



TxDOT Disadvantaged Business Enterprise Triennial Goal for Federal Highway Administration Funded Contracts

Fiscal Years 2023-2025

Public Consultation Agenda

- DBE goal setting process required by federal regulations
- TxDOT's proposed DBE triennial goal for its FHWA funded contracts
 - Calculation of Step One Base Figure
 - Consideration of Step Two adjustment
 - Estimation of DBE participation to be achieved through race-neutral and race-conscious measures
- Answer questions and solicit written comments

HELP
#EndTheStreakTX

End the streak of daily deaths on Texas roadways.

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DBE Goal Setting Process

- Develop an overall goal that reflects the level of participation TxDOT would expect absent discrimination in the relevant market area
- Follow the two-step goal-setting process in accordance with 49 C.F.R. §26.45
- Conduct direct, interactive public consultations in accordance with 49 C.F.R. §26.45(g)(1) to gather input about TxDOT's proposed goal

Goal Setting Data Sources

- Data sources
 - TxDOT contract and vendor records
 - Contract information from prime vendors
 - D/M/WBE Directories
 - Dun & Bradstreet/Hoovers Database
 - U.S. Census Bureau

TxDOT's Goal Setting Methodology

- Two Step Process
 - Step One:
 - TxDOT must calculate the DBE availability for its FHWA assisted contracts
 - Base Figure = Ready, willing and able DBEs
All firms ready, willing and able
(including DBEs and non-DBEs)
 - Step Two:
 - Examine all relevant evidence for consideration of a possible adjustment to the base figure to reflect "effects of the DBE program and the level of participation that would be expected but for discrimination"

TxDOT's Proposed Overall Goal

- Proposed overall goal is 18.94% for FFYs 2023-2025
 - 8.43% to be achieved through race-neutral ("RN") and 10.51% through race-conscious ("RC") measures
 - RC measures are focused specifically on assisting only DBEs
 - RN measures can be used to assist all small businesses, not just DBEs
 - "Race" includes gender

TxDOT's Product and Geographic Markets

- Analyzed FHWA contracts \$50,000 or greater
- Final Contract Data File
 - 2,211 prime contracts totaling \$12,228,956,770
 - 11,627 subcontracts totaling \$3,981,478,492
- Geographic Market
 - State of Texas captured 93.6% of all contract dollars
- Constrained Product Market
 - 68 NAICS codes representing a dollar value of \$15,179,357,573

TxDOT's Utilization of DBEs

- TxDOT's utilization of DBEs on FHWA contracts
 - DBEs: 20.6%
 - Blacks: 0.7%
 - Hispanics: 12.3%
 - Asians: 1.2%
 - Native Americans: 0.8%
 - White women: 5.7%
 - Non-DBEs: 79.4%

Step One: Base Figure Calculation

- Aggregated weighted availability for FHWA contracts
 - DBEs: 24.3%
 - Blacks: 4.0%
 - Hispanics: 11.9%
 - Asians: 1.5%
 - Native Americans: 0.4%
 - White women: 6.5%
 - Non-DBEs: 75.7%
- Step One base figure: 24.3%

Step Two: Adjustments to Base Figure Calculations

- Examine all types of demonstrable evidence
 - Current capacity as measured by median volume of work performed by DBEs in recent years
 - Other Texas agencies' disparity studies
 - Relevant data on firm sales receipts, earnings, employment, self-employment and education that affect DBE opportunities
 - Statistical data from related fields such as financing, bonding and insurance

Step Two: Adjustments to Base Figure Calculations

- Work performed by DBEs on FHWA assisted projects for the past seven years
 - FY 2017: 10.83%
 - FY 2018: 12.71%
 - FY 2019: 10.51%
 - FY 2020: 18.12%
 - FY 2021: 16.37%
 - FY 2022: 13.57%
 - FY 2023: 16.57%
- Median DBE participation for FFY 2017-2023 is 13.57%

