

## **DBE Goal for 2015-17**

### **Iowa Department of Transportation**

To comply with 49 CFR Part 26.45, the Iowa DOT established its overall DBE goal based on the availability of ready, willing, and able DBEs, within the Iowa highway construction industry, relative to the availability of all ready, willing, and able businesses within the same industry (hereafter, this proportion is referred to as "the relative availability of DBEs"). Establishing the overall DBE goal involves two primary steps:

- 1. Determine a base figure for the relative availability of DBEs.**
- 2. Examine evidence from within the state to determine what adjustments, if any, are necessary to the base figure to arrive at the overall goal.**

The Iowa Department of Transportation utilized a different methodology when determining our FY2015-2017 DBE Goal for FHWA purposes than was used from FY 2010 forward. Comparison of the 2015-2017 goal to those of previous years is found in Attachment A.

#### **FY 2015-2017 Goal Setting Methodology- Section 26.45**

##### **A. Step One: 2015-2017 Base Figure- Section 26.45(c)**

Section 26.45(c) requires that the goal setting process begin with a determination of a base figure for the relative availability of DBEs. This section then sets out five examples of options that may be used as a starting point for the goal setting process.

- 1). *Use DBE Directories and Census Bureau Data* to determine the number of ready, willing and able DBEs in the market by using the DBE Directory and the Census Bureau's County Business Pattern data base to determine the number of all ready, willing and able businesses available in the market that perform work in the same NAICS codes. The number of DBEs should then be divided by the number of all businesses to arrive at a base figure for the relative availability of DBEs in the market.
- 2). *Use a bidder's list* to determine the number of DBEs that have bid or quoted on DOT assisted prime contracts or subcontracts in the previous year. Then determine the number of all businesses that have bid or quoted on prime or subcontracts in the same time period. The number of DBE bidders and quoters should be divided by the number of all businesses to derive a base figure for the relative availability of DBEs in the market.
- 3). *Use data from a disparity study.* Use a percentage derived from data in a valid, applicable disparity study.
- 4). *Use the goal of another DOT recipient* If another DOT recipient in the same or substantially similar market has set an overall goal in compliance with this rule, that goal may be used as a base figure.
- 5). *Alternative methods.* Other methods may be used to determine a base figure for an overall goal. The methodology used must be based on demonstrable evidence of local market

conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in the market.

The Iowa DOT initially proposed to use option number 5 above to determine the relative availability of DBEs at Step One of the methodology. The relevant market was determined to be the state of Iowa. We first determined the number of DBEs currently listed in the DBE Directory (regardless of business type), and divided that number by the number of all vendors/contractors currently doing business with the Iowa DOT.

To determine the number of *potential* DBEs we looked to the number of small businesses in Iowa certified as Targeted Small Businesses (regardless of business type); then divided that number by the total number of businesses doing highway construction work in the state. These businesses were identified by NAIC Code and by accessing 2010 Census Bureau data.

After the appropriate calculations were completed, a Step One base goal of 5.84 % was proposed. Further analysis at Step Two of the methodology determined that no adjustments to this proposed base goal were necessary. The proposed goal of 5.84%, with methodology, was made available to all interested parties and participants at a public meeting held on April 15, 2014. Comments were offered at the meeting. Two interested parties later submitted written comments.

The comments received were indicative of two primary concerns. The first was whether the use of the DBE directory provided an accurate reflection of the number of DBEs actually engaging in highway construction related services. The point was made that of the 180 certified DBEs in the directory, approximately one quarter or about 45 certified businesses were engaged in highway construction work. The second concern was that use of Targeted Small Business listings was not an accurate reflection of *potential* DBEs much less reflective of the potential of any of these businesses to engage in highway construction related work now or in the future. In essence, the comments questioned the ability of the proposed methodology to accurately reflect the true relative availability of DBEs in the state.

Subsequent to the closing of the comment period, IaDOT determined that a re-examination of other options for determining a base figure for its methodology should be undertaken.

After additional research it was determined that the use of a bidder's list (Option 2) was not a feasible alternative. As a result of recent process changes, the data necessary to compile a bidder's list is not currently being captured and we were unable to find an alternative method to obtain that data. While data for previous years is available, no current data has been maintained over the past two years. As such, the option of using a bidder's list had to be rejected.

Another option set out in the regulations is the use of data from a valid, relevant disparity study (Option 3) as the foundation for determining the base figure at Step 1 of the methodology.

However, Iowa has not conducted a statewide disparity study, thus the data necessary for such an analysis is unavailable and that option was rejected as well.

