

## FISCAL YEAR 2009 DBE GOAL-SETTING METHODOLOGY

In accordance with 49 CFR Part 26, the North Dakota Department of Transportation (NDDOT) calculated the FY 2009 DBE goal at **7.00 percent**.

### STEP 1

Availability of Disadvantaged Business Enterprises (DBEs) is determined from information supplied by all bidders on prime and consultant contracts, subcontractors and suppliers from April 1, 2007, to March 30, 2008. The data from this time frame is considered to be an accurate reflection of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on DOT-assisted contracts.

There are a total of **373** bidders and quoters on construction projects: **42** DBEs and **331** non-DBEs. A total of **26** consultants bid on consulting projects: **5** DBEs and **21** Non-DBEs (see chart below). A weighted average was developed by determining what percent non-DBEs and DBEs obtained of prime contracting, subcontracting, and consulting dollars. **This calculation establishes a base figure for Step 1 of 6.90 percent.**

	PRIMES BIDDERS	SUBCONTRACTORS OR SUPPLIERS	CONSULTANTS	TOTAL
DBE	4	33	5	42
NON-DBE	92	218	21	331
<b>TOTAL</b>	<b>96</b>	<b>251</b>	<b>26</b>	<b>373</b>

	DOLLARS	PERCENT
PRIME	\$207,632,099	71.17%
SUBCONTRACT	\$77,269,314	26.49%
CONSULTANTS	\$6,830,536	2.34%
<b>TOTAL</b>	<b>\$291,731,949</b>	<b>100.00%</b>

$$\begin{aligned}
 4/96 &= 4.17\% (.7117) = 2.97\% \\
 33/251 &= 13.15\% (.2649) = 3.48\% \\
 5/26 &= 19.23\% (.0234) = \underline{0.45\%} \\
 &\qquad\qquad\qquad \mathbf{6.90\%}
 \end{aligned}$$

### STEP 2

To determine past median participation, DBE participation was analyzed for the past **seven** fiscal years, FY 2001-2007.

YEAR	DBE	NON-DBE	TOTAL	PERCENTAGE
FY 2001	\$10,339,657	\$146,291,015	\$156,630,672	6.60%
FY 2002	\$9,088,665	\$158,460,142	\$167,548,807	5.42%
FY 2003	\$13,557,367	\$177,030,545	\$190,587,912	7.11%
FY 2004	\$13,150,084	\$167,755,961	\$180,906,045	7.29%
FY 2005	\$16,391,067	\$225,008,990	\$241,400,057	6.79%
FY 2006	\$21,811,298	\$268,650,893	\$290,462,191	7.51%
FY 2007	<u>\$17,881,255</u>	<u>\$201,191,041</u>	<u>\$219,072,296</u>	8.16%
<b>TOTAL</b>	<b>\$102,219,393</b>	<b>\$1,344,388,587</b>	<b>\$1,446,607,980</b>	

The FY 1999 information was data calculated with different reporting requirements, based on the mid-year changes to the DBE regulations. It is our opinion that utilizing information on participation from FY 1999 distorts the percentage and is not an accurate comparison with future data.

The Department did not have an approved DBE program until June of 2000. Since the current program was not approved until late in FY 2000, policies and procedures were not fully implemented and refined as they were in the following years. Therefore, FY 2000 is not considered to be an accurate reflection of current DBE capacity.

Although FY 2001-2006 did not include the consultant program, consultants represent less than 1/4 of one percent of the overall goal and approximately 2 percent of the program dollars. Since the median is used and the percentages have fluctuated less than three percent, the effect of consultants not being included in the FY 2001-2006 figures is considered minimal. Consultant information began being gathered during FY 2007 and is reflected in the FY 2007 data listed in Step 2.

When seven years of data are available, past median participation is determined by eliminating the high and low percents of participation and then using the data from the remaining year. Therefore, the percents of participation for FY 2001, FY 2002, and FY 2005 will be eliminated as they represent the lowest percents of participation. The percents of participation for FY 2004, FY 2006, and FY 2007 will be eliminated as they represent the highest percents of participation. The remaining year of data, for FY 2003 is 7.11 percent. The potential goal found in Step 1 of 6.90% added with the actual participation from FY 2003 was 7.11 percent. The 7.11 percent is then added to the Step 1 figure of 6.90 percent for a total of 14.01 percent divided by two equals 7.00 percent. This results in an upward adjustment to the base figure developed in Step 1 to 7.00 percent.

