

WISCONSIN DEPARTMENT OF TRANSPORTATION



**ANNUAL OVERALL DBE GOAL SUBMISSION  
FEDERAL FISCAL YEARS: 2021, 2022, 2023**

**October 1, 2020 – September 30, 2023**

*For*

**U.S. DEPARTMENT OF TRANSPORTATION  
FEDERAL HIGHWAY ADMINISTRATION**

**August 26, 2020**

**Office of Business Opportunity & Equity Compliance  
Division of Transportation System Development**

SUBMITTED BY: Madalena Maestri, EdD  
DBE Liaison Officer

**WISCONSIN DEPARTMENT OF TRANSPORTATION’S TRIENNIAL DISADVANTAGED BUSINESS ENTERPRISE  
GOAL FOR THE FEDERAL HIGHWAY ADMINISTRATION – FEDERAL FISCAL YEARS 2021-2023**

The Wisconsin Department of Transportation (WisDOT) submits this three-year annual DBE goal for the federal-aid highway program for Federal Fiscal Years 2021, 2022, and 2023.

WisDOT prepared this document in accordance with federal regulatory mandates:

- ♦ DBE Program Regulations: Title 49 Code of Federal Regulations Part 26, amended Oct 2014<sup>1</sup>
- ♦ USDOT General Counsel Guidance: *Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program*
- ♦ USDOT FHWA Memorandum: New DBE Goal Submission Schedule dated February 5, 2013

**Background**

The Wisconsin Department of Transportation (WisDOT) is a recipient of USDOT funds. 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 utilizes demonstrable evidence from Wisconsin’s transportation infrastructure market to ascertain the availability of businesses that are ready, willing, and able to participate on FHWA-funded contracts that this agency procures. This three-year annual goal document is a comprehensive analysis of opportunity, data, and trends prepared to reflect the relative availability of DBE firms in WisDOT’s contracting market.

**Proposed Overall DBE Goal for FFY 2021-2023**

DBE goals are assigned to individual contracts that include federal funding as appropriate. Contracts with assigned goals must include subcontracting opportunities. WisDOT’s proposed overall DBE goal for federal-aid highway funds for each of FFY 2021, FFY 2022, and FFY 2023 is **12.41%**.

- ♦ 4.27% of the 12.41% goal will be attained using race/gender neutral measures
- ♦ 8.14% of the 12.41% goal will be attained using race/gender conscious measures

Applying the projected overall annual DBE goal of 12.41% to the annual average of FHWA funding of \$750,000,000 results in a projected average of \$93,100,000 in federal highway funds to be made available to certified DBE firms during each federal fiscal year.

**Federal Funding Projection**

WisDOT estimates federal funding based on the average annual increases over the life of the FAST Act Transportation Bill<sup>2</sup>. FHWA funding is estimated to total \$2,250,000,000 over the next three years resulting in an annual average of \$750,000,000 in federal funding for DBE contracting opportunities per year. The funds are divided between construction lets, including the Transportation Alternative Program projects, and consultant solicitations. See Table 1.

**Table 1: Projected FHWA Funding Allocations by WisDOT procurement type for FFY 2021-2023**

<b>CONTRACT TYPES</b>	<b>FFY 2021</b>	<b>FFY 2022</b>	<b>FFY 2023</b>	<b>3-YEAR TOTAL</b>
WisDOT Let Highway Construction Contracts	\$650 mil	\$650 mil	\$650 mil	\$1.95 billion
WisDOT Solicited Highway Consultant Contracts	\$100 mil	\$100 mil	\$100 mil	\$300 million
<b>TOTAL</b>	<b>\$750 mil</b>	<b>\$750 mil</b>	<b>\$750 mil</b>	<b>\$2.25 billion</b>

<sup>1</sup> 49 CFR 26.45, last amended Oct. 2, 2014 [79 FR 59593]

<sup>2</sup> Pub. L. No. 114-94, December 4, 2015

## ANNUAL DBE GOAL SETTING METHODOLOGY

The annual overall DBE goal is applicable to procurements that include FHWA funds. To track procurements and analyze the overall annual DBE goal most effectively, WisDOT examines the construction and consultant opportunities. The DBE goal setting methodology combines all FHWA-funded contract opportunities to calculate a single overall annual DBE goal for this submission.

### STEP 1: Determine the relative availability of ready, willing, and able DBE firms

In determining the relative availability of ready, willing, and able DBE firms, WisDOT consulted the *Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program* document produced by the USDOT Office of Small and Disadvantaged Business Utilization. As recommended in the *Tips* for Step 1, WisDOT considered:

- ♦ The Most Refined Data Available; Relevant Data Sources; Local Market Area; Apples to Apples Calculation; Weighting; Decertification; and Other Ways to Calculate Availability.

