

*The Wisconsin Department of Transportation
Division of Transportation Systems Development
Bureau of Equity & Environmental Services
Civil Rights & Compliance Section*



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Annual DBE Goals – FFY 2007

For

*U.S. Department of Transportation
Federal Highway Administration*

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A. Introduction

The Wisconsin Department of Transportation (WisDOT) has established and operates a Disadvantaged Business Enterprise (DBE) program in accordance with 49 CFR Part 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs." WisDOT annually sets goals for DBE participation in DOT-assisted contracts funded with federal-aid highway funds, federal transit funds and federal aviation funds. In this document we submit our FFY 2007 goals to the Federal Highway Administration (FHWA) as they relate to federal-aid highway funds. The process used to establish the FFY 2007 goals is set forth in this document along with a discussion on how the goals will be monitored. A separate submission of FFY 2007 DBE goals has been made to the Federal Transit Administration (FTA) and the Federal Aviation Administration (FAA) for their related programs.

B. Amount of Goal

Section 26.45: Overall Goal

- 1) WisDOT's overall DBE goal for federal-aid highway funds for FFY 2007 is 10.65%, which constitutes the same percentage of all highway funds WisDOT, will expend in FHWA-assisted contracts this federal fiscal year.
- 2) \$487,500,000 is the dollar amount of DOT-assisted contracts that WisDOT expects to award during FFY2007. This means that WisDOT has set a goal of expending \$51,910,000 with DBE firms during Federal Fiscal Year 2007.

C. Methodology used to Calculate Overall Goal

Section 26.45(c): Step 1 Calculation

1. The base figure for the relative availability of DBE's was calculated as follows:

Ready, willing, and able DBEs – 145

Base figure = 10.65%

All firms ready, willing and able – 1362

2. The data source or demonstrable evidence used to derive the numerator (ready, willing and able DBE firms) was: active and still certified DBE construction firms listed in the Wisconsin UCP DBE Directory; plus firms in the final stages of being certified; plus DBE consulting firms on the WisDOT Roster of Eligible Engineering Consultants; plus non-roster DBE consulting firms that received work as either a prime or subcontractor; plus DBE firms in our contractor registration system.

3. The data source or demonstrable evidence used to derive the denominator (all firms ready, willing, and able) was: the above number of ready, willing and able DBE firms; plus current non-DBE construction firms listed in the WisDOT All Construction Contractors List; plus non-DBE consulting firms on the WisDOT Roster of Eligible Engineering Consultants; plus non-roster non-DBE consulting firms that received work as either a prime or subcontractor; plus non-DBE firms in our contractor registration system.

4. When we divide the numerator by the denominator we arrive at the base figure for our overall goal, and that number is 10.65.

Section 26.45(d): Step 2 Adjustment

After calculating a base figure of the relative availability of DBE firms, evidence was examined to determine what adjustment to the base figure, if any, was appropriate in order to arrive at the overall goal. IAW Section 26.45(d)(1) the evidence examined included, but was not limited to, the current capacity of DBE firms to perform work in the WisDOT-assisted contracting program; and evidence from related fields that affect the opportunities for DBE firms to form, grow and compete. Since no disparity studies appropriate for this adjustment were identified, none were used. After review it was determined that there was insufficient basis to make a step 2 adjustment.

Section 26.45(g): Public Participation

1. As required by Section 26.45(g) WisDOT utilized a collaborative approach for setting our Federal Fiscal Year 2007 goal. The approach utilized two phases. First was an extensive analysis and discussion of the goal by the Transportation Advisory Committee (TRANS-AC). The second phase was the publication of the recommended goal.

2. TRANS-AC is a permanent standing committee that advises WisDOT on DBE related matters. This includes overall annual goals, program revisions, good faith waivers, and other issues of concern to DBE firms and the industry. Through multiple meetings TRANS-AC reviewed the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE firms, and WisDOT's efforts to establish a level playing field for the participation of DBE firms. Then TRANS-AC developed and recommended the Fiscal Year 2007 DBE highway goal. The following groups and interests were represented through membership on TRANS-AC:

- a) Wisconsin Transportation Builders Association (WTBA), comprised mainly of majority owned contractors.
- b) National Association of Minority Contractors (NAMC-WIS), comprised of minority owned contractors.
- c) Individual prime contractors and individual DBE firms, including minority business enterprises, women business enterprises, and specialty contractors.