## ADJUSTMENTS

NDDOT also considered available evidence from related fields that affects the opportunities for DBEs to form, grow, and compete. To determine the effects of discrimination on opportunities for DBEs to get financing, bonding, or insurance, we contacted the following:

- ND Attorney General's Office
- ND Department of Banking and Financial Institutions
- ND Department of Commerce
- ND Department of Human Services
- ND Small Business Development Center
- ND Office of Management and Budget
- ND University System

We received no information from these sources indicating that adjustment based on this evidence is warranted. No disparity studies have been conducted in the state. Therefore, no adjustment has been made for this factor.

## BREAKOUT OF ESTIMATED RACE-NEUTRAL AND RACE-CONSCIOUS PARTICIPATION

The DBE regulations require NDDOT to meet the maximum feasible portion of our overall goal by race-neutral means. This will be achieved in the following way:

1. Using the supportive services newsletter, inform DBEs and non-DBEs about important issues, such as taxes, worker compensation, unemployment insurance, and other available resources for information on basic business topics. Businesses intending to bid

as prime contractors use the newsletter to advertise which projects they are bidding on. The newsletter is published 2 weeks prior to each regularly scheduled bid opening. The newsletter is posted to the Civil Rights Division website electronically and hard copies mailed to those individuals or businesses who have requested a paper copy. Businesses are notified of the availability of the electronic version via the Civil Rights listserv.

2. Provide an electronic supportive services room for DBEs and non-DBEs the day before each bid opening to facilitate the exchange of quotes. Free access to plans and proposals are provided at various district offices around the state and in the central office.
3. Provide the Notice to Bidders list of upcoming projects free of charge to any DBE or non-DBE.
4. Implement a supportive services program to develop and improve immediate and long-term business management, record keeping, financial, and accounting capabilities for DBEs and other small businesses.
5. Ensure distribution of NDDOT's DBE Directory, through print and electronic means, to the widest feasible universe of potential prime contractors and state and federal contracting agencies.
6. Provide basic training to DBEs and non-DBEs on using NDDOT's bid opening process and bidding effectively.

For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to:

1. DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures or through the consultant selection process;
2. DBE participation through a subcontract on a prime contract that does not carry a DBE goal; and
3. DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

NDDOT believes it will meet the goal of 7.00 percent by using race-neutral and race-conscious means as necessary.

When seven years of data are available, past median race-neutral participation is determined by eliminating the high and low percents of race-neutral participation and then using the data from the remaining year. Therefore, the percents of race-neutral participation for FY 2002, FY 2003, and FY 2007 will be eliminated as they represent the lowest percents of participation. The percents of participation for FY 2001, FY 2004, and FY 2005 will be eliminated as they represent the highest percents of participation. The remaining year of data for FY 2006, had 49 percent participation. The race-neutral portion of the goal will be determined by taking 49 percent of 7.00 percent which equals 3.43 percent.

<b>Fiscal Year</b>	<b>Percent Achieved</b>	<b>Percent Race-Neutral</b>	
2001	6.60%	3.54%	53.64%
2002	5.42%	2.31%	42.62%
2003	7.11%	2.98%	41.91%
2004	7.29%	4.31%	59.12%
2005	6.79%	3.34%	49.19%
2006	7.51%	3.68%	49.00%
<b>2007</b>	<b>8.16%</b>	<b>3.59%</b>	<b>44.32%</b>

1. 49 percent of the proposed 7.00 percent DBE goal = 3.43 **percent -- will be met by race-neutral means.**
2. 51 percent of the proposed 7.00 percent DBE goal = 3.57 **percent -- will be met by race-conscious means.**

Goals will be set on construction projects to achieve the race-conscious portion of the goal. Consultant participation will be achieved through race-neutral participation.