

**Utah Department of Transportation (UDOT)  
Federal Transit Administration (FTA) Program  
Disadvantaged Business Enterprise (DBE) Proposed Goal and Methodology  
Federal Fiscal Years 2015 Through 2017**

In accordance with 49 C.F.R Part 26.45, the UDOT has determined its DBE goal for its FTA Program for the next three Federal Fiscal Years (FY) using methodology described in 49 C.F.R Part 26.45 and the USDOT's Goal Setting in the DBE Program (Tips for Goal Setting).

The UDOT considered various aspects of the DBE process when evaluating the overall DBE goal and for the race and gender neutral and conscious percentages. The determination reflects a level of participation that the UDOT would expect to have in the absence of discrimination or other socio-economic barriers. As defined by 49 C.F.R Part 26.1, the purposes of the DBE program are:

- To ensure nondiscrimination in the award and administration of DOT-assisted contracts in the Department's highway, transit, and airport financial assistance programs
- To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts
- To ensure that the Department's DBE program is narrowly tailored in accordance with applicable law
- To ensure that only firms that fully meet eligibility standards are permitted to participate as DBEs
- To help remove barriers to the participation of DBEs in DOT-assisted contracts
- To assist the development of firms that can compete successfully in the marketplace outside the DBE program; and
- To provide appropriate flexibility to recipients of Federal financial assistance in establishing and providing opportunities for DBEs.

1. Market Area Analysis

1.1 The market area is a geographical area that represents where the majority of the businesses are located that the UDOT or our subrecipients do business with. In evaluating the major market area, the UDOT determined that at least 90 percent of the businesses that the UDOT or our subrecipients has contracted with, over the last three years, are located in the state of Utah. Therefore, the UDOT identified Utah as the relevant market area for its 2015-2017 Overall DBE Goal Methodology. When determining the total number of DBEs and overall number of businesses, only those DBEs and businesses in Utah were considered. Alternatively, these numbers could have been adjusted to account for 10 percent participation from businesses outside of Utah; however, when dividing to determine the relative availability, this adjustment is nullified. Therefore, our methodology is consistent and accurate.

2. Data Sources

2.1 UDOT's DBE directory

- 2.1.1 The UDOT's current DBE directory was used to develop the number of ready, willing, and able DBE businesses in the different work classes. The DBE directory is located at: <http://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:2252>, and the directory dated May 8, 2014 was used for this goal determination.

## 2.2 Census Bureau Data

- 2.2.1 Census Bureau Data and the current NAICS codes were used to develop the numbers of available businesses for each work class in the market area. This website is located at: <http://censtats.census.gov/cgi-bin/cbpnaic/cbpsect.pl>.

## 2.3 Historical Data

- 2.3.1 The UDOT utilized past DBE participation records and our experience with contracting methods in the FTA Program to make appropriate adjustments to the base figure.

## 3. DBE Goal Setting Process

- 3.1 Step One (49 C.F.R 26.45(c)): "You must begin your goal setting process by determining a base figure for the relative availability of DBEs."

3.1.1 The UDOT utilized the DBE directory and Census Bureau Data according to 49 C.F.R. 26.45(c).1 to determine our base figure. The number of DBEs in each work class was divided by the number of all businesses in that work class to derive a base figure for the relative availability of DBEs for each work class. Because some businesses are counted under multiple NAICS codes, the DBEs were also counted separately in multiple work classes. However, for the purposes of determining the number of DBEs within a single work class, a particular DBE was only counted once. For example, if ABC Concrete is a DBE that is shown under the Operating and Construction NAICS codes, they were counted in each of those different work classes. Likewise, when determining the number of DBEs for Operating and Construction work classes, ABC Concrete would be counted in both. Conversely, if ABC Concrete is shown in the DBE directory under classification A01 and A02, ABC concrete was only counted once towards Operating and once towards Construction, not twice for each. The number of DBEs and total businesses for each work class are shown in Table 1.