- d) WisDOT DBE program personnel and highway construction personnel.
 - e) FHWA, Wisconsin Division, Civil Rights Program Manager.
3. The final goal recommended by TRANS-AC was accepted by WisDOT for publication and public comment. The highway, transit, and aviation goals for published in print (Appendix A) and on the WisDOT website (Appendix B). The goal was published in the following print publications:
- a. The Milwaukee Community Journal
 - b. The Milwaukee Courier
 - c. The Milwaukee Journal Sentinel
 - d. The Madison Times
4. WisDOT received one comment in response to our publication of the proposed DBE goals (highway, transit, or aviation) for Federal Fiscal Year 2007.
- a. The Wisconsin Transportation Builders Association issued a formal comment supporting their assertion that race conscious measures will not create desired partnerships and that streamlining the good faith waiver will be essential to attaining the goals. The comment further outlined the differences between contract years FFY 2006 and 2007, their concerns due to increased fuel costs, new federal mandates for fuel and emissions, and complexity of payroll reporting requirements.
 - b. WisDOT reviewed and discussed the comment with appropriate parties to ascertain it's relevance and impact on the FFY 2007 DBE goal. WisDOT decided that the comment did not equate to a variable that would impact the goal setting methodology. Rather, WisDOT categorically agreed that the comment added credence and perspective to the charge of the TRANS AC committee and the urgency for its good faith waiver and education subcommittees for this federal fiscal year.

Section 26.51(c): Breakout of Race-Neutral and Race-Conscious Participation

1. In accordance with Section 26.51(a) WisDOT will meet the maximum feasible portion of our overall goal by using race-neutral means of facilitating DBE participation. Consistent with Section 26.51 WisDOT uses the following means to increase DBE participation:
- a) Unbundling large contracts into smaller stand-alone contracts that are more accessible to small businesses.

- b) Providing assistance to DBE firms to overcome limitations to bidding as a prime, to include obtaining bonding and financing.
- c) Providing training to DBE firms on the bidding process, along with other technical assistance and services. WisDOT implemented a "Construction College" program to better train and provide information about how to do business with WisDOT and how to better submit competitive bids and quotes.
- d) Carrying out information and communication programs to highlight specific contracting opportunities.
- e) Implementing a supportive services program to develop and improve immediate and long-term business management, and financial and accounting capability for DBE's.
- f) A Bulls eye marketing strategy that matched DBEs to potential contracting and project opportunities.
- g) Special contract provision that identified traditional subcontracted work and required it to be subbed out.

2. It is WisDOT's intention that, in meeting our overall Federal Fiscal Year 2007 highway goal of 10.65%, we will obtain 7.15% through race-conscious means and 3.49% using race-neutral means. Taking into consideration our expected overall federal-aid highway program of \$487,500,000 this 3.49% race-neutral component will represent \$17,040,000 in race-neutral participation.

3. This estimate was determined after extensive review of the industry and market; DBE capacity; WisDOT Federal-aid construction and consulting program; and the WisDOT DBE/SS program. It is recognized that this 3.49% race-neutral estimate is greater than the historical race-neutral achievement (2.91% over the period from FFY2001 – FFY 2006); the race-neutral estimate for FFY 2006 (3.23%) and the current race-neutral achievement to-date during FFY 2006 (2.97%). However based on the effective use of lessons learned regarding race-neutral means during the past year; a replacement of the DBE/SS contracts to increase their efficiency and effectiveness; additional in-house assets; industry support; DBE capacity; and other factors, WisDOT believes that a 3.49% race-neutral achievement is realistic and therefore it will serve as the starting objective.

4. In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, and if as expected we use contract goals, we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation IAW Section 26.51(f) and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not

carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

5. WisDOT will maintain data separately on DBE achievements in those Federal-aid contracts with and without contract goals, respectively.