

**FISCAL YEAR 2010
FTA DBE GOAL-SETTING METHODOLOGY**

In accordance with 49 CFR Part 26, the North Dakota Department of Transportation (NDDOT) calculated the FY 2010 DBE goal at 0.00 percent.

Availability of Disadvantaged Business Enterprises (DBEs) is compiled from data gathered from the Department’s consultant and contractor lists, the DBE rosters, and lists of firms who submitted bids to the Metropolitan Planning Organizations from the period April 1, 2008, through March 31, 2009. The information gathered was used to establish the pool of ready, willing, and able DBEs and non-DBEs.

STEP 1

There are a total of 18 firms: 0 DBEs and 18 non-DBEs. Zero divided by 18 equals 0.00 percent.

TYPE OF FUNDING	FY 2010	AVAILABLE FOR DBE PARTICIPATION
Section 5303	\$374,505	\$374,505
Section 5304	\$101,742	\$101,742
FHWA Planning	\$1,367,850	\$1,367,850
FHWA State Planning and Research	\$500,000	\$500,000
Section 5307	\$4,089,523	\$0.00
Section 5310	\$410,833	\$0.00
Section 5311	\$3,969,909	\$0.00
Section 5311 (b)	\$85,954	\$0.00
Section 3037/5316 Urban	\$221,881	\$0.00
Section 3037/5316 Rural	\$168,645	\$0.00
Section 5309	\$3,500,000	\$3,056,160
Section 5317 Urban	\$126,173	\$0.00
Section 5317 Rural	\$78,396	\$0.00
Stimulus Funds	<u>\$0.00</u>	<u>\$0.00</u>
TOTAL	\$14,995,411	\$5,400,257

0.00 percent X \$14,995,411 = \$0.00

Section 5303 & 5304 plus FHWA Planning

The Section 5303, 5304, and the planning dollars will be distributed based on the percent of metropolitan population as determined by the 2000 U.S. Census as follows: Bismarck-Mandan MPO, 32.49%, Fargo-Moorhead COG 46.18% and the Grand Forks-East Grand Forks MPO 21.33%. Before employing the approved formula each MPO will receive a \$30,000 base amount. These funds will be used for items such as corridor studies, signal coordination studies, and long range transportation plans. DBEs certified by the Department, in these areas, will be afforded the opportunity to bid on these projects.

FHWA State Planning and Research (SPR)

SPR funds are used for a number of different projects from transit employee salaries to travel expenses. If the Department's Transit Section needs to do any planning studies, they are also charged to SPR funds. DBEs certified by the Department, in this area, will be afforded the opportunity to bid on these projects.

Section 5307

These dollars are for urban operating funds. Currently there are no DBEs, certified by the Department, with expertise in this area.

Section 5310

These dollars are for rural capital funds. Currently there are no DBEs, certified by the Department, with expertise in this area.

Section 5311

These dollars are for rural operating and capital funds. Currently there are no DBEs, certified by the Department, as bus suppliers or as operations supply providers.

Section 5311(b)

These dollars are for rural RTAP funds for training transit individuals. Every effort is made to encourage transit employees to attend out of state training such as that provided by CTAA. Currently there are no DBEs, certified by the Department, who provide this type of training.

Section 3037/5316

Both urban and rural funds are available and may be used for both capital or operating expenses. Currently there are no DBEs, certified by the Department, as bus suppliers or as operations supply providers.

Section 5309

The Grand Forks-East Grand Forks MPO and the Fargo-Moorhead COG will be allocated 3.5 million dollars for purchase of rolling stock and buildings. These funds will be used for items such as bus storage facilities, major repairs to existing facilities, automatic vehicle locator systems, and transit fare boxes. Currently there are no DBEs, certified by the Department, as bus suppliers, automatic vehicle locator systems or transit fare boxes. DBEs certified by the Department, in the remaining areas, will be afforded the opportunity to bid on these projects.

Section 5317

Both urban and rural funds are available and can be used for capital or operating expenses. Currently there are no DBEs, certified by the Department, as bus suppliers or as operations supply providers.

Stimulus Funds

Stimulus funds allocated in FY 2009 will not be assigned or put out for bid until FY 2010 consequently no stimulus dollars are included in Step 1.

