

NMDOT METHODOLOGY USED TO FORMULATE FFY 2018, 2019 AND 2020 HIGHWAY RELATED DBE GOALS

Introduction

The New Mexico Department of Transportation (NMDOT) prepared this document to describe the methodology used to establish the overall DBE goal mandated by 49 CFR Part 26. In establishing the goal, the NMDOT relied on both the federal regulations and the guidance related to implementation of those regulations.

49 CFR 26.45 requires the establishment of an overall goal based on demonstrable evidence of the availability of ready, willing, and able DBE firms relative to all businesses who are ready, willing, and able to participate on NMDOT contracts. This process begins by determining a base figure for the relative availability of DBE firms and then, based on evidence, determining whether the base figure requires adjustments to arrive at the overall goal. The NMDOT goal setting methodology complies with these requirements.

Discussion of Methodology and Relevant Evidence

To examine DBE availability, the NMDOT had to initially determine the relevant market area. According to federal guidance, the market area is the area in which the substantial majority of the contractors and subcontractors with which the NMDOT does business are located, and the area in which the substantial majority of contracting dollars are spent. In each of these respects, the public contract records of the NMDOT indicate that the appropriate market area is the geographical area of the State of New Mexico. All NMDOT contracts are performed in the State. Any out-of-state contractor or subcontractor must meet the same qualifying standards and requirements as in-state firms.

In the market area, the NMDOT has two principal types of contractors that participate in NMDOT contracts; namely, construction contractors and professional services consultants. As allowed by 49 CFR 26.45(c), the NMDOT used a list of Federal-aid highway construction contracts awarded in FFY17, FFY 18 and FFY 19 to contractors, and categories the contractors award amount by the type of work they performed. NMDOT identified seven distinct categories and evaluated the data to derive the DBE goal. NMDOT performed this methodology because it represents the best available and demonstrable evidence of the availability of ready, willing and able DBE firms relative to all businesses desiring to participate in NMDOT contracts. It therefore provides the basis for an appropriate, accurate and rational process, consistent with the federal guidelines. The data covers the time period from October 2016 through September 2019. This time period is hereinafter referred to in this document as “the relevant period”.

The relevant market area was determined to be the New Mexico area. Relevant period prime contractor and subcontractor records were analyzed to determine the geographical areas where these firms are located. 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.

A breakdown of relevant market area by county in New Mexico yielded the following results:

County	Market Share
Dona Ana	16.87%
Bernalillo	12.23%
McKinley	7.82%
Sandoval	6.60%
Eddy	6.14%
Colfax	5.28%
Cibola	4.99%
San Juan	4.39%
Santa Fe	4.06%
Quay	4.00%
Valencia	3.93%
Otero	3.46%
Socorro	2.74%
Chaves	2.26%
Curry	1.97%
Luna	1.94%
San Miguel	1.82%
Lincoln	1.33%
Grant	1.27%
Los Alamos	1.12%
De Baca	0.86%
Guadalupe	0.81%
Union	0.77%
Rio Arriba	0.68%
Taos	0.55%
Mora	0.48%
Harding	0.37%
Hidalgo	0.36%
Union County	0.30%
Torrance	0.21%
Sierra	0.17%

Lea County	0.16%
Catron	0.03%

Step 1 – Determining the Relative Availability of DBE Contractors

The method to calculate the Relative Availability of DBE Contractors follows the following process:

1. The Determining of the Step One Base figure was to determine the ratio that should be applied to construction contractors versus professional services consultants. The NMDOT reviewed the awarded amounts for federal-aid contracts for the last three federal fiscal years and those amounts were allocated into construction contracts and professional services consultant contracts. Construction contracts comprised 93.49% and professional services contracts 6.51% of the awarded amounts.
2. During the relevant period, 413 construction contractors, of which 50 were DBE firms, bid on NMDOT projects, 98 professional service consultants, of which 12 were DBE firms, bid on NMDOT projects. Also, of the 8A certified firms retrieved from the SBA Market Search website, there were 4 potential construction contractor DBEs. These are included in the above total numbers.
3. In order to determine the weighted relative availability for DBE construction contractors, the NMDOT divided the type of work these contractors perform into seven categories:
 - 1) **Bridges/Major Structures**
 - 2) **Project Wide – includes general engineering work**
 - 3) **ITS**
 - 4) **Permanent/Construction Signing**
 - 5) **Roadway**
 - 6) **Signalization**
 - 7) **Utilities**

Construction contractors and subcontractors were allocated into these categories based on the type of work and services they provided the NMDOT in Federal fiscal years 2017, 2018 and 2019 (FFY2017-19). DBE firms were also identified in this step and categorized into the corresponding group representing the work they performed. The NMDOT also allocated the total funds awarded towards these categories in FFY2017-19.

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:

DBE Firms (Bridges/Major Structures) = 11

Total Contractors (Bridges/Major Structures) = 105

Percentage of DBE Firms (Bridges/Major Structures) = $11/105 = 10.48\%$

This calculation is performed for each of the seven categories to determine the Percentage of DBEs.

