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**Idaho Transportation Department (ITD)**

**Overall Disadvantaged Business Enterprise Triennial Goal for the  
Federal Highway Administration PROPOSED**

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**Federal Fiscal Years 2020-2022**

## I. Introduction

The Idaho Transportation Department submits this report on its proposed Disadvantaged Business Enterprise (DBE) triennial goal, and methods used to calculate that goal, to the Federal Highway Administration (FHWA) for review in accordance with 49 CFR Part 26, section 26.45.

This submission covers Federal Fiscal Years (FFY) 2020-2022 and supports the overall goal of 7.25%. ITD will satisfy the overall goal by maintaining the race-neutral overall goal of 2.25% and race-conscious overall goal of 5.0%.

ITD's goal methodology consists of the following:

1. Establishing the base figure for the relative availability of DBEs and
2. Adjusting the base figure to reflect available data

ITD contracted with BBC Research & Consulting (BBC) in 2016 to produce a disparity study. The study was completed in 2017 and used to complete the FFY18-20 DBE Methodology. In March 2020, ITD contracted with BBC to assist in developing the FFY20-22 DBE Methodology. The base figure was determined based on the BBC analysis. The Office of Civil Rights (OCR) then determined a Step 2 adjustment. The data and results are discussed below.

## Background

In setting the overall DBE goal, the USDOT requires that the goal setting process begin with a base figure for the relative availability of DBEs. The overall goal must be based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on USDOT-assisted contracts. In particular, recipients must follow the USDOT's two-step methodology for goal setting to determine the level of DBE participation they expect absent the effects of discrimination:

**Step 1** – Compute the base figure using data from one of the following options set out in 49 CFR 26.45(c) to determine relative availability:

1. DBE Directories and Census Bureau Data;
2. Bidders List;
3. Disparity Study Data;
4. Goal of another DOT; or
5. Other Alternatives based on demonstrable evidence of local market conditions

**Step 2** – Adjust the base figure to make it as precise as possible utilizing the guidelines established in 49 CFR Part 26.45 and *Tips for Goal-Setting*.

In establishing this goal, ITD is also required to do the following:

1. Specify the relevant market area used for the calculation;
2. Project the portions of the overall goal it expects to be met through RN and RC measures, respectively (see 49 CFR Part 26.51); and
3. Provide for public participation in the establishment of the overall goal.

## II. Step One Base Figure

After considering the options provided under 49 CFR 26.45(c), ITD determined it would use option three, which provides that a recipient may use a percentage figure derived from a valid, applicable disparity study to determine the base figure of DBE relative availability.

The following data was assessed by BBC for calculating the FY20-22 DBE methodology:

- ITD FY20-22 proposed federal projects
- FY17-19 DBE Uniform Reports
- April 2017 Disparity Study

The contracting and DBE market has not seen significant changes since the April 2017 Disparity Study, hence ITD used data from the 2017 study in the assessing the FFY20-22 methodology. More specifically, ITD took the following steps to calculate the FFY20-22 DBE goal for FHWA-funded contracts.

**Relevant Geographic Market Area and Relevant Types of Work:** The relevant geographic market area and relevant types of work have remained the same as noted in the 2017 Disparity Study. BBC's 2017 analysis showed that 90% of ITD's construction and consulting dollars during the study period went to businesses located in Idaho; Asotin County, Washington; and Spokane County, Washington; indicating that Idaho, Asotin County, and Spokane County should be considered the relevant geographic market area for the study (see Chapter 4). With respect to the relevant types of work, BBC determined the prime and subcontractor's subindustry that best characterized the business's primary line of work consisted of heavy construction.

**Base Figure Determination:** First, ITD assessed all proposed FHWA funded projects for fiscal year 2020 thru 2022.

**Table 1: Contract dollar by year and type**

Year	Design Dollars	Contracting Dollars
2020	\$43,756,900	\$205,883,100
2021	\$38,646,300	\$166,970,700
2022	\$40,718,200	\$248,302,800
<b>Total</b>	<b>\$123,121,400</b>	<b>\$621,156,600</b>

Table 2 provides a breakdown of the relative availability and dollar-weighted percentage of current and potential DBEs within the prime contractor and subcontractor categories. A 10.0% base figure was derived from the relative availability of current and potential DBEs calculated on a dollar-weighted basis.