Table 2 includes data referenced in the following discussion to arrive at the initial base figure for the overall DBE goal. The base figure ratio calculation resulted in a goal of 11.90% ready, willing, and able DBE firms.

**Table 2: WisDOT's base figure for the relative availability of DBE Firms**

WORK CLASSIFICATION	DBE	Non-DBE
Concrete Works (Aggregates, Asphalt, Concrete, Grading, Pavement Marking, Curb)	25	485
Equipment & Material Manufacturers/Supplier/Rentals	32	76
Electrical, Lighting, Signals	16	44
Engineering Services & Consultant Services	102	338
Incidental Construction & Bridge Painting	7	54
Highway Service Vendors	9	0
Site Preparation (Clearing & Grubbing, Erosion Control, Fencing, Landscape, Staking)	23	363
Structures & Bridge Work (Iron Work, Rebar, Rip-Rap, Steel Erection & Fabrication)	13	59
Utility Works (Sewers, Utilities)	10	204
Traffic Control & Signing	4	28
Trucking	176	1436
<b>TOTAL</b>	<b>417</b>	<b>3087</b>
TOTAL RWA DBEs		417
TOTAL RWA DBES + non-DBEs		3504
NOSE COUNT RATIO (417÷3504)		11.90%

Factoring in an adjustment for past participation, the final proposed overall goal is **12.41%**. (See Step 2)

## **Most Refined Data Available**

The most refined data available was obtained from relevant data sources: Civil Rights Compliance System (CRCS), Contract Administration Reporting System (CARS), WI UCP Directory, and the Wisconsin Supplier Diversity Directory, described below. Census data was considered but not used as it compares two incongruent sources- groups defined by regulation and wide-ranging economic data.

## **Relevant Data Sources**

WisDOT includes only relevant data sources to capture the most refined business, contractor, and bidder data to accurately monitor interest and availability. All entities interested in doing business with WisDOT must register with CRCS or CARS. Data from the WI UCP Directory and the Wisconsin Supplier Diversity Directory are also included in calculating the Step 1 base figure.

### **Data Sources for Construction Firms - CRCS**

The web-based Civil Rights & Compliance System (CRCS) provides data for determining the relative availability of ready, willing, and able DBE and non-DBE firms registered to work on WisDOT projects. WisDOT relies on the mandatory Contractor Registration component of CRCS as our primary tool for DBE goal setting because the information collected serves as a web-based Bidders List. The List represents prime and subcontractors who have successfully, unsuccessfully and never competed for WisDOT construction contract opportunities.

In addition, CRCS is a monitoring tool used by WisDOT to manage the DBE program including the submission of DBE certification data, contractor demographic data, and reports on the DBE program. Lastly, CRCS is used by contractors and subcontractors to report and confirm contract payments, to electronically submit certified payrolls, and to generate labor workforce data for US Department of Labor reports.

### **Data Sources for Professional Service Consultant Firms – CARS**

The Contract Administration and Reporting System (CARS) is a web-based application that the Division of Transportation System Development Consultant Services Unit uses to manage and support consultant contracting. CARS registration is mandatory for all firms working on WisDOT professional service contracts. CARS data includes all vendors, the engineer roster, and firms who competed for WisDOT professional service contract opportunities. CARS software is used by both WisDOT and all firms competing for WisDOT professional service contracts as it allows the Department to perform electronic invoicing and evaluations of contracts.

### **Wisconsin Unified Certification Program (WI UCP) DBE Directory**

WisDOT utilizes the WI UCP DBE Directory as the primary data source to validate the number of ready, willing, and able DBE firms by converting WisDOT work types to North American Industry Classification System (NAICS) codes. The WI UCP DBE Directory is searched using NAICS codes that correspond with projected WisDOT construction contract and consultant professional service opportunities including firms certified by WI UCP partner agencies. According to the FFY2019 MAP-21 report generated by analyzing WI UCP DBE Directory data, 71% of Wisconsin certified DBE firms are headquartered in Wisconsin, and 29% of certified DBE firms are headquartered in States outside Wisconsin. Most of the firms certified by other states do not perform road construction transportation infrastructure related work according to their NAICS code designations. Only firms with approved NAICS codes in the work areas in which WisDOT does business are included in calculation of the base figure as shown in Table 2

### **Wisconsin Supplier Diversity Directory**

WisDOT solicits other contract types using FHWA funding such as inspections, maintenance, survey, engineering, and other State Highways-related services. These services are secured using a vendor procurement process governed by the state. The Wisconsin Department of Administration (DOA) facilitates certification of minority, women, and disabled

veteran-owned businesses through processes governed by Wisconsin Statutes 16.287 (2) and Administrative Code Chapters 82 and 84. The base count of ready, willing, and able firms was extended to include those certified by the DOA. nine (9) minority, women, or disable veteran-owned vendors were identified as firms that could potentially be certified as DBE and were not listed in other data sources that WisDOT reviewed. These firms are included in Table 2 as *Highway Service Vendors*. The DOA directory is posted online at: <https://doa.wi.gov/Pages/DoingBusiness/SupplierDiversity.aspx>.

