



**STATE OF TENNESSEE  
DEPARTMENT OF TRANSPORTATION  
CIVIL RIGHTS DIVISION**

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**JOHN C. SCHROER**  
COMMISSIONER

**BILL HASLAM**  
GOVERNOR

July 19, 2018

Pamela M. Kordenbrock  
FHWA Division Administrator  
404 BNA Drive, Suite 508, Building 200  
Nashville, TN 37217

Dear Ms. Kordenbrock:

**RE: 2018-2020 DBE Goal Methodology**

Please find enclosed the 2018 – 2020 DBE Goal Methodology for the Tennessee Department of Transportation. We appreciate your assistance and patience during this revision process. If there are any questions, please do not hesitate to contact me.

Regards,

Deborah Luter,  
TDOT Civil Rights Division Director



**Tennessee Department of Transportation**  
**Overall Annual DBE Goal**  
**Federal Fiscal Year 2018-2020**

**TENNESSEE DEPARTMENT OF TRANSPORTATION (TDOT)  
FFY 2018-2020 OVERALL ANNUAL DISADVANTAGED BUSINESS ENTERPRISE  
(DBE) GOAL**

For the FFY 2018-2020 DBE Goal submission, the Tennessee Department of Transportation (TDOT) Disadvantaged Business Enterprise Program (DBE) has a proposed goal of 8.27%. This overall goal is expected to be achieved through 6.84% race-conscious and 1.43% race-neutral means. Annual reviews of the data will be conducted and updates will be provided as needed.

The purpose of the DBE Program is to:

- \* Remedy past and current discrimination,
- \* Ensure a level playing field,
- \* Foster equal opportunity on DOT-assisted contracts,
- \* Improve flexibility and efficiency, and
- \* Facilitate prime contracting opportunities for DBEs.

In an effort to reach this level playing field, TDOT examined its program and local markets, then determined the amount of participation DBEs would be expected to achieve in the absence of present and past effects of discrimination. These efforts are outlined on the subsequent pages.

**TDOT Market Area**

In order to formulate the DBE goal, the local area market has to be identified. The local market area is defined as the area where the substantial majority of contracting dollars are spent and the area in which the substantial majority of the contractors and subcontractors are located. Tennessee has the potential to have a high percentage of contractors from out-of-state since it is bordered by eight states (KY, VA, NC, GA, AL, MS, AR, MO) and extends about 430 miles East to West and 110 miles North to South. However, based on state construction data, this does not prove to be the case.

Calculating the percentage of in-state vs. out-of-state prime contractor and subcontractor firms receiving TDOT projects over a three-year period (2014-2016 FFY), TDOT overwhelmingly contracted with local (Tennessee) contractors on Federal-aid projects. As TDOT does not maintain a "bidder's list," the most representative method to capture both prime and subcontractor award information was to use goal award information tracked through TDOT's Small Business Development Office (SBDO). After analyzing this data, it was determined that a substantial majority of prime contracts with goals attached (93%) were let to in-state contractors. A substantial number of DBE subcontracts on goal projects (88%) were also let to in-state firms, as shown in **Table 1**. Of the out-of-state DBE participation, there were twelve DBEs from seven states awarded DBE contracts during this period: MS (3), GA (2), KY (2), AL (2), FL, VA, and IN. TDOT therefore defines the State of Tennessee as its market area.

**Table 1 – Percentage of contracts to Tennessee firms**

<b>Data Description</b>	<b>Total Program Awards</b>	<b>Amount Represented by Tennessee Firms</b>	<b>Tennessee Market Percentage</b>
<b>Distribution of Prime Contractor Awards</b>	<b>555</b>	<b>516</b>	<b>93%</b>
<b>Distribution of Subcontractor Awards (out of 555 Prime contracts)</b>	<b>1149</b>	<b>1016</b>	<b>88%</b>

### **Establishing the DBE goal**

Establishing the DBE goal involves two primary steps. **Step One:** Determining a base figure for the relative availability of DBEs, and **Step Two:** Examining evidence in the state to determine what adjustments, if any, are necessary to the base figure to arrive at the overall goal.

#### **Step One: Determining the Base Figure – 49 CFR §26.45(c)**

Pursuant to 49 CFR 26.45, TDOT has used the following methodology to determine the **baseline figure** for its 2018 - 2020 DBE goal. After comparing several methods to determine the availability of ready, willing and able (RWA) DBEs, information mined from U.S. Census Data was decided as the most representative way to refine an accurate Step One Figure.

