



**IDOT
2014-2016
Overall DBE
Goal Setting Report**

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OVERALL DISADVANTAGED BUSINESS ENTERPRISE GOAL SETTING METHODOLOGY REPORT FFY 2014–2016

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**OVERALL DISADVANTAGED BUSINESS ENTERPRISE
GOAL- SETTING METHODOLOGY REPORT
FFY 2014-2016**

I. INTRODUCTION

The Illinois Department of Transportation (IDOT) submits its Disadvantaged Business Enterprise (DBE) *Overall Goal Setting Methodology Report* to the United States Department of Federal Aviation Administration (FAA) for review and approval. The report has been prepared in compliance with Disadvantaged Business Enterprise (DBE) regulations, 49 CFR Part 26.45, as amended, the General Counsel of the United States Department of Transportation's *Tips for Goal-Setting* (USDOT Tips), and the United States appellate court's decision in *Northern Contracting v. Illinois Department of Transportation*.¹

The regulations require that the overall goal be prepared using a two-step process. According to the *USDOT Tips for Goal Setting*², approved by the General Counsel of the USDOT, 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. 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.³

¹ 473 F.3d 715 (2007).

² United States Department of Transportation, "Tips for Goal Setting in the Disadvantaged Business Enterprise (DBE) Program", <http://www.osdbu.dot.gov/DBEProgram/tips.cfm>

³ 49 CFR Part 26, §26.51(f)(1), §26.51(d)

II. PROPOSED OVERALL GOAL FOR FFY 2013-2015

Based on the requirements set forth in 49 CFR Part 26, *Northern Contracting*, and the *USDOT's Guidance Memorandum*, Illinois Department of Transportation is submitting a goal for FFY 2014-2016. The recommended overall DBE goal for the period is **22.77 percent**.

III. OVERALL GOAL-SETTING METHODOLOGY

As established above, the two step goal-setting process required by the regulations and the USDOT Tips has been used to determine the overall goal for FFY 2014–2016. The two steps for setting an overall goal are:

- Establishing a base figure for the relative availability of DBEs
- Determining the base figure adjustment

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.⁴ The regulations present five options for establishing a base figure for relative availability of DBEs. The five options as set forth in the regulations are listed in Table 1.

Table 1: Methods to Determine Base Figure

BASELINE FIGURE METHOD
Bidders List
DBE Directories and Census Data
Other Recipient's Base Figure
Disparity Study
Alternative Method

1. Bidders List Method

This method for calculating a base figure requires IDOT to have a comprehensive bidders list which includes potential prime contractors and subcontractors classified by industry, ethnicity, and gender. Businesses that submit a bid or quote as a prime contractor for an IDOT contract are recorded on a bidder's list. This method limits DBE availability to businesses that bid to IDOT as prime contractors. The bidders list does not account for the businesses that bid to prime contractors as subcontractors or suppliers. This limitation can understate the availability of DBEs.

⁴ *Tips for Goal Setting in the Disadvantaged Business Enterprise (DBE) Program*, U.S. Department of Transportation

2. DBE Directories and Census Data Method

DBE directories of Illinois USDOT recipients are consolidated into the Illinois Unified Certification Program (IL UCP) database. The IL UCP is a “one-stop” certification process for DBEs and includes five local USDOT-funded agencies, including IDOT, City of Chicago, Chicago Transit Authority, Metra, and Pace. Using the IL UCP database to determine DBE availability is limited to US DOT-certified businesses; however, *USDOT Tips* requires including businesses that are not certified, but are potential DBEs, to determine availability. The Census Bureau’s County Business Pattern (CBP) data are derived from business federal income tax filings and, therefore, cannot address businesses’ willingness to do business with IDOT. Additionally, the CBP does not have the functionality to filter Caucasian male-owned businesses that work exclusively in the private sector, or those not interested in contracting with IDOT. Essentially, the CBP over-counts Caucasian males and the IL UCP under-counts DBEs, thus this method understates the relative availability of DBEs.

3. Other Recipients’ Base Figure Methods

This method uses the goal of another USDOT recipient as the base figure. IDOT can only use another recipient’s goal if the goal-setting is done in accordance with the DBE regulations and IDOT has performed similar contracting in a similar market area. This method presumes that there is another USDOT recipient that does the same or similar type of contracting in the same geographic market area. While the other UCP agencies perform contracting, several are transit agencies and therefore have substantial vertical and rail construction compared to IDOT’s use of primarily highway trades. While all the UCP agencies have overall goals ranging from 21-25 percent, these goals are based on work not substantially similar enough for IDOT to adopt them. Therefore, these conditions cannot be met in IDOT’s market area.