Review of the above data sources resulted in a numerator of 417 ready, willing, and able DBE firms available for participation on WisDOT contracts.

### Local Market Area

WisDOT recognizes our local market area as the area in which the substantial majority of the contractors and subcontractors with which we do business are located *and* is the area in which WisDOT spends the substantial majority of contracting dollars. According to the Department of Transportation Investment Management’s (DTIM) budget preparation for FFY 2021-2023, WisDOT will allocate federal funds in the five Regions shown in Table 3.

**Table 3: Projected FHWA Funding Allocations by Work Type and Region FFY 2021-2023**

WORK TYPE	SOUTHEAST REGION	SOUTHWEST REGION	NORTHWEST REGION	NORTHEAST REGION	NORTH CENTRAL REGION	Total
Pavement Replacement	6,819,280	45,496,099	113,319,179	0	39,765,439	205,399,997
Seal Coat & Patching	17,181,879	18,808,413	1,097,265	12,024,733	15,432,709	64,544,999
Reconditioning	35,648,827	40,214,460	2,905,402	7,480,258	5,986,051	92,234,998
Resurfacing	178,841,962	197,508,506	122,705,076	107,401,255	79,813,201	686,270,000
Cold in Place Recycling	0	9,398,707	42,222,765	5,513,527	0	57,134,999
Reconstruction	377,776,776	102,304,839	15,197,247	71,036,940	15,954,198	582,270,000
Bridge Replacement	91,340,730	19,012,266	2,728,440	8,197,722	2,728,440	124,007,598
New Bridge	0	6,759,194	15,607,930	0	772,876	23,140,000
Bridge Rehabilitation	25,519,429	6,089,603	3,680,377	2,289,911	8,260,200	45,839,520
Engineering & Professional Svc	145,500,000	57,000,000	43,500,000	34,500,000	19,500,000	300,000,000
MISC	26,649,941	13,321,516	15,325,271	9,424,558	4,380,623	69,101,909
Federal Funding	905,278,824	515,913,603	378,288,952	257,868,904	192,593,737	2,249,944,020

The majority of contract work is completed by Wisconsin-based contractors. WisDOT expends the highest percentage of Construction and Consultant dollars in the Southeast Region (40%), followed by the Southwest Region (23%), Northwest Region (17%), Northeast Region (11%), and the Northcentral Region (9%).

Out-of-state contractors participate in WisDOT work as well, and that data is captured in the Civil Rights Compliance System (CRCS). Firms registered in CRCS with addresses in the states surrounding Wisconsin were counted in the numerator and/or denominator as appropriate. The potential for outside firms to earn a substantial majority of WisDOT road contracting dollars is unlikely within this triennial period. However, WisDOT will periodically review DBE certified firms in Illinois, Minnesota, Michigan, and Iowa to ascertain if an adjustment to the base figure is warranted for future reports.

### Apples to Apples Calculation

WisDOT is keenly aware of the importance of including all applicable DBE and non-DBE firms in the base figure calculation. We have made sure to include firms from the data sources listed above in both the numerator and denominator where indicated, as shown in Table 2.

## Weighting

WisDOT utilizes multiple work types to organize projects and estimate federal funding allocation. Table 4 includes the categories of work WisDOT performs and corresponding percentage of each type to overall federal dollars.

WisDOT tracks work types broadly, for example quantities of asphalt are included in project planning but not an associated amount of trucking. We can identify wide categories of work types and thus associated subcontracting opportunities, but we are unable to determine the precise percentage of landscaping, for instance, that would potentially be involved in \$2.5 billion of contract work. Therefore, we performed weighting analysis based on combining work types and corresponding dollars.

