

Utah Department of Transportation



Disadvantaged Business Enterprise (DBE) Goal

Federal Fiscal Years 2019 through 2021

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Utah Department of Transportation Disadvantaged Business Enterprise (DBE) Goal Submission Federal Fiscal Years 2019 Through 2021

In accordance with the regulations required as part of 49 C.F.R Part 26.45, and following the *Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program (Tips for Goal Setting)* published by the U.S. Department of Transportation Office of Small and Disadvantaged Business Utilization, UDOT has developed its methodology for determining the DBE goal for the next three Federal Fiscal Years (FFY). The specific timeline is laid out in 49 C.F.R Part 26.45(e)(1) and reads in part, “You should express your overall goal as follows...as a percentage of all Federal-aid highway funds you will expend in FHWA-assisted contracts in the forthcoming three fiscal years.”

UDOT considered many aspects of the DBE process when evaluating for the overall DBE goal and for the race and gender neutral and conscious percentages. The determination reflects a level of participation that 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 (as required in *Tips for Goal Setting*, II.D)

1.1. The market area is a geographical area that represents where the majority of the contractors are located that UDOT does business with. In evaluating the major market area, UDOT determined that 77.97% of the companies that UDOT has contracted with (based upon dollars spent), over the last five years, are located in the state of Utah. Therefore, UDOT identified Utah as the relevant market area for its 2019-2021 Overall DBE Goal Methodology.

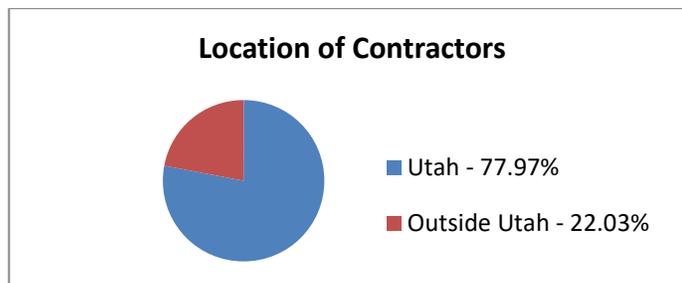


Table 1.1

2. Data Sources

2.1. UDOT's Contractors List

- 2.1.1 UDOT maintains a current list of construction companies that have gone through one of three processes.
- 2.1.2 The first process is registration. Every contractor that wishes to work on any project must register with UDOT. This qualifies them to work on project less than \$3 million.
- 2.1.3 The second process is prequalification. This requisite prequalification process follows Utah Administrative Code R916-2. Prequalification is for contracts over \$3 million, where the contractors must go through prequalification process that involves providing financial documentation submitted along with reference of past projects.
- 2.1.4 The third process is specifically for DBE companies and involves fulfilling the requirements to be certified as a DBE.
- 2.1.5 Once a company has been prequalified or become a certified DBE, it is considered to be ready, willing, and able to bid on UDOT projects. These processes apply to all contractors that desire to bid on projects. UDOT maintains this list of contractors that may bid and include successful and unsuccessful bidders, as well as those that may never bid.
- 2.1.6 When the companies go through the approval process to bid on projects, they must identify which work classifications apply to their company. UDOT internally developed this list of work classifications. These classifications may be adjusted/updated at any time, by the contractor, through the UDOT Construction office.
- 2.1.7 This is a dynamic list of companies that is continually updated.

2.2. UDOT's Project Development Business System (PDBS)

- 2.2.1.PDBS is the integrated software system that allows UDOT to store current information, such as the tracking of bids and construction contracts. It is also the location of the certified payroll that allows UDOT to analyze DBE measures on a real-time basis.

2.3. Historical Data

- 2.3.1 Due to the efficient record keeping, reporting, and ease of data mining methods that UDOT has developed, it is relatively simple to pull up multiple years of data and perform various kinds of analysis on this data. Assumptions do not have to be made because of the quality and timeliness of data.

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 DBE’s.”

3.1.1. The Department used the methods defined in *Tips for Goal Setting*, “. . . you are trying to determine what percentage DBEs represent of all firms that are ready, willing, and able to compete for DOT-assisted contracting. This percentage is calculated by dividing the number of DBEs ready, willing, and able to bid for the types of work you will fund this year, by the number of all firms ready, willing, and able to bid for the types of work you will fund this year.”

3.1.1.1. Contained in the UDOT Contractors List are all of the contractors, subcontractors, and professional services (hereto referred to as “contractors”) that are registered or DBE certified and are qualified to bid on a project with UDOT. All contractors, regardless of DBE status, (including all subs and primes) that have either gone through our pre-qualifications process or have been included as a sub on any bid (successful or unsuccessful) were included in the base figure. This number did not include any subs or primes that have not been part of UDOT's bidding system or never included on a bid. These bidders have gone through a qualification process that allows them to bid. This process is as simple for DBEs to go through as it is for any other contractor and is not considered a barrier to DBEs being able to bid on UDOT projects. This list may include professional services and procurement firms that have gone through the same required process. Any contractor on the approved list is considered to be ready, willing, and able to participate on DOT-assisted contracts.