The Department began determining a separate DBE goal for its transit programs four years ago. The transit program DBE goal has been zero (0.00) percent for each of those years – FY 2006, FY 2007, FY 2008, and FY 2009. The median percentage for this group (2006-2009) is zero (0.00) percent.

The base figure reflects the lack of activity by DBEs in the areas of research, planning, consulting, and contracting, in the state of North Dakota, in the four years that a separate goal has been determined for transit programs. During three of the four years (2006, 2007, and 2009), there was zero (0) percent DBE activity; during 2008, one bid was received from a DBE contractor.

STEP 2

In the data gathering process for establishing the FY 2010 goal, it was noted that the metropolitan planning organizations had not been sending request for proposal notifications to DBE consultant firms. A new procedure has been established by which all requests for proposals will be forwarded to the Department's Civil Rights Division who will in turn notify all DBE consulting firms via their listserv. Similarly when the notice to bid for the bus storage facilities becomes available this information will also be forwarded to the Department's Civil Rights Division who will in turn notify all DBE construction firms via their listserv.

The Department's thirteen subrecipients have agreed to use the Department's annual FTA DBE goal setting methodology and approved DBE program. The Department has only a handful of DBE firms certified in the areas of commercial building. Generally these firms are located in the larger cities. Ten of the thirteen subrecipients are located in communities with a population of less than 15,000 with all but two of them well under 10,000. These subrecipients biggest challenge often is to find any firm, DBE or non-DBE, willing to do the small jobs. None of the DBEs certified in areas such as carpentry, concrete flat work, etc. are able to bid as the prime on the bus storage facilities only as subcontractors. There are no DBEs currently certified who supply tires, batteries, gasoline, or diesel fuel. The state has less than seven (7) people per square mile, consequently, we don't have a lot of choice as to vendors. Transit Section staff have worked with sub-recipients to encourage local firms who might be eligible for certification to no avail. However, as stated previously, the Department is committed to forwarding the requests, via email, for all proposals and notices to bid, to all applicable Department certified DBE firms.

ADJUSTMENTS

The Department also considered available evidence from related fields that affect the opportunities for DBEs to form, grow, and compete. To determine the effects of discrimination on opportunities for DBEs to get financing, bonding, or insurance, we contacted the following:

ND Attorney General's Office
ND Department of Banking and Financial Institutions
ND Department of Commerce
ND Department of Human Services
ND Small Business Development Center
ND Office of Management and Budget
ND University System

The Department received no information from these sources indicating that adjustment based on this evidence is warranted. No disparity studies have been conducted in the state. Therefore, no adjustment has been made for this factor.

BREAKOUT OF ESTIMATED RACE-NEUTRAL AND RACE-CONSCIOUS PARTICIPATION

The DBE regulations require NDDOT to meet the maximum feasible portion of our overall goal by race-neutral means. The Department commits to aggressively working with the DBE construction and consultant industry to interest them in the areas available for bidding or quoting using Federal Transit Administration funding. This will be achieved in the following way:

1. Ensure distribution of the Department's DBE Directory, through electronic means, to the widest feasible universe of potential prime consultants and state and federal contracting agencies.
2. In an attempt to interest the DBE construction and consultant industry in areas of opportunity with the transit industry, the Department will adhere to the following for all requests for proposals:
 - a. Send copies of all requests for proposals or notice to bid to all qualified DBEs and non-DBEs in the relevant area of expertise needed, regardless of whether the Metropolitan Planning Organizations, the subrecipients, or the Department originate the request for proposal or the notice to bid.

For reporting purposes, race-neutral DBE participation includes but is not necessarily limited to:

1. DBE participation through a prime consultant or construction contract utilizing the consultant selection or low bid process;
2. DBE participation through a subcontract on a prime consultant or construction contract that doesn't carry a DBE goal; and
3. DBE participation through a subcontract from a prime consultant or construction contractor that did not consider a firm's DBE status in making the award.

The Department believes it will meet the annual Transit Section DBE goal, in both the areas of consulting and construction, of **0.00 percent** by using race-neutral means as necessary.