**Table 4: WisDOT Projected Spending by Work Type FFY 2021-2023**

WORK TYPE	Total	Percent
<b>Total federal funding</b>	<b>2,249,944,020</b>	100%
<b>Construction</b>	<b>1,949,944,020</b>	<b>86.7%</b>
Pavement Replacement	205,399,997	10.53%
Seal Coat & Patching	64,544,999	3.31%
Reconditioning	92,234,998	4.73%
Resurfacing	686,270,000	35.19%
Cold in Place Recycling	57,134,999	2.93%
Reconstruction	582,270,000	29.86%
Bridge Replacement	124,007,598	6.36%
New Bridge	23,140,000	1.19%
Bridge Rehabilitation	45,839,520	2.36%
MISC	69,101,909	3.54%
<b>Consulting</b>	<b>300,000,000</b>	<b>13.3%</b>
Engineering & Professional Svc	300,000,000	

The spending per work type for construction were identified in Table 4 and combined for an overall total of \$1.95 billion, or 86.7% of total federal dollars. The work types for consulting were combined for an overall total of \$300 million or 13.3% of total federal dollars. These categories were weighted as explained below.

### Weighting Analysis

WisDOT performed weighting analysis to ensure accuracy of the base figure. Weighting was accomplished through:

1. Combining work types in predominant areas of spending (construction type and consulting type) to arrive at percentages of overall spending
2. Grouping Contractor and Consultant work classifications listed in Table 2 based on work type
3. Multiplying the percentage of spending per work type by the ratio of DBEs to (non-DBEs + DBEs) in those work types
4. Adding percentages together and multiplying by 100

Construction – 87% of spending

DBE contractors / (DBE contractors + non-DBE contractors)

306 / (306+2749) = 306/3055 = .1002

Percentage of work x available DBEs

$$.87 \times .1002 = .0872$$

Consulting & Engineering Services – 13% of spending

DBE consultants + HS Vendors / (DBE consultants + non-DBE consultants)

$$111 / (111 + 338) = 111 / 449 = .2472$$

Percentage of work x available DBEs

$$.13 \times .2472 = .0321$$

Combined weighting

DBE contractors + DBE consultants = recommended adjustment to base figure

$$.0872 + .0321 = .1193 \times 100 = 11.93\%$$

The weighting analysis result of 11.93% does not require an adjustment to the base figure of 11.90% RWA.

### **Decertification & Withdrawal**

One hundred forty-two (142) DBE firms withdrew from the program, went out of business, or exceeded the USDOT (SBA) DBE size standards between 2018 and 2020 and are not included in the base number calculation for FFY 2021-2023.

While the number of firms that withdrew or were decertified is significant, 83 firms had NAICS codes outside of those considered applicable for highway construction contracting. The 142 DBE firms indicated above, were removed from the UCP Directory, leaving 408 ready, willing, and able DBE firms. These firms plus the *Highway Service Vendors* (9) equals 417 stated as the numerator of the DBE goal-setting calculation. Data on the total number of non-DBE firms who have gone out of business is not available, thus we are unable to make comparable inferences. The 408 remaining DBE firms in the UCP Directory are approved to perform in work categories offered through WisDOT highway contract opportunities.

### **Other Ways to Calculate Availability**

WisDOT appreciates and utilizes the *Tips* guidance to inform goal-setting strategies. We endeavor to incorporate all applicable measures contained in the guidance to achieve the most accurate estimate of all firms interested in doing business with the department. WisDOT has an Internet-accessible registration process for contractors to be approved for work on WisDOT projects. This process requires all contractors to register and include areas of work type for which they are available before being allowed to work on WisDOT projects. All prime bidders must register before bidding. This database allows WisDOT to analyze the data provided by contractors who sought WisDOT contract opportunity, took action to access the opportunity, and specialize in the type of work WisDOT procures and that FHWA funds. We hesitate to include businesses who are not known to be interested in WisDOT contracts in the base figure calculation because that unvalidated number could artificially inflate availability resulting in overestimation of the numerator and/or denominator. Correspondingly, consideration of all DBE, MBE, and WBE firms registered in other states would require that we count similarly situated non-certified firms. The refinement of unknowns would not fulfill the guidance of the goal setting process. We believe that the risk of inaccuracies in the base figure calculation would prove unacceptable. WisDOT is fortunate to have custom data sources that provide the most accurate and relevant data with which to make sound inferences related to the actual availability and interest of DBE firms in WisDOT contract work.



## **STEP 2: Examine all the evidence available in your jurisdiction to determine whether an adjustment is needed**

In determining whether an adjustment to the base figure was needed, WisDOT consulted the *Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program* document produced by the USDOT Office of Small and Disadvantaged Business Utilization. As recommended in the *Tips* for Step 2, we considered:

- ♦ Past Participation
  - Median analysis
  - Variability of contract opportunities
- ♦ Other Data/Additional Sources of Information
  - Organizations serving or representing DBE firms

### **Past Participation**

#### **Median Analysis**

The median of FFY 2015-2019 DBE goal achievement was 12.91% as shown in Table 5. Evaluating past participation using the median provided a proportional context, excluding the influence of anomalies and outliers. The median can be critical for determining if an adjustment to the base figure is warranted. Averaging the projected base figure of 11.90% with the median base figure, as recommended in the *Tips*, with the median attainment percentage of 12.91% results in 12.41%. A base figure adjustment is made here to arrive at an overall goal of 12.41%.