3.1.2 As recommended in the Tips for Goal Setting, weighting was utilized to help ensure that the Step One base figure is as accurate as possible. While weighting is not required, it makes the goal calculation more accurate. The UDOT determined expected expenditures in FY2015-2017 by determining what funds are currently obligated and under contract and by looking at our current draft program of projects. The UDOT has not finalized programs of projects for funding beyond FY2012. Therefore, funds which are currently obligated are made up of FY2012 or earlier funds yet to be expended. This amount is well defined. For funding beyond FY2013, the UDOT has draft programs of projects based on known annual apportionments. The UDOT expects FY2013 funds to be expended in FY2015, FY2014 funds to be expended in FY2016, and FY2015 funds to be expended in FY2017. For years which have unknown annual apportionments or programs of projects, we assumed a one percent annual apportionment increase and similar project types to estimate those expenditures. The work classes have been separated into nine different classes which represent all the work classes that the UDOT actively uses. Expected expenditures were summed for each work class for the goal period. A percent of expected expenditures was calculated by dividing the total amount for each work class by the total of all amounts for the work classes, less the transit

vehicle amount. Table 2 includes a summary of the expected expenditures for FY2015-2017 using this methodology. The percent of expected expenditures for each work class was then multiplied by the DBE relative availability for each work class to determine a weighted availability for each work class. The following formula describes the base figure calculation for each work class:  $\{(Work\ Class\ DBEs/Work\ Class\ total\ businesses)\ * percentage\ of\ total\ expenditures\ for\ the\ three\ year\ goal\ period\ in\ that\ Work\ Class\}$ .

3.1.3 The weighted base figures for each work class were summed to determine the final step one base figure, which is shown in Table 1, and it is: **2.75 percent**.

3.2 Step Two (49 C.F.R 26.45(d)): "Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall goal."

3.2.1 Current Capacity (49 C.F.R 26.45(d)(1)(i)) "The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years."

3.2.1.1 The UDOT considered past and current contracting practice in the goal setting process. The FTA Program awards funds to subrecipients to assist in their respective programs. In many cases, this involves providing capital funds for planning or mobility management activities. These funding amounts are relatively small and typically less than \$100,000. In other cases, this involves providing non-capital funds for operating or project administration activities. In both cases, it is standard practice in our market area for these activities to be performed by the subrecipients' own forces and no work is subcontracted out. This is logical for subrecipients such as association of governments whose main activity is planning or for subrecipients such as transit service providers who already have their own drivers or maintenance crews. The UDOT interprets the intent of 49 C.F.R. 26.51 to limit race and gender conscious goals to contracts with subcontracting opportunities. This does not prevent race and gender neutral participation from prime contractors; however, no association of governments or transit service providers funded by the UDOT are certified DBEs in Utah. Therefore, the UDOT believes it is consistent with 49 C.F.R. 26.45 and 26.51 to adjust our overall goal for these factors. While this factor is not specific to the capacity of DBEs, it is a capacity limitation of the nature of the UDOT FTA Program. Based on past experience and knowledge of our current and anticipated subrecipients, the base figure is adjusted for this factor in Table 3.

3.2.1.2 Past participation was also considered in the adjustment of our base figure. The UDOT compiled DBE participation values from the past five years and calculated the median participation value. This median value was averaged with the adjusted base figure from Table 3 to calculate our final adjusted goal. The past participation data and adjustment calculation are shown in Table 4.

3.3 As recommended in the Tips for Goal Setting, the final step is to consider the base figure and adjusted figure to determine a final DBE goal percentage. The UDOT considers both adjustments applicable and believes this reflects the current DBE and contracting environment. Based on the methodology and calculations, the UDOT has determined its overall DBE goal for

FY2015-2017 to be **0.36 percent** of the total FTA funds the UDOT will expend on FTA-assisted contracts, not including transit vehicle purchase contracts.

### 3.4 Calculating Race and Gender Neutral / Conscious Split

3.4.1 Consistent with the Tips for Goal Setting, past DBE participation and inability to meet past goals are being considered together to determine the race and gender neutral and conscious split. Table 5 summarizes our recent DBE participation split and it shows 27.27 percent of our goal was met with neutral means last year. It also demonstrates our inability to meet our previously established overall goal. Because our proposed goal is significantly reduced from past years, it is not reasonable to rely solely on conscious means. Therefore, the UDOT has determined it is reasonable to expect similar neutral participation as in previous years and splits the goal into 27 percent neutral and 73 percent conscious.

Thus, the proposed goal is split into **0.10 percent race and gender neutral and 0.26 percent race and gender conscious.**

3.5 The UDOT will continuously monitor DBE participation in the FTA Program to determine if the DBE goal will be met on an annual basis and apply race and gender conscious goals appropriately.

## 4. Public Outreach, Published Notice, and Comments

4.1 Pursuant to 49 C.F.R 26.45(g)(2), the UDOT will publish a notice announcing the proposed overall goal, informing the public that the proposed goal and the calculation methodology are available for inspection during normal business hours at the principal office for 30 calendar days following the date of the notice, and informing the public that the UDOT will accept comments on the goal for 45 calendar days from the date of the notice. The notice will include addresses to which comments may be sent, and will be published in general circulation media and available minority-focused media and trade association publications.

