

FEDERAL DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM PROPOSED OVERALL GOAL & METHODOLOGY FOR FEDERAL FISCAL YEARS 2023 - 2025

In accordance with 49 Code of Federal Regulations (CFR) Part 26 and United States Department of Transportation (USDOT) guidance, the Ohio Department of Transportation (ODOT) must establish a new overall goal for the participation of Disadvantaged Business Enterprises (DBEs) in the Federal Transit Administration- (FTA-) funded contracts and procurements it anticipates awarding in federal fiscal years (FFYs) 2023, 2024, and 2025. This document presents ODOT's new proposed *overall DBE goal* for its FTA-funded work and the methodology the agency used to calculate it.

A. Overall DBE Goal

ODOT based its new overall DBE goal on results from an availability study BBC Research & Consulting (BBC) conducted in 2022 (referred to herein as the 2022 Availability Study), information about the current capacity of DBEs to perform ODOT work, and information about conditions in the local marketplace for persons of color (POCs), women, and POC- and woman-owned businesses.¹ The 2022 ODOT Availability Study is included with this document as Appendix A. The agency has followed the two step goal-setting methodology USDOT requires to develop its new goal: 1) establish a *base figure*; and 2) consider whether a *step 2 adjustment* to the base figure is warranted.

1. Base figure. ODOT began setting a new overall DBE goal by establishing a base figure, which the agency based on the demonstrable availability of *potential DBEs* for the FTA-funded work it awarded in FFYs 2019, 2020, and 2021. The agency defined potential DBEs as POC- and woman-owned businesses that are currently DBE-certified or appear they could be DBE-certified according to size requirements specified in 49 CFR Part 26.65.

a. Methodology. As part of the 2022 ODOT Availability Study, BBC conducted a *custom census* availability analysis that focused on the specific areas of work (i.e., subindustries) related to the FTA-funded construction, professional services, and goods and other services prime contracts and subcontracts ODOT awards. BBC began the analysis by identifying the specific subindustries in which ODOT spends the majority of its contracting dollars as well as the geographic area in which the majority of the businesses that perform work for the agency are located (referred to as the *relevant geographic market area*, or *RGMA*). BBC identified the RGMA as the entire state of Ohio.

Once BBC identified relevant subindustries and the RGMA, the firm conducted surveys to develop a representative, unbiased, and statistically valid database of potentially available businesses located in the RGMA that perform work within subindustries relevant to ODOT's transit-related work. The objective of the availability survey was not to collect information from each and every relevant business operating in the local marketplace. Instead, it was to collect

¹ Woman-owned businesses refer specifically to *white woman-owned businesses*. Businesses owned by women of color were classified along with their corresponding racial/ethnic groups.

information from an unbiased subset of the business population that appropriately represents the entire relevant business population operating in the region.

i. Availability surveys. As part of the availability analysis, BBC conducted telephone and online surveys to identify businesses potentially available for relevant ODOT prime contracts and subcontracts. The firm began the process by compiling a comprehensive and unbiased phone book of relevant businesses of all ownership types—that is, not only POC- and woman-owned businesses—located in the RGMA and that perform work in relevant subindustries. BBC developed the phone book based primarily on information from Dun & Bradstreet Marketplace listings, which has been accepted by courts as a comprehensive and unbiased source of business listings for various geographical regions and work specializations. The study team collected information from business establishments listed under 8-digit work specialization codes most related to the transit-related work ODOT awarded during the *study period* (i.e., July 1, 2018 through June 30, 2021).

BBC used availability surveys to collect key information about potentially available businesses, including:

- Status as a private sector business (as opposed to nonprofit organization);
- Status as a subsidiary or branch of another company;
- Primary lines of work;
- Contract role (i.e., prime contractor, subcontractor, or both);
- Interest in performing work for ODOT;
- Largest prime contract or subcontract bid on or performed in the previous five years; and
- Race/ethnicity and gender of the owners.

ii. Availability database. Two thousand, six hundred and thirty-seven businesses completed availability surveys, but ODOT did not consider them all potentially available for the FTA-funded projects it awarded in FFYs 2019, 2020, and 2021. The agency considered businesses to be potentially available for that work if, as part of availability surveys, they reported possessing all the following characteristics:

- Being a private sector business;
- Working in subindustries relevant to ODOT’s transit-related work;
- Having bid on or performed relevant work in the past five years; and
- Being interested in participating in ODOT contracts or procurements.