The regulations stipulate that the goal of another DOT recipient may be adopted as the Step 1 base figure (Option 4). We gave consideration to utilizing this option and undertook an analysis using the 2012-2014 goal set by Nebraska (5.89%). Nebraska was chosen for several reasons:

- 1). The fact that Nebraska's goal setting methodology relied in part upon a market survey that established that Western Iowa fell within Nebraska's market area.
- 2). The existence of joint agreements between Nebraska and Iowa on major highway construction projects in the Council Bluffs/Omaha area as well as the Sioux City/West Sioux City area. These are projects that include goals set for DBEs in Nebraska and Iowa and these projects will continue throughout the lifetime of the goals set through the process being undertaken as described herein.
- 3). Demographic similarities between the two states.
- 4). Nebraska's overall goal was set in compliance with the rule set out in Section 26.45 of the Federal Regulations and was approved. As such, it is permissible for Iowa to adopt Nebraska's overall goal as the base figure for our goal setting methodology.

After consideration, it was decided that Option 4 was not the most appropriate means of establishing Iowa's Step 1 base figure. While the simplicity of this option holds appeal, the fact remains that the adoption of another State's goal simply is not reflective of the relative availability of DBEs within our identified market: the state of Iowa.

We then revisited our options for gathering the necessary data to do an analysis pursuant to Option 5 (Alternative Methods). We gave consideration to estimating the number of potential DBEs based upon the number of newly certified DBEs in 2013 and assuming that the same or nearly the same number of DBEs would be newly certified in each of the succeeding years for this goal setting period. This estimate could be considered to be validated based upon our 2014 certification experience: thus far in 2014 we have certified 24 new DBEs and have 4 additional certifications pending. Based on this number of certifications with several months remaining in FY 2014, it is reasonable to extrapolate that we will again reach a total of 50 new certifications in 2014.

$$180+150 = 330$$

$$4930+420 = 5350$$

$$330/5350 = 6.12\%$$

After consideration, this analysis was discarded due to the fact that it is based both upon past participation, which is not permissible under current interpretation of the regulations, as well as the fact that this methodology would be based upon speculation that the rate of new DBE certification would continue over the entire relevant three year period.

Our final analysis undertaken in search of an appropriate methodology was conducted pursuant to Option 1- *Use of DBE Directory and Census Bureau Data*. In this analysis we quickly identified that the majority of the federal dollars received are directed toward highway construction. For this reason, we determined that is appropriate to tailor our methodology in the same direction. First, we identified the primary functions in heavy highway construction by NAICS code. We then identified the number of DBEs (in the current directory) performing work within these same codes. Our research continued by identifying the number of businesses in Iowa performing these same functions through the use of Census Bureau data. We believe that the Census Bureau data serve two functions: the first, to identify all businesses in Iowa ready, willing and able to perform these types of work; and secondly after excluding the number of currently certified DBEs (from the current directory) from the total number of businesses ready, willing and able to perform these work types, the resulting number of currently non-DBE certified businesses will necessarily include businesses that could *potentially* be certified as DBEs in the future. We believe that this calculation accurately reflects the relative availability of DBEs (current and potential) in our identified market area.

As a result of this analysis, we identified 155 DBEs currently engaged in heavy highway construction work. We then identified 2712 non-DBE certified businesses in Iowa performing this work.

$$155/2712 = 5.75\%$$

We gave due consideration to the comments received at the public meeting on April 15, 2014 as well as the written comments submitted after that date. As a result, we determined that a careful re-examination of our initial proposed methodology was in order. As set out above, a detailed review of all of the options available to us per regulations was undertaken. After careful study of the data we have available to us for use in this process, we made the determination that the methodology set out in the paragraph immediately above was most appropriate to arrive at our base figure for Step 1 of our goal setting process as it provides the most accurate reflection of the relative availability of DBEs in our identified market area.

This methodology provides the most accurate reflection of the market we identified at the outset of the process (the state of Iowa); it includes the most accurate count of the businesses within that market area that are ready, willing and able to perform heavy highway construction work (this is where the sizeable majority of federal aid dollars are directed) and it is the best and most inclusive assessment of potential DBEs within our identified market area. In sum, our **Step 1 base figure is 5.75%**.

#### **B. Step Two: Examine available evidence to determine if adjustments to the methodology are necessary**

The Iowa DOT considered five alternative factors at Step 2 of our analysis to determine whether adjustments should be made to the Step 1 base figure of our methodology. These factors scrutinized the availability of ready, willing, and able DBEs within the Iowa highway construction

industry, relative to the availability of all ready, willing, and able businesses within the same industry. After completing our analysis of these factors, the determination was made that no adjustment was necessary to our Step 1 base figure discussed above.