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

Total Amount Awarded to Bridges/Major Structures: \$116,920,459.00

Total Amount Awarded to all seven categories: \$755,236,019.26

Percentage Awarded to Bridges/Major Structure:

$\$116,920,459.00/\$755,236,019.26 = 15.48\%$

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

5. 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:

Percentage of DBE Firms (Bridges/Major Structures) = 10.48%

Percentage Awarded to Bridges/Major Structure = 15.48%

Weighted Value for DBE Construction Goal (Bridges/Major Structures) =

$10.48\% \times 15.48\% = 1.62\%$

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

6. The NMDOT then calculated the sum of each Weighted Value which determines the factor to contribute towards the DBE Goal for Construction Contracts. These calculations are all represented in the attached table 1.

The sum of each weighted value is **11.71%**. This value is the percent DBE participation in construction contracts and will be factored into the overall DBE Goal.

7. In order to determine the Professional Services Consultant Contractor factor in this calculation of the overall DBE Goal, the NMDOT took the total number of Professional Services Consultant Firms awarded contracts in FFY17-19 and the identified the DBE Professional Services Consultant Firms from this population. The identified values are used to calculate the percentage of DBE Professional Services Consultant Firms that performed work during the relevant time period.

Total number of Professional Services Consulting Firms awarded contracts in FFY2017-19: 98

Total Number of DBE Professional Services Consulting Firms awarded contracts in FFY17-19: 12

Percent of DBE Professional Services Consulting Firms awarded contracts in FFY17-19 = $12/98 = 12.24\%$

8. The NMDOT then calculated the sum of each Weighted Value which determines the factor to contribute towards the DBE Goal for Professional Services Contracts. These calculations are all represented in the attached table.

The sum of each weighted value is **0.59%**. This value is the percent DBE participation in professional services contracts and will be factored into the overall DBE Goal.

The resulting calculations yield an Overall DBE Goal of **12.30%**.

Step 2 Adjustment

NMDOT is not making a step 2 adjustment.

Determining Race Neutral and Race Conscious Measures

Accordingly, and pursuant to 49 CFR 26.51, the NMDOT should establish race conscious goals to meet the portion of the overall goal not met through race neutral

means. However, New Mexico has functioned as Race Neutral state since September 2015.

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	

As evidenced by the above table, New Mexico has averaged 26.31% DBE participation by solely Race Neutral measures. New Mexico will continue to meet the DBE requirement and most likely exceed the goal due to the following factors:

- New Mexico traditionally awards comparatively smaller contracts to the national average, which allows smaller construction firms, including DBEs to successfully bid as prime contractors.
- New Mexico has several successful DBE firms that perform as subcontractors on many NMDOT contracts. These firms have continued to be successful and participate on NMDOT construction contracts in our Race Neutral environment.

NMDOT will track its progress toward meeting the goal throughout the fiscal year and will adjust its race neutral measures, and if necessary reinstitute Race Conscious measures, as required by 49 CFR 26.51(f)(2).

Public Involvement and Information Dissemination

Pursuant to 49 CFR §26.45(g), the NMDOT will post this DBE Goal Methodology document on the NMDOT website. The NMDOT will directly contact known interested organizations to provide instructions as to how to review the DBE Goal Methodology.

In accordance with direction provided by the U.S. Department of Transportation (USDOT) Departmental Office of Civil Rights (DOCR) memo regarding ‘Supplemental Guidance for DBE and ACDBE Program Requirements during COVID-19 Public Health Emergency’ dated July 27, 2020, the NMDOT will schedule a Zoom meeting in September 2020 to allow direct interactive exchange with stakeholders and allow public input on the NMDOT DBE Goal Methodology.

The NMDOT will also utilize the Outreach module of the B2GNow software used to maintain the DBE directory to inform the DBE’s in the system of how to review the DBE goal setting methodology and how to contact NMDOT to provide comments regarding the goal methodology.

The proposed DBE state goal and the rationale used to formulate the goal will be available for inspection at the NMDOT Construction and Civil Rights Bureau at 1570

Pacheco Street, Suite A-10, in Santa Fe, New Mexico with an appointment, as the office is closed due to the Governor of New Mexico's Public Health Orders.

Goal Submission

Pursuant to 49 CFR §26.45(f) and the subsequent extension by the FHWA due to the coronavirus pandemic, the overall goal will be submitted to FHWA for review on or before October 1, 2020. Pursuant to 49 CFR §26.45(f)(1)(iv), while NMDOT is required to submit an overall goal to FHWA every three years, the overall goal and the provisions of 49 CFR § 26.47(c) apply to each year during that three year period.

Work Type	Total \$	DBEs	Total Firms	Percentage of DBEs	Percentage of Total Awards	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/Constructon 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	#DIV/0!	0.00%	
TOTALS	755,236,019.26	62	511	12.13%		12.302%

Table 1