#### ***Step One***

The most recent U.S. Census County Business Patterns (CBP) data was used to determine the percentage of RWA DBEs in the Tennessee market area for Step One. Using the DBE directory information for firms in the defined market area, TDOT carefully reviewed the area of work performed by DBEs, creating an analysis of firms in those codes in comparison to the 2014 CBP NAICS codes (most current data available) for all businesses in Tennessee.

The Civil Rights Office also did an extensive search for potential DBE businesses on the Governor's Office of Diversity Business Enterprise ([GoDBE](#)) website. Businesses were searched by minority status and gender (women-owned businesses) in the category of Construction. Although there were 326 businesses initially listed under GoDBE's *Construction* category, this proved to be broad and the majority of these businesses would not qualify as DBEs (or were already certified as DBEs) that would be ready, willing and able to work on federally funded highway construction projects. Per USDOT's [Tips for Goal-Setting in the Disadvantaged Business Enterprise \(DBE\) Program](#), "You



should take steps to filter out businesses that are not relevant to your calculations where possible.” DBEs not included in Step 1 were due to their extremely limited usage potential for state highway transportation contracts. These were excluded so as not to skew the results. Therefore, those who did not qualify were excluded and the number was later reduced to 24 (15 Potential Construction DBEs in Table 2 + 9 Potential Engineering DBEs in table 3) potential DBEs.

TDOT has a total of 129 (see tables 2 and 3) DBE firms determined to be ready, willing and able to work on FHWA funded projects in the defined market area. This number includes both construction and consultant firms. We also targeted 24 (see tables 2 and 3) potential firms from the above mentioned sources. The NAICS codes for those firms yield a total of 3,563 (see tables 2 and 3) firms. The tables below, in combination with the formulas that follow, will show the Step One Process.

Also, in Step 1 TDOT removed three DBEs (noted under Table 2) because they graduated from the program. This lowered the total number of DBEs ready, willing and able from 94 to 91.

**Table 2 - Tennessee County Business Patterns – 2014 US Census (Construction/Maintenance/Trucking)**

2014 NAICS Code	Description (Construction)	TDOT DBE	Potential DBEs (GoDBE List)	Census
<b>Construction and Maintenance</b>				
238120	Structural steel and precast concrete contractors	5	0	57
238110	Poured concrete foundation and structure contractors	13	0	263
423840	Industrial Supplies Merchant Wholesaler	10	1	163
237310	Highway/Street/Bridge Construction	41*	14	178
561990	Flagger/Traffic Control Services	2**	0	175
	<b>Construction &amp; Maintenance Subtotal</b>	<b>71</b>	<b>15</b>	<b>836</b>
<b>Trucking</b>				
484220	Specialized freight (except used goods) trucking, local	20	0	372
	<b>TOTAL</b>	<b>91</b>	<b>15</b>	<b>1208</b>

**\*Removal of Planet Inc. and T&T Steel Erectors**

**\*\* Removal of Superior Traffic Control**

**Percentage of DBE Firms in Construction, Maintenance, Trucking**

**91(DBEs) + 15 (Potential DBEs) = 106**

**106 / 1208 (TN NAICS Total) = 8.8%**



**Table 3 - Tennessee County Business Patterns – 2014 US Census  
(Engineering/Consulting)**

2014 NAICS Code	Description (Construction)	TDOT DBE	Potential DBEs (GoDBE List)	Census
<b>Engineering and Consulting</b>				
541330	Engineering Services	24	8	811
541611	Administrative management and general management consulting services	2	1	754
541512	Computer systems design services	2	0	480
541370	Surveying and mapping (except geophysical) services	3	0	190
541620	Environmental consulting services	4	0	120
	<b>TOTAL</b>	<b>35</b>	<b>9</b>	<b>2355</b>

**Percentage of DBE Firms in ENGINEERING & CONSULTING**

$$35(\text{DBEs}) + 9 (\text{Potential DBEs}) = 44$$

$$44 / 2355 (\text{TN NAICS Total}) = \underline{1.87\%}$$

**Table 4 – Federal-Aid Utilization for FFY014 by Program Area**

Program	Federal-Aid Share of Contracts Awarded (Dollars)	Percentage of Total
Construction, Maintenance and Trucking	\$558,892,664.84	94.15%
Engineering and Consulting	\$34,673,273.00	5.85%
<b>Total</b>	<b>\$593,565,937.84</b>	<b>100%</b>

**Step One Base Figure**

$$\text{Step One Base Figure} = (\text{Percentage of Total}) \frac{\text{Ready, Willing, and Able DBEs}}{\text{All Firms (DBEs and non - DBEs)}}$$