4.2 The notice will read:

**Utah Department of Transportation FTA Program Public Notice:**

The UDOT is currently developing their Federal fiscal year 2015 through 2017 Disadvantaged Business Enterprise (DBE) goal for its FTA Program. The proposed DBE goal and methodology can be found on the UDOT website at [www.udot.utah.gov/publictransit](http://www.udot.utah.gov/publictransit) under the Hot Topics and Quick Links section. It is titled "UDOT FTA DBE FY2015-2017 Proposed Goal and Methodology." A hard copy is available for review at UDOT Program Development, 4501 S 2700 W, 3<sup>rd</sup> Floor, Salt Lake City, UT 84114. Comments may be provided to the UDOT via email at [publictransit@utah.gov](mailto:publictransit@utah.gov) or via mail addressed to UDOT Program Development, Attn: Public Transit Plans and Programs Director, 4501 S 2700 W, P.O. Box 143600, Salt Lake City, UT 84114-3600. Please include the page number, section number, and a detailed comment with your submission. The document will be available for review from June 5, 2014 through and including July 4, 2014 and comments will be accepted through July 19, 2014. Only comments related specifically to the DBE goal and the development of the goal will be accepted. All other UDOT or DBE-program related comments should be directed to the appropriate contact provided on the main UDOT website.

4.3 Notice will be sent to all the currently approved contractors with UDOT utilizing the contractor listserve. This includes all DBEs that the UDOT currently has email addresses for.

4.4 The UDOT will also publish the notice in the following mediums:

- Utah Office of Multicultural Affairs Website, Newsroom  
<http://heritage.utah.gov/multicultural-affairs/newsroom-3>
- UDOT Twitter
- UDOT Facebook
- UDOT Blog
- Utahlegals.com
- Salt Lake Tribune
- Vernal Express
- San Juan Record
- Herald Journal
- Deseret News
- Richfield Reaper

## 5. DBE Goal Setting on Projects

5.1 In order to meet the DBE goal on a Federal fiscal year basis, the UDOT FTA Program is currently following these steps for assigning contract goals:

- 1) Review the status of DBE awards and participation to date in the applicable fiscal year and determine if the program is projected to be under or over our overall goal. If the program is projected to be under our overall goal, proceed with the next steps. If the program is projected to meet the overall goal, only race and gender neutral means are used.
- 2) Receive detailed project scope and budget information from the prime contractor (subrecipient). Each activity line item must be identified as being self-performed or subcontracted.
- 3) Review the scope, budget, and list of subcontracted line items and compare it to the current DBE directory to identify DBE opportunities.
- 4) Evaluate the DBE availability and the overall percent of DBE opportunity compared to the total contract amount and apply a race and gender conscious DBE goal.

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Table 1 - Step 1: Weighting Calculation by Work Class

Budget Items	DBEs <sup>1</sup>	Total Businesses <sup>2</sup>	DBE Relative Availability	% of Total Expenditures (from Table 2)		NAICS Codes	DBE Codes
				DBE	Weighted Base Figure		
1 Consulting (Planning)	1	691	0.14%	0.00%	0.00%	541330	F12, F17
2 Mobility Management	1	691	0.14%	5.18%	0.01%	541330	F12, F17
3 ITS / Communication Equipment	0	11	0.00%	0.16%	0.00%	334119	F11, S01, S02, S03
4 Operating <sup>3</sup>	6	184	3.26%	74.01%	2.41%	423840 / 424690 / 485991 / 485999	E06, F03, F06, F18, S01, S02, S03
5 Safety Systems	2	203	0.99%	0.00%	0.00%	423450 / 541380	E24, F09, S01, S02, S03
6 Construction	101	3662	2.76%	11.57%	0.32%	236210 / 236220 / 237110 / 238110 / 238190 / 238210 / 238220 / 238910 / 541310 / 541380 / 541620	A01, A02, C01, C02, C03, All E, F01, F07, F08, F09, F10, H01, S01, S02, S03
7 Non TVM Vehicles	3	165	1.82%	0.00%	0.00%	423810 / 441229 / 532412	E06, S01, S02, S03
8 Project Administration <sup>4</sup>	2	1373	0.15%	9.07%	0.01%	541611 / 541613	D02, E03, E06, F07, F13, F17
				100.00%	2.75%		

<sup>1</sup> Number obtained from the current DBE directory; total DBEs in Utah counted based on determined market area

<sup>2</sup> Number obtained from Census Bureau County Business Pattern (CBP) data base for Utah.