3.1.1.2. UDOT refined its Contractors List to ensure it did not include firms twice. The Bidders list identifies contractors or subcontractors based on their work classifications. Professional services are grouped into one of two work classifications, Management and Construction. Many entities are approved to do business in more than one work classification. For purposes of this Step One, the number used was based on unique entities.

The first part of the Base Figure is calculated as follows:

$$\frac{\text{All DBEs for all work classifications}}{\text{All contractors for all work classifications}} \\ (260/2387) = 10.89\%$$

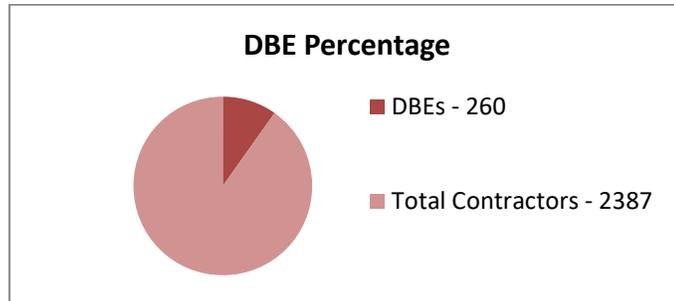


Table 3.1

3.1.2. Weighting based on work classification

3.1.2.1. As recommended in *The Tips for Goal Setting*, weighting has been utilized to help ensure that the Step One Base Figure is as accurate as possible.

3.1.2.2. While weighting is not required by the process, it makes the goal calculation more accurate. By looking at the contracting dollars that will be spent on different work classifications and then apply this to the relative availability of DBE firms within those work classifications, a greater accuracy is achieved.

3.1.2.3. The work classifications have been separated into 35 different classifications. This represents the work classifications that UDOT actively uses. The average funding spent by UDOT over the last 5 years has been broken out into these different work classifications to show a percentage spent by work classification.

3.1.2.4. When weighting based upon contracting award amounts in the work classifications, UDOT applied a ratio of DBEs to all contractors within each work classification. In order to make the final calculation, the percentage of funding spent was applied to the percentage of DBEs within a work classification through the following calculation:

$$\left\{ \frac{\text{Work Classification DBEs}}{\text{Work Classification total firms}} \right\} * \text{percentage of work awarded per year for the past 5 years in that Work Classification}$$

This calculation was applied to all work classifications and the end numbers were totaled to provide the weighted DBE percentage. Below is listed the work classifications and the percentage for each classification that was calculated based off the weighting:

Weighting Calculations by Work Class

Work Class	DBEs	Total Contractors	% of DBEs	% Payment Amount	Weighting
1 . ATMS/ITS Fiber Optic	1	28	3.57%	0.00%	0.00%
2 . Building - Demolition	1	48	2.08%	4.61%	0.10%
3 . Concrete - Curb, Gutter, Flatwork, Inlet Boxes, Etc.	16	127	12.60%	10.92%	1.38%
4 . Concrete - Structural	5	90	5.56%	2.44%	0.14%
5 . Construction - Miscellaneous & Incidental	49	564	8.69%	1.10%	0.10%
6 . Construction - Proj Mgmt, Quality Control, Public Info, facilitation.	7	54	12.96%	1.15%	0.15%
7 . Consulting Services - Management	7	64	10.94%	0.00%	0.00%
8 . Demolition	1	80	1.25%	4.90%	0.06%
9 . Electrical - Lighting, Traffic Signals	8	46	17.39%	1.23%	0.21%
10 . Excavation	15	165	9.09%	10.69%	0.97%
11 . Fencing	7	56	12.50%	0.69%	0.09%
12 . Grading	8	108	7.41%	4.63%	0.34%
13 . Guardrail/Cable Guardrail	3	33	9.09%	1.50%	0.14%
14 . Landscaping & Erosion Control	9	87	10.34%	1.24%	0.13%
15 . Painting - Highway Striping & Painted Messages	6	30	20.00%	3.48%	0.70%
16 . Painting - Highway Structures	3	23	13.04%	0.04%	0.01%
17 . Paving - Asphalt, Large Quantity/Hi Tech, Highway, Runway, Etc.	2	52	3.85%	6.04%	0.23%
18 . Paving - Concrete	2	54	3.70%	4.77%	0.18%
19 . Paving - Miscellaneous	7	72	9.72%	7.79%	0.76%
20 . Paving - Rotomilling	1	71	1.41%	6.87%	0.10%
21 . Pipe Culverts, Drainage, Sewer & Water	7	111	6.31%	4.14%	0.26%
22 . Planning - Transportation	2	2	100.00%	0.00%	0.00%
23 . Reconstruction - Manholes	2	61	3.28%	0.45%	0.01%
24 . Rental & Sales - Equipment	1	20	5.00%	0.00%	0.00%
25 . Sawing & Sealing	3	32	9.38%	0.01%	0.00%
26 . Services - Environmental	7	36	19.44%	0.03%	0.00%
27 . Signal System Design	8	72	11.11%	0.01%	0.00%
28 . Signs - Permanent Signs	9	43	20.93%	1.17%	0.24%
29 . Signs - Temporary Signs & Devices	8	43	18.60%	0.15%	0.03%
30 . Steel - Reinforcing	2	66	3.03%	0.44%	0.01%
31 . Steel - Structural	7	35	20.00%	0.38%	0.08%
32 . Suppliers: Mfg-100% Toward DBE Goal-See Appendix A. Sect S.	8	65	12.31%	0.00%	0.00%
33 . Surveying	3	48	6.25%	0.58%	0.04%
34 . Traffic Control - Maintainer/Flagging/Airport Gate Guard	9	43	20.93%	9.36%	1.96%
35 . Trucking (hauling)	26	118	22.03%	9.20%	2.03%
Totals	260	2647	9.82%	100.00%	10.43%