**Step One Base Figure, Weighted by type of work to be performed**



$$\begin{aligned}
 & \left[ .941 \left( \frac{\# \text{ CONSTRUCTION, MAINTENANCE, TRUCKING DBEs}}{\# \text{ CONSTRUCTION, MAINTENANCE, TRUCKING Firms}} \right) \right. \\
 & \quad \left. + .058 \left( \frac{\# \text{ ENGINEERING \& CONSULTING DBEs}}{\# \text{ ENGINEERING \& CONSULTING Firms}} \right) \right] \times 100\% \\
 & = \left[ .941 \left( \frac{109 \text{ CONSTRUCTION, MAINTENANCE, TRUCKING DBEs}}{1208 \text{ CONSTRUCTION, MAINTENANCE, TRUCKING Firms}} \right) \right. \\
 & \quad \left. + .058 \left( \frac{44 \text{ ENGINEERING \& CONSULTING DBEs}}{2355 \text{ ENGINEERING \& CONSULTING Firms}} \right) \right] \times 100\% \\
 & = \left[ .941 \left( \frac{106}{1208} \right) + .058 \left( \frac{44}{2355} \right) \right] \times 100\% \\
 & = [.941(.088) + .058(.0187)] \times 100\% \\
 & = [.083 + .0010] \times 100\% = \mathbf{8.4\%}
 \end{aligned}$$

Final Step One Base Figure= **8.40%**

**Step Two: Adjust the Base Figure – 49 CFR § 26.45(d)**

Step Two of the goal setting calculation process is intended to adjust the Step One Base Figure to make it as precise as possible. Regulations require TDOT to consider all of the evidence available in its jurisdiction to determine what adjustment, if any, is needed to the Base Figure in order to arrive at the overall goal. TDOT also considered the capacity of DBEs to perform work based upon past performance, as measured by the volume of work DBEs have performed in recent years. Past projects used in this calculation are all transportation-related Federal-aid projects with similar scope, opportunities and characteristics of future projects to be let by TDOT, and are therefore suitable for use in this calculation. **Table 5** (next page) contains a summary of the expenditures to DBEs on projects for the last five (5) completed fiscal years. This chart indicates actual DBE attainments vs. commitments and money expended throughout TDOT for this period of time.

**Table 5 – Past Performance 2012-2016**

<u>FISCAL YEAR</u>	<u>GOAL COMMITMENT</u>	<u>GOAL ATTAINMENT</u>	<u>\$ EXPENDED</u>
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**FFY 2018-2020 OVERALL ANNUAL DBE GOAL**



<b>FFY 2016</b>			
Race Conscious	6.54%	7.27%	Prime: \$542,907,689
Race Neutral	1.51%	1.02%	DBE: \$45,011,396
	8.05%	8.29%	8.29%
<b>FFY 2015</b>			
Race Conscious	6.54%	7.15%	Prime: \$597,326,689
Race Neutral	1.51%	1.43%	DBE: \$51,265,560
	8.05%	8.58%	8.58%
<b>FFY 2014</b>			
Race Conscious	5.74%	5.02%	Prime: \$442,988,595
Race Neutral	1.86%	3.01%	DBE: \$35,571,984
	7.60%	8.03%	8.03%
<b>FFY 2013</b>			
Race Conscious	5.74%	5.18%	Prime: \$544,424,450
Race Neutral	1.86%	2.60%	DBE: \$42,342,089
	7.60%	7.78%	7.78%
<b>FFY 2012</b>			
Race Conscious	5.74%	7.89%	Prime: \$721,040,580
Race Neutral	1.86%	0.24%	DBE: \$58,605,400
	7.60%	8.13%	8.13%

Past Participation in order from lowest to highest: 7.78%, 8.03%, **8.13%**, 8.29%, 8.58%

We then averaged the five-year median Past Participation figure of 8.13% with our Step One Base Figure of 8.40% to arrive at a proposed goal of 8.35%:

$$\frac{8.40\% + 8.13\%}{2} = \frac{16.53\%}{2} = 8.265\%$$

**Adjusted Base Figure= 8.27%**

### **Anticipated Race-Neutral and Race-Conscious Methods**

The federal regulations require TDOT to meet the maximum feasible portion of its overall goal by using race and gender-neutral (hereafter referred to as race-neutral) means of facilitating DBE participation. TDOT will adjust the estimated breakout of race-neutral and race-conscious DBE participation as needed to reflect actual DBE participation (49 CFR 26.51(f)) and track and report race-neutral and race-conscious participation separately.