4. Disparity Study Methodology

The disparity study is the most comprehensive method for calculating the base figure. A disparity study identifies the businesses that have bid as either a prime or subcontractor. It enumerates DBEs and non-DBEs that are willing and able to work on IDOT’s contracts. IDOT released its Disparity Study in 2011 for the study period of January 1, 2006 to December 31, 2008. This Study established a basis for a goal setting by providing both quantitative data and qualitative anecdotal evidence.

5. Alternative Method

Alternative methods may be used to determine a base figure for the overall goal. Any methodology used to determine a base figure must be based on demonstrable evidence of the local market conditions, and be designed to ultimately attain a goal that is related to the relative availability of DBEs and potential DBEs in the recipient’s market area. The alternative method provides the most flexibility, but it is also subject to a higher level of scrutiny.

IV. STEP ONE BASE FIGURE CALCULATION

A. Goal Setting Methodology

The initial phase of the Step One analysis required the compilation of critical data regarding IDOT's contracting. IDOT adopted the bidder's list methodology from 26.45 and reviewed the approved 2013-2015 FHWA Goal Setting Document.

The relevant data considered for the Step One analysis included 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 2: 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 contracts awarded during the study period were classified using a description of the contracts awarded July 1, 2011 to June 30, 2012. The balance was classified by the Division of Aeronautics determining NAICS codes utilized on the 33 contracts awarded during the study period. Table 3 below presents IDOT's 2011-2012 Aeronautics contracts by NAICS code and industry.

Table 3: 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

B. Base Figure Determination

The base figure is intended to be a measurement of the relative percentage of ready, willing, and able businesses that are DBEs. The recipient is required to measure willing and able businesses in its marketplace, using the best available evidence, to derive a fair and accurate base figure that represents the percentage of available 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.

The availability database compiled for the 2012 IDOT DBE Availability Study was used as the source of DBEs and non-DBEs that were willing to perform IDOT contracts. A business was classified as willing if it had either bid on an IDOT contract, obtained pre-qualification with the State of Illinois, certified with a government agency, or responded to the outreach campaign conducted in conjunction with this Study.

For the purposes of determining the base figure the IL UCP was utilized to determine the number of available DBEs able to do work within the market area by NAICS code classification. The total available businesses were determined by utilizing the 2011 U.S. Census NAICS code business patterns data (<http://censtats.census.gov/cgi-bin/cbpaic/cbsect.pl>).

1. 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), which produces a relative base figure of **8.20 percent**, as shown in Table 4.

Table 4: 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 spend in each NAICS code. To more accurately reflect the nature and the scope of work, the *USDOT Tips* recommend a weighted calculation of availability. This calculation, which is based on the spend in each NAICS code, is also presented.

2. Weighted Base Figure

Weighting is recommended in *USDOT Tips* to ensure that the overall goal accurately reflects the scope of work. The first step is to calculate a weight for each NAICS code, which is the percentage of the budget for past contracts. 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 from July 1, 2011 to June 30, 2012.

The second step to weight availability is to divide the number of DBEs by the total number of businesses in each NAICS code. The results are then multiplied by the corresponding weight in each NAICS code. Lastly, the weighted percentages in each NAICS code are combined to determine the weighted base figure. Table 5 presents the calculation of weighted availability, 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

V. STEP TWO BASE FIGURE 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
- Saturation of the Market Area

1. Past DBE Utilization

DBE participation, hereafter referred to as utilization, was generated from IDOT’s Uniform Report of DBE awards, commitments and payments. Table 6 details DBE utilization, measured by actual payments on contracts completed from 2008 to 2012. The determination of past DBE utilization includes several years outside period studied for the 2012 IDOT DBE Availability Study. This five-year range (2008-2012) presents a

more accurate reflection of DBE utilization, than the shorter study period (2010-2011). 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 0.016 percent.

Table 6 also demonstrates past utilization as reported as achievements on IDOT’s Uniform Reports. The overall median past utilization is 9.45%, for the same time period of 2008-2012.