<sup>3</sup> Operating includes fuel, oil, driver salaries, dispatcher salaries, and maintenance

<sup>4</sup> Project administration includes typical administration expenses, marketing, insurance, office and office supplies

Step 1 Base Goal / Figure = **2.75%**  
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Table 2 - Estimated Expected Expenditures by Work Class

Summary	FY 2012 or Earlier Expenditures Remaining to Be Spent and Not Yet Reported on Semi-annual Report <sup>1</sup>	Section 5310 Expenditure Year					Section 5311 and 5339 Expenditure Year			Total Estimated Expenditures by Work Class <sup>2,3,4</sup>	% of Total Expenditures (not including TVMs)	
		FY2015					FY2016					FY2017 <sup>5</sup>
		FY2015	FY2016 <sup>5</sup>	FY2017 <sup>5</sup>	FY2015	FY2016	FY2017 <sup>5</sup>					
Consulting / Planning	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0.00%	
Mobility Management	\$805,965	\$81,538	\$82,354	\$100,000	\$100,000	\$100,000	\$100,000	\$101,000	\$1,351,588	\$1,351,588	5.18%	
ITS / Communication Equipment	\$0	\$0	\$0	\$14,240	\$14,240	\$14,240	\$14,240	\$14,382	\$42,862	\$42,862	0.16%	
Operating	\$9,047,113	\$20,180	\$20,382	\$3,384,031	\$3,384,031	\$3,384,031	\$3,384,031	\$3,417,871	\$19,293,588	\$19,293,588	74.01%	
Safety Systems	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0.00%	
Construction	\$422,013	\$0	\$0	\$862,196	\$862,196	\$862,196	\$862,196	\$870,818	\$3,017,223	\$3,017,223	11.57%	
Non TVM Vehicles	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	0.00%	
Project Administration	\$733,174	\$0	\$0	\$542,219	\$542,219	\$542,219	\$542,219	\$547,641	\$2,365,252	\$2,365,252	9.07%	
TVM Vehicle	\$4,110,717	\$302,400	\$305,424	\$308,478	\$2,252,818	\$2,252,818	\$2,252,818	\$2,275,346	\$11,808,000	\$11,808,000	100.00%	

<sup>1</sup> These are funds apportioned before FY2013 and are expected to be expended in FY2015

<sup>2</sup> Funds apportioned for FY2013 are expected to be expended in FY2015

<sup>3</sup> Funds apportioned for FY2014 are expected to be expended in FY2016

<sup>4</sup> Funds apportioned for FY2015 are expected to be expended in FY2017

<sup>5</sup> Where UDOT does not have projects programmed to a definitive level, we assumed similar projects types for all fiscal years and assumed 1.0 percent increase in funding

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**Table 3 - Step 2: Base Figure Adjustment for Contracting Practice**

Budget Items	Step 1 Base Weighting <sup>1</sup>	Subcontracting Opportunity <sup>4</sup>	Adjusted DBE Opportunity
1 Consulting (Planning)	0.00%	50.00%	0.00%
2 Mobility Management	0.01%	25.00%	0.00%
3 ITS / Communication Equipment	0.00%	100.00%	0.00%
4 Operating <sup>2</sup>	2.41%	10.00%	0.24%
5 Safety Systems	0.00%	0.00%	0.00%
6 Construction	0.32%	100.00%	0.32%
7 Non TVM Vehicles	0.00%	100.00%	0.00%
8 Project Administration <sup>3</sup>	0.01%	0.00%	0.00%
			0.56%

**Step 2 Adjusted Goal / Figure = 0.56%**

<sup>1</sup> From Table 1

<sup>2</sup> Operating includes fuel, oil, driver salaries, dispatcher salaries, and maintenance

<sup>3</sup> Project administration includes typical administration expenses, marketing, insurance, office and office supplies

<sup>4</sup> Subcontracting opportunity represents program experience with self-performed work versus subcontracted work; for example, all agencies perform their own project administration with their own staff; UDOT cannot assign DBE goals to this work class because there is no subcontracting opportunity. In this example, 0.00% would be applied for this factor. These percentages are based on our past three years experience.

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**Table 4 - Step 2: Base Figure Adjustment for Past DBE Participation**

Fiscal Year	Participation
2009	0.16%
2010	0.08%
2011	0.96%
2012	0.00%
2013	0.60%

Median Past DBE Participation = 0.16%

Step 2 Final Adjusted Goal / Figure = 0.36% (Average of Table 3 Adjusted Goal and Median Past Participation)

**Table 5 - Race and Gender Neutral / Conscious Split**

Fiscal Year	Neutral	Conscious	% of Goal
2012	0.00%	0.00%	0.00%
2013	0.60%	0.00%	27.27%

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