When a DBE is awarded a contract as the prime contractor, or when contractors award subcontracts to DBEs on projects with no goal or DBE usage exceeds the participation required by the project goal, this is recognized as race neutral participation.

TDOT uses the following means to increase race-neutral DBE participation:

- Continue the supportive services program to develop and improve immediate and long-term business management, record-keeping, and financial and/or accounting capabilities for small businesses;
- Provide assistance to DBEs to develop their capability to utilize emerging technology and conduct business through electronic media, including utilizing our own website to disseminate information, including our DBE Directory, bid opportunities, and updated information on Part 26;
- Provide supportive services to help DBEs improve long-term development, increase opportunities to participate in a variety of different kinds of work, handle increasingly significant projects, successfully compete as prime contractors, and achieve eventual self-sufficiency;
- Created a small business element for the DBE program;
- Provide networking opportunities with local, state and federal agencies, non-profit, academic and business communities to obtain maximum partnering opportunities and resources, and develop comprehensive resource and referral networks with technical assistance and service providers;
- Work with Tennessee Road Builders Association to involve DBEs and small businesses in events involving TDOT (as well as with other government and/or private contracting opportunities).



**Breakout of Estimated Race-Neutral Participation**

The following table contains a summary of all DBE race-neutral participation (prime contracting and sub-contracting opportunities) from the past five completed fiscal years. This chart provides the median percentage of contract work that DBEs have secured through race-neutral participation in the past.

**Table 6 – DBE Race-Neutral Attainment on Consulting and Construction Contracts**

<b>Federal Fiscal Year</b>	<b>Race Neutral Attainment</b>
<b>2016</b>	<b>1.02%</b>
<b>2015</b>	<b>1.43%</b>
<b>2014</b>	<b>3.01%</b>
<b>2013</b>	<b>2.60%</b>
<b>2012</b>	<b>0.24%</b>

Race Neutral attainment for last five years in order from lowest to highest  
**0.24% + 1.02% + 1.43% + 2.60% + 3.01%**  
**Median % = 1.43%**

**Total FFY 2018-2020 Anticipated Race-Neutral Participation 1.43%**

In an amendment to 49 CFR Part 26, which became effective March 5, 2010, FHWA revised the DBE goal setting guidance to have DOTs begin implementing three-year DBE goals, with the ability to revise the goal to better represent any changes in construction contract trends on an annual basis. In accordance with the new guidance, the Tennessee Department of Transportation has established its Disadvantaged Business Enterprise overall goal for the three-year period for federal fiscal years 2018 – 2020 at for new contracts, with **1.43%** to be obtained through those projects without goals (race-neutral methods) and the remaining through goals using race-conscious methods.

**Final 3-Year FFY Goal Participation:**

During the course of the following three FFYs, TDOT will continue to review the contracts awarded, including future contracts with possible DBE participation, to determine whether adjustments to the goal are warranted. Should TDOT determine that an adjustment to the DBE goal is warranted for a more accurate representation of contract trends, the revised DBE goal will be posted on the website of TDOT’s Civil Rights Office Small Business Development Program at: [www.tn.gov/tdot/topic/small-business](http://www.tn.gov/tdot/topic/small-business).

**DBE Goal Consultation Process / Public Participation**

A public notice announcing the proposed overall goal and its rationale was made available for inspection during normal business hours. A copy of the notice and names of the publications utilized are attached.

The TDOT Consultation Process is outlined as follows with the public notice locations. During the course of these meetings, DBEs and others were given an opportunity for input and comments.

### **Steps to Incorporate Public Participation**

1. The process included meetings to provide public participation.
2. Invitations sent to all DBEs currently on the TNUCP certification list prior to meeting.
3. Any written and verbal comments were recorded and submitted to FHWA.
4. TDOT's DBE plan will be revised to address the consultation process.

### **Outline of TDOT Public Participation**

In order to comply with 26.45(g) providing public participation, we participated in consultation meetings with the following groups:

#### **TDOT Supportive Services/DBE Training Meetings**

##### **Chattanooga**

Hamilton County Business Development Center  
100 Cherokee Blvd.  
Chattanooga, TN  
May 16, 2017

##### **Knoxville**

Knox Burlington Library Meeting Room  
4614 Asheville Highway  
Knoxville, TN  
May 23, 2017

#### **Tennessee Road Builders Association**

Mid-Year Meeting  
Embassy Suites, Franklin, TN  
Kent Starwalt, Executive Vice President  
July 19, 2017

#### **DBE Advisory Committee Meeting**

TDOT Headquarters  
505 Deaderick St., Suite 1800  
Nashville, TN 37243  
July 27, 2017

A Public Notice of the 2018-2020 goal was published in the following newspapers on June 2, 2017. This notice, which follows the listed news publications, announced the proposed goal and included the timeframe for public inspection of the document as well as for comments.