Table 5: Past DBE Achievement

YEAR	TOTAL FAA AWARDS	RACE NEUTRAL DBE ACHIEVEMENT	TOTAL DBE ACHIEVEMENT
2008	\$33,455,983	\$771,765 (0.023%)	\$3,776,041 (11.29%)
2009	\$57,972,880	\$769,512 (0.013%)	\$5,615,782 (9.69%)
2010	\$36,883,665	\$541,826 (0.014%)	\$3,098,805 (8.40%)
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%)

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. There are several major construction and architecture and engineering projects that that will be initiated by other local governments receiving federal financial assistance that will generate substantial, competing, contracting opportunities in IDOT’s market area. Table 7 below presents the additional upcoming projects in the market area and the DBE goals for each project.

Many of these planned construction and architecture and engineering projects are scheduled to be let by 2014 and are expected to draw heavily upon the capacity of all 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*. IDOT applauds the increased opportunities for DBEs while understanding that the impact of these projects may lower the actual availability of businesses to perform on IDOT projects.

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

PROJECT TITLE	ESTIMATED BUDGET	DBE GOAL	ESTIMATED DBE AWARDS
2014 Airport Improvement Projects	\$39,088,042	11%	\$4,316,711
2014 State/Local Improvement Projects	\$7,665,039	7.3%	\$557,932
2015 Airport Improvement Projects	\$29,406,100	11%	\$3,234,671
2016 Airport Improvement Projects	\$29,400,000	10%	\$2,940,000
2003 – 2018 O’Hare Modernization Project	\$6.6B	30%	\$396,000,000
South Suburban Airport*	\$700M	n/a	n/a
TOTAL	\$105,559,181	10.5%	\$11,049,314

*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.”⁵ 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.⁶

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 a realistic expectation for achievement. After careful consideration of past utilization not exceeding the aspirational goal and especially as a result of saturation in IDOT’s District 1 universe, it was determined that a modest adjustment to the 26.07 percent weighted base figure for the 2012 study will be adjusted to **22.77 percent**.⁷

⁵ *Adarand VII*, 228 F.3d 1147,1174 (2000) (See *City of Richmond v. Croson*, 488 U.S. at 499).

⁶ Jon Wainwright and Colette Holt, Guidelines for Conducting a Disparity and Availability Study for the Federal DBE Program, p. 83, Transportation Research Board, 2010.

⁷ IDOT’s Disparity Study released in 2011 supported a Step One base figure of 25.59% as reported to FHWA in the submittal of IDOT’s DBE Goal Setting Document of August 1, 2012 and discussed at IDOT’s public hearing for the goal setting on July 18, 2012. The updated data from the 2012 study is based on one year’s worth of data and is not substantially different, making a new study unnecessary.

VI. 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. The median past race and gender-neutral DBE participation during 2008-2012 was 0.016 percent, as indicated in Table 6. As such, IDOT projects it shall meet **0.016 percent** of its overall DBE goal through race and gender-neutral measures and **21.09 percent** through race and gender-conscious measures.

Race and gender-conscious goals would 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. Race and Gender-Neutral Initiatives

1. Mentor Protégé Programs

IDOT implemented Mentor-Protégé Programs for construction and consultant engineering services to enhance the capabilities of DBEs to perform prime contracts and subcontracts, and thereby increase the utilization of available DBEs. The program was created to provide developmental assistance to DBEs and enhance the protégé's business and technical capabilities to do more complex work.

The Mentor-Protégé relationship includes a development plan which outlines the parties' goals and expectations, monitoring and reporting provisions, duration of the relationship, services and resources to be provided by the mentor to the protégé. The mentor must provide the protégé with a commercially useful function in the performance of the contract.

2. Small Business Advisory Committee

IDOT reestablished its Small Business Advisory Committee to serve in an advisory capacity to the agency regarding matters relating to the DBE Program. The Committee is comprised of professionals that represent a broad cross-section of the construction and engineering industries from both a multi-ethnic and geographically broad perspective. The organizations and associations represented include Black Contractors United, Inc.; Federation of Women Contractors; Hispanic American Construction Industry Association; Illinois Association of Women Contractors; Women Construction Owners and Executives; Northern Illinois Minority Contractors Association; Association of General Contractors; Southern Illinois Builders Association; and the Illinois Road and Transportation Builders Association. The role of the Committee is to provide IDOT with constructive input on issues of interest to small businesses, DBEs, and the general

construction industry. A subcommittee is charged with the responsibility of reviewing the new DBE Utilization Plan submission process and offer recommendations so the process is more “user-friendly.”