**Table 2: MWBE Availability**

<b>Contract Role</b>	<b>Dollars (in Thousands)</b>	<b>MWBE Avail (in Thousands)</b>	<b>Avail %</b>
Prime	\$544,414	\$40,538	7%
Sub	\$199,864	\$34,017	17%
<b>Total</b>	<b>\$744,278</b>	<b>\$74,555</b>	<b>10%</b>

**DBE Availability.** Availability analysis was conducted by BBC by reviewing the master availability database they compiled for the 2017 Disparity Study (chapter 5). In addition, BBC incorporated the most recent data published by the US Census Bureau American Community Survey (ACS). Table 3 looks at the DBE availability in the construction and consulting arenas.

- Current Availability: Column reflects the current availability of DBE certified firms.
- Availability after initial adjustment: Column reflects overall availability of all certified and potential firms.
- Availability after Scaling to 100%: Column reflects availability of certified and potential firms at a scale of 100%.
- Components of Base Figure: Column reflects the potential DBE percentage when looking at availability of certified and potential firms (at a scale of 100%) and multiplying that number by the industry dollar weighted percentage. The data in this column provides an overall picture of the potential for certified and potential firm, whereas, the current availability column reflects the potential DBE availability based on DBE certified firms.

The analysis of data as noted in Table 3 reflects an overall availability figure of 10.0% (see below, in “Current Availability” column).

**Table 3: DBE Prime and Subcontractor Availability**

Industry and group	Current Availability	Disparity Index for Business Ownership	Availability after Initial Adjustment*	Availability after Scaling to 100%	Components of Base Figure**
<b>Construction</b>					
(1) Black American	0.2%	N/A	0.2%	0.2%	<i>Industry Dollar weight of 83.46%:</i>
(2) Asian Pacific American	0.0%	N/A	0.0%	0.0%	
(3) Subcontinent Asian American	0.0%	N/A	0.0%	0.0%	
(4) Hispanic American	0.3%	N/A	0.4%	0.4%	
(5) Native American	6.7%	N/A	9.5%	9.1%	
(6) White woman	3.4%	76	4.5%	4.3%	
(7) Potential DBEs	10.6%	N/A	14.6%	<b>14.1%</b>	<b>11.7%</b>
(8) All other businesses ***	89.4%	N/A	89.4%	85.9%	
(9) Total firms	100.0%	N/A	104.0%	100.0%	
<b>Consulting</b>					
(10) Black American	0.1%	N/A	0.0%	0.0%	<i>Industry Dollar weight of 16.54%</i>
(11) Asian Pacific American	0.0%	N/A	0.0%	0.0%	
(12) Subcontinent Asian American	0.0%	N/A	0.1%	0.1%	
(13) Hispanic American	0.3%	N/A	0.1%	0.1%	
(14) Native American	2.0%	N/A	0.2%	0.2%	
(15) White woman	4.5%	N/A	7.1%	7.1%	
(16) Potential DBEs	6.9%	N/A	7.5%	<b>7.5%</b>	<b>1.2%</b>
(17) All other businesses ***	93.1%	N/A	93.1%	92.5%	
(18) Total Firms	<b>100.0%</b>	N/A	<b>100.6%</b>	<b>100.0%</b>	
<b>(19) Total firms</b>	<b>10.0%</b>	<b>N/A</b>	<b>N/A</b>		<b>13.0%</b>

Note: Numbers rounded to nearest tenth of 1 percent and thus may not sum exactly to totals due to rounding.

\* Initial adjustment is calculated as current availability divided by the disparity index.

\*\* Components of the base figure were calculated as the value after adjustment and scaling to 100 percent, multiplied by the percentage of total FHWA-funded contract dollars in each industry (construction = 0.834 and consulting= 0.165).

\*\*\* All other businesses included majority-owned businesses and minority- and woman-owned businesses that were not potential DBEs.

### III. Step 2 Adjustment

**Consideration of Possible Step-2 Adjustments.** The DBE Program regulations require that after the base figure is calculated, ITD must consider available evidence to determine whether or not the figure should be adjusted higher or lower than the base figure (step 2 adjustment). The proposed adjustment reflects the current capacity of DBEs to perform work, as measured by the volume of work DBEs have performed in recent years. The base figure of 10% would be difficult to meet when evaluating the previous 3 year DBE APG achievement rates and ITD's transportation contracting market conditions.