ODOT also considered the following information about businesses to determine if they were potentially available for specific prime contracts or subcontracts ODOT awarded in FFYs 2019, 2020, and 2021:

- The roles in which they work (i.e., prime contractors, subcontractors, or both); and
- The largest contracts they bid on or performed in the past five years.

Based on the characteristics of businesses that completed availability surveys and the FTA-funded projects ODOT awarded in FFYs 2019, 2020, and 2021, the agency considered 1,670 businesses as potentially available to perform work on the specific transit-related construction, professional services, and goods and other services contracts and procurements it awards. Of those 1,670 businesses, 25.9 percent were POC- or woman-owned, which reflects a simple count of businesses with no analysis of their availability for specific ODOT contracts or procurements.

iii. Availability calculations. ODOT estimated the availability of *potential DBEs* for its FTA-funded projects based on the information from the availability database described above and on information on FTA-funded projects the agency awarded in FFYs 2019, 2020, and 2021. The agency identified specific prime contract and subcontract opportunities (referred to generally as *contract elements*) associated with each project based on the work involved. ODOT then identified specific characteristics of each contract element—including type of work, contract role, and contract size—and took the following steps to estimate the availability of potential DBEs for each one:

1. For each contract element, ODOT identified businesses in the availability database that reported they:
 - Are interested in performing work in that particular role for that specific type of work for the agency; and
 - Have bid on or performed work of at least that size in the past five years.
2. The agency then counted the number of potential DBEs—by race and gender group—in the availability database that met the criteria specified in step 1.
3. The agency translated the number of potential DBEs in step 2 into a percentage.

ODOT repeated those steps for each contract element included in the analysis, and then multiplied the percentage of potential DBEs for each contract element by the dollars associated with it, added results across all contract elements, and divided by the total dollars for all contract elements. The result was dollar-weighted estimates of the availability of potential DBEs for the FTA-funded work ODOT awarded in FFYs 2019, 2020, and 2021. The estimates represent the percentage of dollars one would expect ODOT to award to those businesses on its FTA-funded projects.

b. Results. Figure 1 presents availability analysis results, organized in the following manner:

- Column (a) presents the groups of potential DBEs ODOT considered in the analysis;
- Column (b) presents the availability of each group for FTA-funded construction contract elements;
- Column (c) presents the availability of each group for FTA-funded professional services contract elements; and
- Column (d) presents the availability of each group for FTA-funded goods and other services contract elements; and

- Column (e) presents the availability of each group for all FTA-funded contract elements considered together.

As presented at the bottom of column (d), the analysis indicated that potential DBEs are available for **19.7** percent of the FTA-funded prime contracts and subcontracts ODOT awarded in FFYs 2019, 2020, and 2021, which the agency considers as the base figure for its new overall DBE goal.

Figure 1.
Availability of potential DBEs for FTA-funded projects ODOT awarded in FFYs 2019, 2020, and 2021

a. Potential DBE group	Industry			e. Total
	b. Construction	c. Professional services	d. Goods and other services	
Asian Pacific American-owned	0.7 %	1.9 %	3.2 %	3.1 %
Black American-owned	6.3 %	7.2 %	6.5 %	6.5 %
Hispanic American-owned	0.4 %	1.3 %	0.2 %	0.3 %
Native American-owned	1.9 %	0.4 %	0.0 %	0.0 %
Subcontinent Asian American-owned	0.8 %	1.8 %	0.0 %	0.1 %
Total minority-owned	10.1 %	12.5 %	10.0 %	10.1 %
White woman-owned	15.3 %	9.6 %	9.5 %	9.6 %
Total potential DBEs	25.4 %	22.1 %	19.5 %	19.7 %

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

ODOT applied the following weights to availability for each industry to calculate total availability:

construction = 0.02, professional services = 0.12, goods and other services = 86. The weights were based on the proportion of total FTA-funded contract and procurement dollars for which each industry was awarded in FFYs 2019, 2020, and 2021.