Table 3.2

3.1.3. By applying the weighting to each of the work classifications and taking into consideration the amount of funding that UDOT historically spends on each type of work classification, the weighted Base Figure for Step One is : **10.43%**

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. Disparity Study – No disparity study was performed as part of the goal determination.

3.2.2.Past Participation (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.”

3.2.2.1. UDOT compiled the historical numbers from the past 5 years showing how much DBE participation has occurred on construction projects within the race neutral and race conscious categories. UDOT is using the last 5 years of data to ensure that the most accurate data is used in determining the base figure. The median of these past 5 years was considered for adjusting the Step One Base Figure. The past 5 years’ numbers are as follows:

Past Participation Data			
Year	DBE Participation	Total	DBE %
2013	\$12,230,671.99	\$276,378,932.79	4.425%
2014	\$13,236,299.19	\$266,899,391.42	4.959%
2015	\$20,289,161.64	\$368,681,837.47	5.503%
2016	\$10,763,302.40	\$177,497,400.55	6.064%
2017	\$13,589,946.00	\$227,364,072.00	5.977%
The Median number for the past 5 years =			5.503%

Table 3.3

3.3. As recommended in the *Tips for Goal Setting*, the final step is to consider both of these numbers jointly to arrive at the DBE goal percentage. UDOT has kept and recorded detailed data on past DBE participation. This data provides a precise picture of the participation that DBEs have had over the past few years; therefore, UDOT determined that an adjustment would be performed on the Base Figure to better reflect this data.

The adjustment will be made by averaging the two numbers. This is done by adding the Base Figure of 10.43% to the median past participation number of 5.503% and then dividing the result by two.

Based on the above methodology and calculation, UDOT has determined its annual DBE goal for Federal Fiscal Years 2019 through 2021 to be **7.965%** of the total federal financial assistance UDOT will expend on Federal Highway Administration (FHWA) contracts.

3.4. Calculating Race/Gender Neutral and Race/Gender Conscious Goal Split

3.4.1. UDOT tracks all dollars awarded and paid for each contract administered by the Department. UDOT also tracks dollars awarded and paid to DBEs and even the distribution of those dollars by race/gender neutral and race/gender conscious efforts.

According to UDOT records, for the past 5 years, the total DBE Participation has been reached through a combination of race/gender neutral and race/gender conscious efforts. Those percentages break down as follows:

Race Neutral / Race Conscious Goal Split Data				
Year	Race/Gender Neutral % of \$ Paid	\$ Paid under Race/Gender Neutral	Race/Gender Conscious % of \$ Paid	\$ Paid under Race/Gender Conscious
2013	2.17%	\$264,938.03	97.83%	\$11,965,733.96
2014	0.88%	\$116,271.99	99.12%	\$13,120,027.20
2015	0.73%	\$94,438.39	99.27%	\$12,904,948.20
2016	0.10%	\$10,261.13	99.90%	\$9,999,389.18
2017	0.23%	\$22,467.50	99.77%	\$9,749,736.46
Median	0.73%		99.27%	

Table 3.4

UDOT anticipates, based upon the above percentages, that the 7.965% DBE goal will be met through a combination of 0.73% race/gender neutral and 99.27% race/gender conscious efforts. Effectively, 0.058% of the 7.965% goal will be attained through race/gender neutral efforts and the remaining 7.907% will be attained through race/gender conscious efforts.