A step 2 downward adjustment was considered based on the current capacity of DBE firms and the 3 year median percentage of the DBE APG for FFY17-19, see Table 5 below. Table 4 below identifies the formula used for calculating the Step 2 downward adjustment and the proposed DBE APG for FFY20-22.

**Table 4: Step 2 Adjustment Formula**

<i>Formula</i>	<i>FFY20-22 Calculation</i>	<i>Proposed FFY20-22 APG</i>
Base Figure + 3 year median APG = Total / 2 = Proposed DBE APG	$10+4.5=14.5/2= 7.25$	<b>7.25</b>

**Table 5: Participation by year**

<b>Year</b>	<b>Achieved DBE %</b>
2017	3.47%
2018	4.5%
2019	7.0%
<b>Median Percentage:</b>	<b>4.5%</b>

**Race/Gender-Neutral, Race/Gender-Conscious Projections.** ITD calculated the RN by taking the RN median past participation of 2.25% (Table 5), the remaining 5.0% of the 7.25% APG will be met through RC means. The RC portion of the proposed APG is only a projection. DBE awards and commitments and ongoing payments to DBEs will be monitored on an ongoing basis to determine if RC means should be increased or decreased, in relation to RN attainment. Project-specific RC goals will be set according to DBE availability, location, and work scope of each federal-aid contract. If it is determined that no DBE subcontracting possibilities are present in the federal project, no RC goal will be set.

**Table 6: RN Participation by year**

<b>Year</b>	<b>Achieved RN DBE %</b>
2017	2.31%
2018	1.9%
2019	2.25%
<b>Median Percentage:</b>	<b>2.25%</b>

**DBE Groups Eligible to Meet Contract Goals.** ITD proposed that all DBE groups will be eligible to participate in meeting race- and gender-conscious contract goals assigned in federal fiscal years 2020 through 2022.

### III. Final Adjusted Goal

The recommended DBE goal for FY20-22 is 7.25%. ITD projects it will meet 5.0% of this goal through contract goals and 2.25% through race-neutral measures. The proposed DBE goal is the sum of the race-conscious participation and the race-neutral participation.

As required by FHWA, sub-recipients of highway design and construction federal pass-through funds are required to adopt to ITD's federally approved DBE program. As part of the requirement, sub-recipients must adopt ITD's methods to establish the DBE goal and are required to report DBE awards, commitments, and payments.

It should be noted that ITD's overall DBE goal provides for the participation of all certified DBEs.

#### **IV. Tracking, Compliance and Enforcement**

In tracking both RC and RN participation, the ITD **2018 Standard Specifications for Highway Construction** (<https://apps.itd.idaho.gov/apps/manuals/SpecBook/SpecBook18.pdf>) includes a Civil Rights Section 110 and the Partial Payments section 109.05; both which mandate usage of ITD's Diversity Tracking System throughout the life of the contract in verifying prompt payment, and also to provide a running tally of the contract's DBE participation. ITD's Office of Civil Rights carries out overall administration of this system, project monitoring is done at ITD's District offices.

*110.03 Disadvantaged Business Enterprise (DBE) A. Disadvantaged Business Enterprise for Race/Gender – Neutral Projects and B. Disadvantaged Business Enterprise for Race/Gender – Conscious Projects* describe the commitment, crediting, monitoring and enforcement of DBE participation on federal-aid projects. Failure on the part of the contractor will be treated as a breach of contract by the Engineer and dealt with in the same manner as other material breaches.

#### **V. Public Participation: Review and Comment**

The proposed APG can be found on ITD's home page, the OCR webpage, and Facebook. The agency issued a press release.

Two live, statewide stakeholder meetings will be held one on Wednesday, July 29, 2020, from 4:00pm (MST) – 5:30pm (MST) and the second on Thursday, August 6, 2020 from 5:00pm (MST) to 6:30pm (MST). Interested individuals are encouraged to provide comment and ask questions during the web-based stakeholder meetings. We encourage individuals to also submit comments via email to [civilrights@itd.idaho.gov](mailto:civilrights@itd.idaho.gov) or through regular mail to ITD Office of Civil Rights, PO Box 7129, Boise, ID 83707-1129.

The public comment period is open from July 22, 2020 to August 24, 2020.