Source: ODOT and BBC.

2. Step 2 adjustment considerations. After establishing the base figure, ODOT considered additional information to determine whether any adjustment was needed to the base figure to ensure the agency’s new overall DBE goal is precise and reflects current conditions in the local marketplace for POCs, women, and POC- and woman-owned businesses. In considering an adjustment to the base figure, the agency evaluated information about:

- Current capacity of DBEs to perform agency work;
- Information related to employment, self-employment, education, training, and unions;
- Disparities in the ability of DBEs to access financing, bonding, and insurance; and
- Other factors.²

a. Current capacity of DBEs to perform agency work. USDOT’s “Tips for Goal-Setting” suggests that agencies should examine data on past DBE participation in their USDOT-funded work in recent years to determine whether adjustments to their base figures are necessary. USDOT

² 49 CFR Section 26.45.

further suggests that an agency should take the median level of annual DBE participation for those years and average it with its base figure and potentially consider the result as its new overall DBE goal.³ Figure 2 presents the participation of certified DBEs in ODOT’s FTA-funded contracts and procurements for FFYs 2018 through 2021, based on the agency’s Uniform Reports of DBE Awards or Commitments and Payments. As shown in Figure 2, median DBE participation in ODOT’s FTA-funded work for FFYs 2018 through 2021 was 4.1 percent, supporting a **downward adjustment** to the agency’s base figure.

Figure 2.
Past participation of DBEs
in ODOT’s FTA-funded
projects, FFYs 2018-2021

FFY	DBE participation
2018	0.9%
2019	26.4%
2020	0.0%
2021	7.3%

Source:

ODOT Uniform Reports of
 DBE Awards or Commitments and Payments.

b. Information related to employment, self-employment, education, training, and unions. The 2022 ODOT Availability Study did not include analyses of current conditions in the Ohio marketplace for POCs, women, and POC- and woman-owned businesses but the 2016 ODOT Disparity Study—which BBC also conducted—did include such analyses. BBC’s 2016 disparity study analyses indicate that there are barriers that certain minority groups and women face related to human capital, financial capital, and business ownership in the Ohio transportation contracting industry. Such barriers may decrease the availability of POC- and woman-owned businesses to obtain and perform the FTA-funded contracts that ODOT awards, which supports an **upward adjustment** to ODOT’s base figure.

c. Disparities in the ability of DBEs to get financing, bonding, and insurance. Analyses on access to financing, bonding, and insurance that were part of the 2016 ODOT Disparity Study also revealed quantitative and qualitative evidence that POCs, women, and POC- and woman-owned businesses in Ohio do not have the same access to those business inputs as white men and businesses owned by white men. Any barriers to obtaining financing, bonding, and insurance might limit opportunities for POCs and women to successfully form and operate businesses in the Ohio transportation contracting industry. In addition, any barriers POC- and woman-owned businesses face in obtaining financing, bonding, and insurance would be a disadvantage for them in competing for ODOT’s FTA-funded prime contracts and subcontracts. Thus, information about financing, bonding, and insurance supports an **upward adjustment** to ODOT’s base figure.

d. Other factors. USDOT suggests that agencies also examine “other factors” when determining whether to make step 2 adjustments to their base figures. Marketplace analyses that were part of the 2016 ODOT Disparity Study also provided evidence that POC- and woman-owned businesses are less successful than other businesses. Such evidence includes:

³ Section III (A)(5)(a) in USDOT’s “Tips for Goal-Setting in the Federal Disadvantaged Enterprise (DBE) Program.”

- Quantitative evidence that certain groups of POC- and woman-owned businesses are less successful than businesses owned by white men and face greater barriers in the marketplace, even after accounting for race- and gender-neutral factors;
- Qualitative evidence that discrimination on the basis of race/ethnicity and gender adversely affects POC- and woman-owned businesses in the Ohio transportation contracting industry; and
- Evidence that POC- and woman-owned businesses exhibit substantial disparities for key sets of ODOT's transportation-related contracts and procurements.