**Table 5: WisDOT DBE Goal Attainment 2015-2019**

<b>FFY</b>	<b>OVERALL ANNUAL DBE GOAL ASSIGNED</b>	<b>OVERALL ANNUAL DBE GOAL ACHIEVED</b>
2017	14.13%	9.61%
2019	12.38%	10.57%
2016	14.13%	12.91%
2018	12.38%	13.10%
2015	14.13%	14.76%

#### **Variability of Contract opportunities between FFY2021-2023 and FFY 2018-2020**

For purposes of DBE goal setting, we make every effort to narrowly tailor the firms included based on the types of work and contract opportunities WisDOT intends to offer. Analysis of construction let contracts by region between FFY 2011-2020 documented 2,584 contracts statewide. Funds were expended in every region with the largest spend in the Southeast region. To make a sound projection of construction let contract spending for the upcoming triennial, we reviewed the Department's 2020-2025 Six-Year Highway Program Summary.

In addition to lets there are approximately 1000 consultant services contracts and work orders executed on an annual basis. The monthly consultant solicitation process comprises a multitude of services including design and over 200 unique opportunities in construction engineering annually. The upcoming contract opportunities and work types for FFY 2021-2023 are consistent with those offered in FFY 2018-2020.

The following projects located in opportunity zones, increase the prospects for DBE participation. While not an exhaustive list, they represent the types of construction projects that are consistently assigned DBE goals between 12-18%. Work types include excavation, grading, trucking, paving, curb and gutter, sidewalks, asphalt milling, pavement marking, sewer, underground utilities, lights and signals, permanent signing, traffic control, beam guard, landscaping and erosion control, steel girder erection, retaining walls, overhead sign installation, and construction engineering.

- ♦ USH 45 – Zoo Interchange, Milwaukee County- Final roadway reconstruction and expansion of the Zoo Interchange



- ♦ I-43 – Capitol Dr. Milwaukee County- Bridge removal and replacement; deck replacement; addition of auxiliary lanes; patch & overlay
- ♦ STH 50 – Kenosha County- Widen existing 4-lane highway and reconstruct corridor; add bike paths and walkways

These three projects alone include more than \$200 million in federal funding with possible DBE attainment between \$24.9 - \$37.2 million through construction lets and additional attainment through construction engineering opportunities.

## **Additional Sources of Information**

### **Organizations Serving DBE firms**

The three other Wisconsin UCP DBE certifying agencies submit DBE goals for FAA and FTA. Highway work types and opportunity are incorporated minimally. Their scope of contract opportunity is primarily vertical construction contracting, architectural professional services, and rural transit opportunities. WisDOT is responsible for planning, building, and maintaining Wisconsin's network of state highways and the Interstate highway system and sharing the costs of building and operating county and local transportation systems - from highways to public transit. As a public agency, WisDOT has historically awarded approximately 300 contracts annually to construct transportation infrastructure projects throughout Wisconsin. These projects, which cover a wide variety of federal, state, and local facilities, provide WisDOT with a vast and relevant quantity of market and contracting data. Therefore, no adjustment is warranted as a result of examining DBE goals set by other organizations.

### STEP 3: Calculating the Race/Gender-Neutral and Race/Gender-Conscious Split

The calculation of the race/gender neutral and race/gender conscious split of the DBE goal requires that the maximum feasible portion of the overall goal be met using neutral means according to 49 CFR Part 26.51. As recommended in the *Tips* for Step 3, we considered and include description of:

- ♦ Amount Annual Goals were Exceeded in the Past
- ♦ Past Participation of DBE Prime Contractors
- ♦ Past Participation of DBE Subcontractors on Contracts without Goals
- ♦ Past History of Inability to Achieve Goals
- ♦ Avoiding Double Counting
- ♦ Concrete Plans to Implement Race/Gender-Neutral Methods

#### Amount Goals were Exceeded in the Past

WisDOT has exceeded the overall annual DBE goal twice in the past five years, as shown in Table 6. The overall goal was not met in FFY 2016, 2017, and 2019 thus we do not rely on the amount goals were exceeded in the past to calculate race neutral participation. Instead we analyze actual race neutral attainment discussed further in this section.