3.4.2.UDOT will re-evaluate each time the reports are required to be submitted to see if the DBE goal needs to be adjusted. Per 49 C.F.R 26.45(f)(1)(ii), UDOT is able to make an adjustment to the three year goal in order to reflect changed circumstances. If a determination is made that UDOT should adjust their goal, the appropriate processes will be followed and the amended DBE Methodology will be submitted for review and approval.

4. Public Outreach / Published Notice / Comments

4.1. Per 49 C.F.R 26.47(g)(2), UDOT provided a published notice announcing the proposed overall goal, informed the public that the proposed goal and its rationale were available for inspection during normal business hours at the principal office for 30 days following the date of the notice, and informed the public that UDOT would accept comments on the goals for 30 days from the date of the notice. The notice included addresses to which comments may be sent, and was published in general circulation media and available minority-focused media and trade association publications.

4.2. The notice read:

UDOT is currently developing the Disadvantaged Business Enterprise (DBE) goal for the next three Federal fiscal years. The draft DBE Goal and Methodology Report can be found on the UDOT website at <https://www.udot.utah.gov/main/f?p=100:pg:0:::1:T,V:2250,71534>. Comments may be provided to UDOT by following the directions on the website. The document will be available for review and comment from June 6 to July 21, 2018. 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. The notice went out to all certified DBEs that UDOT currently has email addresses for.
- 4.4. The Associated General Contractors (AGC) of Utah provided the notice directly to their members for comments.
- 4.5. Notice was sent to all of the currently approved contractors with UDOT utilizing the contractor listserv.
- 4.6. UDOT advertised the DBE goal through the following mediums: (See Appendix A)

- UDOT Website
- UDOT Twitter
- UDOT Facebook
- UDOT Blog
- Utahlegals.com
- Asian Association UT, Refugee & Immigration Center
- Women in Transportation – Northern Utah Chapter
- Utah Hispanic Chamber of Commerce (SLC Chapter)
- Indian Training & Education Center
- Utah Division of Indian Affairs
- Consulate of Mexico
- Utah Office of Multicultural Affairs
- Utah Cultural Celebration Center
- Moab Valley Multicultural Center
- Utah Pacific Islander Chamber of Commerce
- Utah African-American Chamber of Commerce
- Salt Lake Chamber of Commerce – Women's Business Center
- Salt Lake Chamber of Commerce – Women's Leadership Institute

UDOT posted the DBE Methodology and Goal to the DBE website within www.udot.utah.gov along with a notice on other areas of UDOT's website to make the public aware of the DBE goal. This location provided directions on how to provide comments to UDOT.

- 4.7. DBE Methodology Public Meeting

- 4.7.1.UDOT is holding a DBE Methodology Public Meeting **on Thursday June 21, 2018 at 10:30 a.m.** The meeting will be held at the UDOT Calvin Rampton Complex at 4501 South 2700 West, Salt Lake City.
- 4.7.2.Public Notices are being sent out out to the same above listed publications notifying of the meeting. A sign in sheet will be provided at the meeting. **See Appendices B and C.**
- 4.7.3.A presentation was given as part of the meeting that showed the reason for the DBE goal setting and also how the goal is calculated. Questions about the Methodology were answered. **See Appendix D for a copy of the presentation.**

5. DBE Goal Setting on Projects

- 5.1.1.In order to meet the DBE goal for the year, UDOT follows a process for setting DBE goals on projects. In determining the project specific DBE goal the UDOT Civil Rights Department takes several key factors into consideration.
- 5.1.1.1. The Civil Rights division makes their determination by looking at the Engineer's Estimate to determine the specific bid items that will be bid on. Analysis is done by looking at the specific bid items, and their associated work classifications, to determine the probability that DBEs could be included for those items. This allows them to arrive at preliminary percentage that may be possible for DBE work. There are some bid items have many DBEs that could be utilized whereas other bid items may have very few or no DBEs that could perform that work. Likewise there are some projects that include those types of bid items and others that do not. The Civil Rights division also takes into consideration the past participation of DBEs on each bid items as well as the current capacity of DBEs in each bid item work classification.
- 5.1.1.2. This calculation could result in certain types of projects having higher DBE goals while other projects have significantly lower goals or even no goal at all.
- 5.1.1.3. The current performance of DBEs on projects will be evaluated. If UDOT is falling short of meeting its DBE goal or exceeding it, then changes will be made on the goals being set on projects in order to bring the DBE performance in line with the current goal.

Appendix A

Advertising of DBE Goal Methodology

Notification to DBE Companies

Notification to all Contractors (listserver)

Notification to Minority and Female Groups

Notification to Utah Legal Notices

Appendix B

DBE Methodology Public Meeting Sign In Sheet

As part of the public meeting, UDOT conducted a webinar and the following is a list of participants.

Appendix C

DBE Methodology Public
Meeting/Webinar
Presentation