the information required by 49 CFR §26.11.

Using the bidder's lists, NMDOT determined that a total of 511 unique firms bid on construction and design contracts. Of those, 62 were DBEs or potential DBEs. These firms comprise 12.13% of the total.

To identify potential DBEs, NMDOT reviewed the list of the Small Business Administration's (SBA) list of 8(a) firms in NM. Four potential construction DBEs were identified and have been included in the above totals.

Guidance on goal setting strongly recommends weighting by type of work to ensure the step 1 base figure is as accurate as possible. Therefore, NMDOT disaggregated the amount of work into the general types of work performed. The types of works identified were: bridges/major structures, ITS, Permanent/Construction signing, roadway, signalization/lighting, utilities, design, public participation, survey, tech testing and research. Broad categories were used because NMDOT did not have confidence in the resulting data when considering specific types of work such as trucking or guardrail.

The NMDOT was then able to calculate the ratio of DBE firm against the total number of contractors that performed work for each specific category. For example, in order to calculate the ratio of DBE firms to total contractors for Bridges/Major Structure:

$$\begin{aligned} \text{DBE Firms (Bridges/Major Structures)} &= 11 \\ \text{Total Contractors (Bridges/Major Structures)} &= 105 \end{aligned}$$

$$\begin{aligned} \text{Percentage of DBE Firms (Bridges/Major Structures)} &= 11/105 = 10.48\% \\ \text{This calculation is performed for each of the six categories to determine the} \\ \text{Percentage of DBEs.} \end{aligned}$$

The NMDOT then calculated the total award amount for FFY2017-19 towards each of the six categories to determine the percentage of funds awarded to each category. Again, using the Bridges/Major Structures category as an example:

$$\begin{aligned} \text{Total Amount Awarded to Bridges/Major Structures} &: \$116,920,459.00 \\ \text{Total Amount Awarded to all six categories} &: \$755,236,019.26 \end{aligned}$$

$$\begin{aligned} \text{Percentage Awarded to Bridges/Major Structure} &: \\ \$116,920,459.00/\$755,236,019.26 &= 15.48\% \end{aligned}$$

From this calculation, Bridges/Major Structures represent 15.48% of the total award amount allocated to each of the six categories defined. This calculation is applied to each category.

The NMDOT takes the values calculated for the Percentage of DBE Firm for each category and multiplies it with the value of the Percentage Awarded to each category. Each value from this calculation is the weighted value that will contribute toward determining the DBE goal for construction contractors. Again, using Bridges and Major Structure as an example:

$$\begin{aligned} \text{Percentage of DBE Firms (Bridges/Major Structures)} &= 10.48\% \\ \text{Percentage Awarded to Bridges/Major Structure} &= 15.48\% \end{aligned}$$

$$\begin{aligned} \text{Weighted Value for DBE Construction Goal (Bridges/Major Structures)} &= \\ 10.48\% \times 15.48\% &= 1.62\% \end{aligned}$$

The weighted contributing factor for Bridges/Major Structures is 1.62%. This action is repeated for each category.

The following chart provides the type of work, the total dollars spent for that type of work, the number of DBEs that perform the work, the total consultants and contractors, the percentage of DBEs, the percentage of total dollars spent for the type of work, and, the final column shows the weighted availability of DBEs.

Work Type	Total	DBEs	Total Consultants & Contractors	% of DBEs	Percentage Awarded of Total	Weighted Value
Bridges/Major Structures	\$ 116,920,459	11	105	10.48%	15.48%	1.622%
ITS	\$ 4,122,834	0	7	0.00%	0.55%	0.000%
Permanent/ Construction Signing	\$ 40,878,783	4	15	26.67%	5.41%	1.443%
Roadway	\$ 530,326,894	27	225	12.00%	70.22%	8.426%
Signalization/ Lighting	\$ 7,382,712	2	25	8.00%	0.98%	0.078%
Utilities	\$ 6,442,296	6	36	16.67%	0.85%	0.142%
Design	\$ 47,559,949	5	57	8.77%	6.30%	0.552%
Public Participation	\$ 126,175	0	4	0.00%	0.02%	0.000%
Survey	\$ 508,486	4	22	18.18%	0.07%	0.012%
Tech Testing	\$ 967,431	3	15	20.00%	0.13%	0.026%
Research	\$ -	0	0	0%	0.00%	
TOTALS	\$ 755,236,019	62	511	12.13%		12.302%

The result of these calculations is weighted DBE availability of 12.30%

B. Step Two Adjustments- Section 26.45(d)

The Division Office concurs with NMDOT’s decision that a step 2 adjustment was not warranted.

New Mexico is in the 10th Circuit Court and therefore is not required to conduct a disparity study. Additionally, there is no available evidence that any recent disparity studies have been conducted in the State of New Mexico.

There is no available evidence of statistical disparities in the ability to get financing, bonding, and insurance.

There is no available evidence of statistical disparity in employment, self-employment, education, training, and union apprenticeship programs.

There is no available evidence from related fields that affect the opportunities for DBE firms to form, grow and compete in the State.

Also, NMDOT has exceeded its overall DBE goal for the past three years.

Therefore, the overall goal is 12.30%.

Public Participation Section 26.45 g

The New Mexico Division Office found that NMDOT complied with the requirements of the regulation.

NMDOT was late in posting its overall DBE goal methodology on its website. The posting date was September 1, 2020. Supporting documentation was also posted. Both the overall DBE goal methodology and supporting documentation were available in hard copy at NMDOT offices.

NMDOT contacted fifty-two (52) minority organizations to request their comments. Instructions on how to review the goal setting methodology and how to submit comments to NMDOT were provided. No comments were received.

NMDOT held a Public Involvement Virtual Meeting via Zoom on September 17, 2020, from 9:30am to 10:30 am local time, to allow direct interactive exchange with stakeholders and allow public input on the NMDOT DBE Goal Methodology. There was a total of seven (7) attendees throughout the meeting, not including the presenter, including representatives from NMDOT and FHWA, chapter, Navajo Nation PTAC, engineering, and environmental industry parties. No comments or concerns received regarding the actual goal.

All certified DBEs in the state received the goal methodology through an e-notification system.

Race and Gender- Neutral and Conscious Measures Section 26.51


NMDOT has had a race neutral program since September 2015. New Mexico has averaged 26.31% DBE participation by solely race neutral measures, continually exceeding the goal over the past three fiscal years. As a result, no race conscious goal has been calculated.

FFY	Total dollars	RN DBE dollars	RACE Neutral
2017	\$279,567,966	\$66,856,240	23.91%
2018	\$249,177,787	\$76,653,587	30.76%
2019	\$242,023,693	\$59,299,665	24.50%
	\$770,769,446	\$202,809,492	

NMDOT has an effective race neutral program. Projects are limited in size and, therefore, “unbundled.” Prequalification requirements are not onerous.

Conclusion

For the above reason, NMDOT’s goal setting methodology and race neutral/race conscious division for FY 2020-23 is accepted.

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Division Administrator

Date

Attachments: Goal setting methodology, NMDOT