**Table 6: WisDOT DBE Goal Attainment FFY 2015-2019**

FFY	OVERALL ANNUAL DBE GOAL ASSIGNED	OVERALL ANNUAL DBE GOAL ACHIEVED
2015	14.13%	14.76%
2016	14.13%	12.91%
2017	14.13%	9.61%
2018	12.38%	13.10%
2019	12.38%	10.57%

#### Past Race Neutral Participation of DBE Subcontractors

WisDOT collects data on DBE subcontractors that participate in federal-aid contracts whether goals are assigned, exceeded, or attained through prime contracts. Referring to Table 7, DBE subcontractors contribute to meeting race-neutral/gender-neutral goal attainment an average of 4.02% of the time ( $4.29 + 6.29 + 2.29 + 3.36 + 3.89 \div 5$ ). The five-year median of 3.89% is consistent with the average. The average annual funding for the past five years was \$739 million. The race neutral portion averaged \$29.4 million per year, or 3.97%, also consistent with the 5-year average and median.

**Table 7: WisDOT DBE Race/Gender-Neutral Goal Attainment FFY 2015-2019**

FFY	FEDERAL FUNDS	TOTAL DBE RACE/GENDER-NEUTRAL ATTAINMENT		DBE RACE/GENDER-NEUTRAL PRIME ATTAINMENT		DBE RACE/GENDER-NEUTRAL SUB ABOVE GOAL ATTAINMENT	
2015	\$682,163,484	\$29,264,813	4.29%	\$11,801,428	1.73%	\$17,463,385	2.56%
2016	\$516,832,702	\$32,508,777	6.29%	\$23,257,472	4.50%	\$9,251,305	1.79%
2017	\$717,215,601	\$16,424,237	2.29%	\$8,821,752	1.23%	\$7,602,485	1.06%
2018	\$1,010,715,966	\$33,960,056	3.36%	\$20,719,677	2.05%	\$13,240,379	1.31%
2019	\$769,232,326	\$29,923,137	3.89%	\$21,384,659	2.78%	\$8,538,479	1.11%

## Past Participation of DBE Prime Contractors

DBE firms performed as prime contractors 2.45% of the time on average over the past five years based on the figures shown in Table 6. The majority of prime contracting is performed by consultants with only two instances of DBE prime contracting in construction in the last triennial. While the percentage that DBE contractors prime on WisDOT projects is significantly lower than the overall race neutral average of 4.02%, we do not make an adjustment down based on past prime participation. This is because DBE contractors have a limited ability to prime on construction contracts and the majority of race neutral attainment will be achieved through subcontracting opportunities. We continue to expect strong neutral participation from prime consultant contractors.

The DBE race/gender-neutral median (3.89%) is shown in Table 8. The median is consistent with the race/gender neutral average of 4.02%. An adjustment is not required based on median analysis.

**Table 8: WisDOT DBE Race/Gender-Neutral Goal Attainment Median Analysis**

FFY	FEDERAL FUNDS	DBE ACTUAL ATTAINMENT		DBE RACE-CONSCIOUS ATTAINMENT		DBE RACE/GENDER-NEUTRAL ATTAINMENT	
2017	\$717,215,601	\$68,924,419	9.61%	\$52,500,182	7.32%	\$16,424,237	2.29%
2018	\$1,010,715,966	\$132,403,792	13.10%	\$98,443,735	9.74%	\$33,960,056	3.36%
2019	\$769,232,326	\$81,307,857	10.57%	\$51,384,719	6.68%	\$29,923,137	3.89% median
2015	\$682,163,484	\$100,687,330	14.76%	\$71,422,517	10.47%	\$29,264,813	4.29%
2016	\$516,832,702	\$66,723,102	12.91%	\$34,214,325	6.62%	\$32,508,777	6.29%

## Past History of Inability to Achieve Goals

WisDOT failed to meet its overall annual DBE goal in FFY 2016, FFY 2017, and FFY 2019 for the following reasons:

1. The 1.22% shortfall in FFY 2016 was due to a shift in the Governor's funding priorities.
  - ♦ When WisDOT calculated the overall annual goal for FFY 2015 – 2017, we anticipated three megaprojects in different regions running simultaneously which did not come to fruition in FFY 2016. WisDOT's revised priorities minimized the state-wide megaprojects stimulus as follows:
    - Four federally funded lets were planned for I-41 megaproject; only 2 were scheduled, 1 included federal funds
    - North-South freeways in Milwaukee were not funded at all
    - \$200 million-dollar Zoo Interchange contract was let in FFY 2015 instead of FFY 2016; DBE attainment was counted in FFY 2015
    - I 39/90 megaproject was funded solely with state funds
2. Reduced professional service contract funding with less federal funding for contract opportunities.
  - ♦ From FFY 2006 – FFY 2014, the total consultant program size averaged \$200 million annually, funded equally with state and federal funds.
  - ♦ The size of the consultant program has steadily decreased.
    - In FFY 2015, 42% of the consultant program was federally funded (\$83,985,928 of \$199,698,278)
    - In FFY 2016, the level of federal funding decreased to 35% (\$61,416,793 of \$171,776,350)