All the above results support an **upward adjustment** to the base figure.

e. Adjustment. ODOT has considered myriad information relevant to a potential step 2 adjustment and has decided to make a **downward adjustment** to its base figure. The agency has decided to make a downward adjustment for the following reasons:

- Information about marketplace conditions supports an upward adjustment, but information about ODOT's DBE participation in recent years supports a downward adjustment.
- ODOT believes it is important to set a realistic goal that accounts for the different information relevant to making an adjustment. Because some information relevant to a potential step 2 adjustment supports an upward adjustment and some information supports a downward adjustment, a realistic overall DBE goal is likely higher than ODOT's past participation but lower than the agency's base figure.

Therefore, ODOT took the average of its base figure (19.7%) and median DBE participation in its FTA-funded work for FFYs 2018 through 2021 (4.1%), resulting in 11.9 percent, which reflects a substantial increase from the agency's current goal of 7.87 percent and ODOT's commitment to achieving higher DBE participation than it has in the recent past.⁴

3. New goal. ODOT proposes a **new overall DBE goal of 11.9 percent** for FFYs 2023, 2024, and 2025.

B. Race- and Gender-Neutral and Race- and Gender-Conscious Split

Race- and gender-neutral program measures are designed to encourage the participation of all businesses—or all small businesses—in an agency's work. In contrast, *race- and gender-conscious* measures are designed to encourage the participation of POC- and woman-owned businesses specifically in an agency's work (e.g., using DBE participation goals to award individual contracts). If an agency cannot meet its goal solely through using race- and gender-neutral measures, then it must consider also using race- and gender-conscious measures.

⁴ Section III (A)(5)(a) in USDOT's "Tips for Goal-Setting in the Federal Disadvantaged Enterprise (DBE) Program." <https://www.transportation.gov/osdbu/disadvantaged-business-enterprise/tips-goal-setting-disadvantaged-business-enterprise>

In accordance with federal regulations and USDOT guidance, ODOT will attempt to meet the maximum feasible portion of its proposed 11.9 percent overall DBE goal using race- and gender-neutral measures. ODOT considered the median past DBE race- and gender-neutral participation for 2018 through 2021 to project the portion of its overall goal that it will meet using race- and gender-neutral measures. ODOT's Uniform Reports of DBE Awards of Commitments and Payments from 2018 through 2021 indicate that the agency attained 4.1 percent DBE participation using race- and gender-neutral measures alone. ODOT will encourage its departments to use Small Business Enterprise (SBE) contract goals when they award contracts and procurements in FFYs 2023, 2024, and 2025 and will also encourage prime contractors to partner with DBEs to meet SBE goals. The agency projects that those efforts will help maintain the level of DBE participation it attributed to the use of race- and gender-neutral measures in the recent past—4.1 percent. ODOT will meet the remainder of its overall DBE goal—7.8 percent—using race- and gender-conscious measures, specifically using DBE contract goals to award various FTA-funded contracts and procurements, as appropriate.

C. Public Participation

Public participation is a key component of ODOT's process for establishing a new overall DBE goal. The agency will make a draft of this document available to its stakeholders on its website. The agency will also present its new goal at a public webinar on June 9, 2022 and answer questions and collect any feedback from attendees. ODOT will present that feedback as part of its final goal submission to FTA.

D. Summary

ODOT proposes a new overall DBE goal for FFYs 2023, 2024, and 2025 of 11.9 percent. Based on information about FTA-funded projects the agency awarded in FFYs 2019, 2020, and 2021 and results from the 2022 Availability Study, the agency determined that the base figure for its new overall DBE goal is 19.7 percent. ODOT decided to adjust the base figure to 11.9 percent to account for the current capacity of DBEs to perform on its FTA-funded work and conditions in the marketplace for POCs, women, and POC- and woman-owned businesses. ODOT's proposed goal reflects a substantial increase from the agency's current goal for its FTA-funded work and its commitment to achieving greater DBE participation than it has in the recent past. ODOT will attempt to meet its overall DBE goal through a combination of race- and gender- neutral and race- and gender-conscious program measures. The agency projects it will be able to meet 4.1 percent of its overall DBE goal using race- and gender-neutral measures and the remaining 7.8 percent using race- and gender-conscious measures.