3. Fostering Small Business Participation

The new regulations require USDOT recipients to structure contracting requirements in order to facilitate competition by small businesses and take all reasonable steps to eliminate obstacles to their participation. Specific reference is made to removing unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as either prime contractors or subcontractors. IDOT anticipates implementing a small business enterprise component to its DBE Program. Efforts in this direction have begun by Illinois Transportation, Secretary Ann L. Schneider, who sought input into the development of FFY 2013-2018 upcoming multi-program for highway improvements for through informational and feedback sessions. A public meeting for IDOT District 3 was held on July 26, 2011 to provide DBEs and small businesses with information on project priorities over the next five to seven years. The meeting provided small businesses an opportunity to comment on the development of the proposed multi-program and existing programming procedures.

A concerted effort will be made over the next three years to unbundle more contracts and identify small businesses with the capacity to perform IDOT contracts. USDOT’s new small business requirement necessitates a more focused outreach and technical support system to encourage the small contractor to bid IDOT project.

5. Small Business Initiative

As part of the small business element, IDOT continues its Small Business Initiative (SBI) program that was implemented in June 2005. The purpose of SBI is to provide small businesses and DBEs in the transportation-related industry an opportunity to bid as prime contractors. Small contracts are identified as potential contracts to be performed by small businesses. A firm’s annual sales and receipts cannot exceed \$10 million to be eligible to participate in the program. Businesses are required to be prequalified in accordance with Section 45-45 of the Illinois Procurement Code and the rules of the Department to be considered for an award.

IDOT has submitted a Small Business Program Element to US DOT as an amendment to its DBE Program pursuant to 49 CFR Section 26.39. The amendment included a proposal for a race-neutral small business set-aside program for prime contracts called SBI. The Department expected a response from the US DOT regarding approval of the Small Business Program Element amendment in the near future. It is believed that this type of program will increase DBE participation by providing additional contracting opportunities for small businesses.

6. Other Race and Gender-Neutral Activities

In addition to the above race and gender-neutral programs, IDOT continues to take steps to improve opportunities and services for DBEs. Included are:

- DBE Resource Centers and providing management and technical supportive services assistance on a statewide basis
- Formation of a Prequalification Enhancement Committee with stakeholders to eradicate perceived barriers in the prequalification process for small businesses that continues to meet quarterly
- Increasing the minority representation on the Department's Engineering Selection Committee
- State legislation to implement a DBE bonding and finance program
- Department website revisions to create a portal to facilitate access to all diversity programs, including DBEs, which is available at <http://www.diversity.dot.illinois.gov/>
- Creation of the monthly *Diversity Matters* newsletter to keep small businesses informed of all Department initiatives
- IDOT conducted its Today's Challenge Tomorrow's Reward which provided a forum to provide timely construction industry information networking opportunities to assist small and disadvantaged businesses
- Additionally, several Illinois state agencies participated in the first of a series of *Winning with the State* conferences in 2013 to provide DBEs and other small businesses with information about state agencies' procurement opportunities, M/W/DBE certification, etc.

All the above existing Departmental programs, except *Winning with the State*, are administered by the Office of Business and Workforce Diversity and Division of Highways. IDOT continues to explore other means to provide for increased opportunities for the DBE community with FAA Division Office personnel and interested stakeholders. This forum allows DBE firms, industry associations and community organizations to collaborate and discuss DBE program related issues and best practices.

VII. PUBLIC NOTICE OF PROPOSED OVERALL DBE GOALS

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 was published in general circulation media, minority-focused media, and provided to trade associations, trade organizations, the IL UCP Directory and on the website at www.dot.il.gov.

IDOT held a public hearing on July 16, 2013, to present the *Overall DBE Goal and Goal Setting Methodology Report* and to receive public input. Public comments were accepted for 45 days after the public hearing. The *Overall DBE Goal and Goal Setting Methodology Report* was made available for inspection during normal business hours at IDOT Headquarters for 30 days from the date of the publication. A summary of all comments received during the comment period was transmitted to FAA; any additional comments received through August 12, 2013 will be forwarded to FAA.