3. A single, high earning DBE contractor withdrew from the DBE program in May 2016 which greatly impacted DBE goal achievement in FFY 2017.
  - ♦ The firm was a full-service traffic control firm whose 3-year average exceeded the \$23.98 million threshold established by Congress for USDOT.
  - ♦ Sublets to the firm between June and September of 2016 were \$2,249,350.
4. The 1.81% shortfall in FFY 2019 was due to the following factors:
  - ♦ Race neutral data was not fully reported
    - WisDOT has worked diligently to address this issue, creating new processes for communication internally and externally, and strengthening collection and tracking of R/N participation
  - ♦ High dollar, State-only funded projects in the SE Region, the home Region for the majority of DBEs
    - DBEs were contracted for more than \$14 million on over 30 contracts. While this DBE participation is not counted towards WisDOT's DBE goal, these opportunities demonstrate the general health of the program by meeting other objectives of 49 CFR Part 26, namely:
      - To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts
      - To help remove barriers to the participation of DBEs in DOT-assisted contracts
      - To assist the development of firms that can compete successfully in the marketplace outside the DBE program
  - ♦ The only DBE bridge painter with the capacity for significant bridge painting work and the only DBE bridge builder with the capacity for significant bridge painting work withdrew from the program in 2019
  - ♦ An influx of approximately \$90 million federal dollars near the end of FFY 2019 had a large impact as there were only three construction lets and consultant solicitations remaining in the federal year on which goals could be assigned

## Avoiding Double Counting

WisDOT took steps to ensure double counting did not occur in calculating the race/gender-neutral and race/gender-conscious goals. In the two years that WisDOT exceeded the DBE goal, the DBE prime participation was included in overall goal attainment only and not as an additional race neutral achievement.

## Concrete Plans to Implement Race-Neutral Methods

- ♦ The DBE Office solicits mentors for the Mentor-Protégé Program among consultants and contractors to provide DBE firms with business or technical development assistance from primes who participate on WisDOT contracts. The program is volunteer-based and twelve construction primes volunteered as mentors in FFY 20. There are currently six mentor-protégé pairs with two additional DBE protégés preparing to enter the program.
- ♦ The Department implements a tiered DBE Support Services program that includes accounting and legal services, marketing support, technical advisors, and a loan mobilization fund.
- ♦ The Business Development Program provides professional workshops and advice including access to web-based training modules and professional consultants who coach and advise one-on-one.
- ♦ T&T Program- T&T is a partnership between WisDOT, Wisconsin Economic Development WEDC, and chamber members of the Ethnically Diverse Business Coalition to assess, introduce, educate and connect entrepreneurial-minded individuals interested in starting or expanding a dump trucking business.
- ♦ Bi-monthly, the DBE office engages stakeholders to discuss initiatives designed to increase the opportunity for DBE's to be coached, trained, mentored, and contracted by and with knowledgeable contractors, partner agencies and proven resources. Examples include: monetary mentoring incentives, stipends to pay for industry organization memberships, small business initiative, and mandatory subcontracting to achieve race/gender- neutral participation.

The average annual federal funding for the past five years was \$739 million. The race neutral portion averaged \$29.4 million per year, or 3.97%. Projected federal funding for the upcoming goal period is \$750 million annually, an additional \$11 million per year. Increased funding provides more opportunities for race neutral attainment.

Our review of past race neutral participation and future opportunities have informed our decision that it is appropriate to project increased neutral participation in the upcoming triennial period. The substantial initiatives underway to support and develop DBEs, increase opportunities, and appropriately collect neutral data supports WisDOT's projection to exceed the average amount of neutral participation. We propose a neutral attainment goal of 4.27% representing an increase of .25% above the 5-year average neutral achievement.

Based on projected federal funding for FFY 2021, 2022, and 2023, WisDOT has calculated an overall annual goal of \$93.1 million. This proposal includes 4.27% achievement by neutral means and 8.14% achieved by conscious means as shown in Table 9.