Step Two: Adjustments to Base Figure Calculations

- Other disparity studies
 - No other local jurisdictions have conducted studies relevant to TxDOT's contracting activities
- Census Bureau data and review of literature from 2019 TxDOT Disparity Study
 - Data indicate large disparities in M/WBE business outcomes, wages and earnings, business formation relative to White men
 - Secondary research and literature indicate minorities continue to face barriers in accessing commercial credit and human capital
- However, results are difficult to quantify within the rigors of constitutional strict scrutiny and therefore did not serve as a basis for a Step Two adjustment

Step Two: Final Adjustments to Base Figure Calculations

- Current DBE capacity
 - Adjustment calculation
 - Step One base figure: 24.3%
 - Median past DBE participation: 13.57%
 - Average = **18.94%**

Race-Neutral and Race-Conscious Projection

- TxDOT must meet the maximum feasible portion of its overall goal using race-neutral measures
- Calculation of RN measures to achieve the overall goal was based on the following:
 - Median RN achievement for the past seven years is 6.36%
 - Median DBE goal over achievement for FY's 2018, 2020, 2021 and 2023 was 2.07%

Race-Neutral and Race-Conscious Projection

Fiscal Year	RN Achievement	RC Achievement	Total DBE Achievement	DBE Goal	Achievement vs. Goal
2017	6.36%	4.47%	10.83%	12.6%	-1.77%
2018	6.90%	5.81%	12.71%	12.6%	0.11%
2019	5.67%	4.84%	10.51%	12.6%	-2.09%
2020	7.77%	10.35%	18.12%	14.4%	3.72%
2021	4.81%	11.56%	16.37%	14.4%	1.97%
2022	4.85%	8.72%	13.57%	14.4%	-0.83%
2023	9.02%	7.55%	16.57%	14.4%	2.17%

Median Additional Achievement

- **8.43%** of the overall goal of 18.94% is projected to be achieved through RN measures
- **10.51%** is projected to be achieved through RC measures

TxDOT's Current Race-Neutral Measures

- Added 20 new team members to focus on small business compliance, data management and business and community engagement
- Created a Business and Community Engagement Section to coordinate statewide outreach
 - Staffed by 11 people in five TxDOT Districts
 - Contacts and supports 5,000+ DBEs
 - Hosts "Doing Business with TxDOT" events in each TxDOT District
 - BCE Section specialists focus efforts on targeted specialties by region

TxDOT's Current Race-Neutral Measures

- Developed the Construction Division list searchable by region, specialty and by single-bidder and no-bidder contracts assists DBEs in finding opportunities with less competition
- Adopted the Professional Engineering Procurement Services Division DBE mentor-protégé program seeks to increase participation of emerging DBEs in professional services contracts
- Covers registration costs for DBEs attending TxDOT conferences
- Recruits DBEs located around ConnectU2Jobs service areas to serve as employer training partners, reducing onboarding and recruitment overhead and providing paid labor

TxDOT's Current Race-Neutral Measures

- Continues to develop RN initiatives recommended in the CHA 2019 Disparity Study
 - Plans to implement two unremediated letting months to monitor DBE utilization on no goal projects
- Engages in ongoing communication with contractor associations to facilitate outreach and other race-neutral efforts
 - TxDOT hosts quarterly meetings with trade and advocacy groups, including the Associated General Contractors of Texas, the Regional Hispanic Contractors Association, Regional Black Contractors Association, and other stakeholders

TxDOT's Current Race-Neutral Measures

- CIV continues to work internally with TxDOT departments to improve efficacy and efficiency of DBE program policies and procedures
- Revamping SBE Program to assist small businesses to compete successfully on TxDOT projects as prime contractors

Public Participation: Review & Comment

- Published Notice
 - The proposed overall goal and methodology are available on TxDOT's website: <https://www.txdot.gov/business/disadvantaged-small-business-enterprise/dbe-airport-concessions/dbe-goal-methodology.html>
 - Public comment period extends to November 6, 2024. Please email comments to CivilRights@txdot.gov.
- TxDOT will provide a summary to FHWA of any comments received, and a summary of any changes made, based upon those comments and public meetings

TxDOT Contact:

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The goal methodology was established using information from the disparity study conducted by Colette Holt & Associates.

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