**The factors we examined are set out in detail below:**

- **Factor 1. The percentage of all Iowa DOT prime contracts awarded to DBEs.** We believed this data should be considered because these contracts were awarded to DBEs through a race-neutral, low-bid process. Therefore this data should reflect the current ability of DBE firms to compete against larger businesses and to obtain prime contracts in a race-neutral market. The following formula was used to obtain this percentage:

$$\frac{68 \text{ DBE prime contract awards}}{2014 \text{ all prime contract awards}} = 3.4\%$$

- **Factor 2. The percentage of all Iowa DOT subcontracts received by DBEs.** We believe that this data should be considered because it reflects the ability of DBEs to compete and obtain subcontracts through both race-neutral and race-conscious measures. The percentage was arrived at by including both Federal and non-Federal aid projects. Suppliers, manufacturers, truckers, and consultants were not included when calculating this percentage. The following mathematical formula below was used:

$$\frac{619 \text{ DBE subcontracts awarded}}{6906 \text{ all subcontracts awarded}} = 9.0\%$$

- **Factor 3. The percentage of all Iowa DOT contract and subcontract dollars received by DBEs.**

We believe that this analysis was important to consider in that it reflects the proportionate amount of work received by DBEs relative to the maximum total monetary value of work capacity of all firms that bid on both Federal and non-Federal aid projects. The resulting percentage was determined by using the formula below:

$$\frac{\$104,000,000 \text{ to DBE contracts and subcontracts (rounded)}}{\$2,400,000,000 \text{ to all firms in the industry (rounded)}} = 4.3\%$$

- **Factor 4. The percentage of all Iowa DOT contract dollars awarded to DBEs.**

We believe that this data should be considered because it reflects the amount of work received by DBEs through the low bid/race neutral process on both Federal and non-Federal aid projects. The following formula was used:

$$\frac{\$28,000,000 \text{ all DBE contracts (rounded)}}{\$2,400,000,000 \text{ all contracts}} = 1.2\% \text{ (rounded)}$$

- **Factor 5. The percentage of all Iowa DOT subcontract dollars received by DBEs.**

The subcontract dollars were evaluated by examining three categories:

- A. The percentage of all contract dollars received by DBEs, for both Federal and non-Federal aid projects.

$$\frac{\$75,000,000 \text{ DBE subcontracts on all contract}}{\$2,400,000,000 \text{ value of all contracts}} = 3.1\%$$

- B.** The percentage of contract dollars subcontracted to DBEs on contracts with DBE goals. The resulting percentage reflects the amount of subcontract work received by DBEs through race conscious efforts.

$$\frac{\$59,000,000 \text{ to DBEs via subcontracts}}{\$1,274,000,000 \text{ contracts with DBE goals established}} = 4.6\%$$

- C.** The percentage of contract dollars subcontracted to DBEs without DBE goals. The resulting percentage reflects the monetary value of subcontract work received by DBEs through race neutral subcontract efforts.

$$\frac{\$17,000,000 \text{ DBE subcontracts}}{\$1,125,000,000 \text{ all contracts without of goals}} = 1.6\%$$

### **C. Conclusion**

In conclusion it should be noted that each of the analyses and methodologies undertaken throughout this process yielded very similar outcomes; despite the fact that they were subsequently discarded for other reasons.

Our initial analysis, undertaken with the use of census bureau, TSB and DBE directory data resulted in a potential Step 1 base factor of 5.84%. Adoption of Nebraska's goal would have resulted in a Step 1 base factor of 5.89% and the use of a methodology that extrapolated the number of potential DBEs based upon prior years' certification experience would have provided a base figure of 6.12%. The method actually adopted, due to the fact that it provided the most accurate reflection of the availability of DBEs (current and potential) within our established market area, yielded a Step 1 base factor of 5.75%. The outcome from the use of each of the options falls within a narrow range. This result strongly suggests that any of these options would have been a responsible choice for a methodology to arrive at our Step 1 base figure. As discussed in detail above, our ultimate choice was made based upon our belief that it provides the most accurate means to reach the overarching goal of establishing the availability of ready, willing, and able DBEs, within the Iowa highway construction industry, relative to the availability of all ready, willing, and able businesses within the same industry. We believe that the clustering of the outcomes from each of these options provides validity for our choice of methodology.