**Table 9: Proposed DBE Participation Goals for Federal-Aid Highway Funds for FFY 2021, 2022, 2023**

FFY 2021-2022-2023	OVERALL ANNUAL GOAL		CONSCIOUS PORTION		NEUTRAL PORTION	
	PERCENT	MILLIONS	PERCENT	MILLIONS	PERCENT	MILLIONS
Annual Estimated FHWA Funds						
\$750 mill Construction & Consulting Contracts	12.41%	\$93.1	8.14%	\$61.1	4.27%	\$32

# Consultation and Publication

## DBE Regulations: 49 CFR Part 26.45(g) Requirements

### Publication & Consultation Efforts

49 CFR Part 26.45 (g): In establishing an overall goal, you must provide for consultation and publication. Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs.

The consultation must include a scheduled, direct, interactive exchange (e.g., a face-to-face meeting, video conference, teleconference) with as many interested stakeholders as possible focused on obtaining information relevant to the goal setting process, and it must occur before you are required to submit your methodology to the operating administration for review pursuant to paragraph (f) of this section.

1. WisDOT posted the attached public notice on its website on July 1, 2020 at the following address:  
<http://wisconsindot.gov/Pages/doing-bus/civil-rights/dbe/plans-and-goals.aspx>
2. Feedback survey posted on website above, and emailed to contracting community
3. Face to face (virtual) presentation to the Ethnically Diverse Business Council (EDBC) on July 2, 2020
4. Face to face (virtual) presentation to Wisconsin Transportation Builders Association (WTBA) on July 7, 2020
5. Face to face (virtual) presentation with National Association of Minority Contractors (NAMC) on July 13, 2020
6. Face to face (virtual) stakeholder meetings that addressed each step of overall annual DBE goal setting requirements including the adjustment factors referenced in this document were conducted:
  - a. Trans- AC (Transportation Advisory Council) stakeholder feedback July 21, 2020
  - b. Trans-CAC (Transportation Consultant Advisory Council) stakeholder feedback July 22, 2020
  - c. Industry stakeholder group representatives: ACEC-WI (American Council of Engineering Companies of Wisconsin), AICTA (American Indian Contractors and Trade Association of Wisconsin), NAMC-WI (National Association of Minority Contractors), WTBA (Wisconsin Transportation Builders Association)
  - d. NAMC-WI submitted written comments regarding goal setting
7. Email to representative business stakeholders listed in this report
8. Email to DBE certified firms in the Wisconsin UCP DBE directory

### Summary of Public Feedback

Comments and questions received from the public and stakeholder groups can be organized into the following themes:

1. DBE goals should be included on all contracts with federal funding
2. Firms seek additional opportunities for work with DOT as well as networking with primes
3. An unlevel playing field still exists
4. There are many challenges experienced by small businesses, particularly minority-owned
5. The annual goal may be too low or too high

WisDOT recognizes that it is critical to continue to provide high quality support services to small businesses. In addition, we are committed to increased outreach and education efforts that will contribute to a strong and successful future for the DBE program and the transportation industry.

## PUBLIC NOTICE

### **Wisconsin Department of Transportation [WisDOT] Proposed Annual DBE Goals for Federal Highway Funded Contracts for October 1, 2020 – September 30, 2023 & Request for Report Feedback and Evidence of Ongoing Discrimination**

This memorandum communicates the department's preliminary calculations report outlining the proposed Triennial Disadvantaged Business Enterprise [DBE] Participation Goal for Wisconsin Department of Transportation contracts funded with federal dollars to be executed in federal fiscal years 2021, 2022, and 2023. This DBE Goal Proposal is presented to the public for review, comment, and the addition of evidence or data documenting the ongoing effects of discrimination in Wisconsin Department of Transportation's contracting environment.

This DBE Goal percentage is calculated to reflect the relative availability of Wisconsin's DBE certified firms and DBE certification-eligible firms who specialize in transportation-related work types.

**WisDOT's projected DBE goal calculation is 12.41% for October 1, 2020 – September 30, 2023.**

We strongly encourage you to review our proposal and submit any evidence of ongoing discrimination in Wisconsin Department of Transportation contract administration activities during this public review period.

According to the USDOT's guidance on DBE program implementation, WisDOT must provide opportunity for your feedback and evidence which may include:

- Comments on this report, methodology, proposed goals, and WisDOT's contracting practices
- Documentation of the effects of discrimination in financial markets
- Any data relevant to DBEs' ability or opportunity to participate on contracts

If you have evidence that we should include with this report, please submit it via email by July 30, 2020 to:

Madalena Maestri, EdD, DBE Program Chief  
[Madalena.maestri@dot.wi.gov](mailto:Madalena.maestri@dot.wi.gov)  
(608) 509-8212