**\*Pride Newspaper Group**

**Contact Person: Larry Davis**

Nashville Pride  
 Chattanooga Courier  
 Knoxville Enlightener  
 Murfreesboro Vision  
 941 44<sup>th</sup> Avenue North  
 Nashville, TN 37209  
 Bus: 615.292.9150  
 Fax: 615.292.9056  
[prideads@comcast.net](mailto:prideads@comcast.net)

**\*The Tennessee Tribune**

Contact Person: Steven E. Benson  
 1818 Morena Street  
 Nashville, TN 37208  
 Bus: 615.321.9551  
 Fax: 615.321.0409  
[sales1501@aol.com](mailto:sales1501@aol.com)

**\*West Tennessee Examiner**

Contact Person: Bill Marable  
 426 E. Main St.  
 Jackson TN 38301  
 Bus: 731.935.2222  
 Fax: 731.935.2490  
[Wtegoodnews1@bellsouth.net](mailto:Wtegoodnews1@bellsouth.net)

**Kingsport Time-News**

P.O. Box 479  
 701 Lynn Garden Drive  
 Kingsport, TN 37662-0479  
 Bus: 423.246.8121  
 Bus: 1-800-251-0328  
[lbellamy@timesnews.net](mailto:lbellamy@timesnews.net)

**Johnson City Press**

Contact Person: Tonya Tipton  
 204 West Main ST  
 Johnson City, TN 37605  
 Bus: 423.929.3111  
 Fax: 423.929.9007  
[adcopy@johnsoncitypress.com](mailto:adcopy@johnsoncitypress.com)

**Jonesborough Herald & Tribune**

Contact: Brandy  
 P.O. Box 277  
 Jonesborough, TN 37659  
 Bus: 423.753.3136  
 Fax: 423.753.6528  
[ads@heraldandtribune.com](mailto:ads@heraldandtribune.com)

**\*Tri-State Defender**

203 Beale Street, Suite 200  
 Memphis, TN 38103  
 Phone: 901.523.1818  
 Fax: 901.523.1820  
[advertising@tri-statedefender.com](mailto:advertising@tri-statedefender.com)

**\*Memphis Silver Star News**

Contact Person: Jimmy Williams  
 3019 Park Avenue  
 Memphis, TN 38114-2723  
 Phone: (901) 452-8828  
 Fax: (901) 452-1656  
[silverstarnews@bellsouth.net](mailto:silverstarnews@bellsouth.net)

**\*Denotes Minority Newspapers**



**PUBLIC NOTICE**

**Disadvantaged Business Enterprise Goal for FFY 2018-2020**

**The Tennessee Department of Transportation (TDOT) hereby announces its FFY 2018-2020 Disadvantaged Business Enterprise (DBE) Program Goal under the guidelines of 49 CFR Part 26 and the regulations and directions of the U. S. Department of Transportation (DOT) of 8.05% for participation in the Federal Highway Construction Program.**

**This goal has been set based upon information currently available and will be available for public inspection at the TDOT Civil Rights Office Suite 1800, James K. Polk Bldg., 505 Deaderick Street, Nashville, TN 37243-0347 between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday for 30 days following the publication of this notice. Written comments will be accepted for 45 days following the date of publication, and can be sent to the Civil Rights Division (address listed previously) or to the email below.**

**Written comments pertaining to this goal should be sent to the attention of the Small Business Development Program Director, at the address shown above by July 17<sup>th</sup>, 2017\*.**

**E-mail comments may be sent to [TDOT.DBEP@tn.gov](mailto:TDOT.DBEP@tn.gov)**

**TDOT is an Equal Opportunity Employer**

\* The draft goal was advertised as 8.05%. After review, the goal was re-evaluated by TDOT and changed to 8.27%.

**Sources of Information for methodology**

- ❖ Construction Division
- ❖ Program Operations
- ❖ Project Management Office of Local Programs
- ❖ Right-of-Way Division
- ❖ Long Range Planning Division
- ❖ Environmental Division
- ❖ Design Division
- ❖ Strategic Transportation Investments Division
- ❖ Civil Rights Division
- ❖ Census Data