

SOUTH CAROLINA DEPARTMENT OF TRANSPORTATION
Methodology for Determining Disadvantaged Business Enterprise Goal
FEDERAL HIGHWAY ADMINISTRATION
Federal Fiscal Years: 2021-2023
(49 CFR Part 26 Section 26.45)

DBE GOAL

Introduction

The South Carolina Department of Transportation, hereinafter referred to as SCDOT, has prepared this document to describe the methodology used to establish the overall Disadvantaged Business Enterprise (DBE) goal mandated by 49 CFR Part 26 for its federally assisted highway contracts. When establishing this goal, SCDOT relied upon and adhered to guidance provided in the regulations.

49 CFR §26.45 requires a process for setting the overall DBE goal, which should reflect the expected level of DBE participation on SCDOT contracts in absence of discrimination.

SCDOT proposes to establish its overall DBE goal for Federal Fiscal Years (FFY) 2021-2023 at 12% for new contracts, with .3% to be obtained through race-neutral means and the remaining 11.7% through race-conscious means.

Goal Methodology Process

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

As part of the goal setting process, Step 1 requires SCDOT to begin with a “Base Figure” for the relative availability of DBEs. The “Base Figure” represents the number and relative availability of ready, willing and able DBE firms as compared to all firms ready, willing and able to perform work for SCDOT. The formula utilized to calculate this percentage is listed below:

$$\frac{\text{Ready, Willing \& Able DBEs}}{\text{All Firms Ready, Willing \& Able}} \text{ (Includes DBEs and non-DBEs)}$$

As allowed by 49 CFR 26.45(c)(2), SCDOT used its Bidders List to determine the “Base Figure”. The Bidders List consists of contractors who bid or quoted on SCDOT preconstruction or construction contracts in the past three (3) federal fiscal years from October 1, 2016 – September 30, 2019. Thirty-four (34) Preconstruction and eight (8) Construction DBEs were removed since they are no longer certified. Table 1 below summarizes the data gathered from SCDOT’s Bidders List.

Table 1 – Relative Availability of DBEs

FIRMS	PRECONSTRUCTION	CONSTRUCTION	BOTH
DBE Firms	62	134	196
All Firms	429	931	1,360
% DBE Firms to All Firms	14%	14%	14%

(Source: SCDOT Engineering and Professional Services Data as of 03-05-2020)

Approximately **13% (\$233M)** of SCDOT’s contract dollars are expended on preconstruction contracts and **87% (\$1.6B)** are expended on construction contracts. Therefore, the relative availability figures for preconstruction and construction are being weighted accordingly:

$$\text{Preconstruction (13\% (14\%)) + Construction (87\% (14\%)) = Overall 14.0\%}$$

Based on this, SCDOT has determined its “**Base Figure**” (relative availability of DBEs) to be **14.0%**.

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

Regulations require SCDOT to consider all 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.

A. DBEs’ Capacity to Perform Work – 49 CFR §26.45(d) (1) (i)

1. **Past Performance:** SCDOT 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. Table 2 below contains a summary of the expenditures to DBEs on closed projects for the last three (3) federal fiscal years (FFY 2017 – FFY 2019). The data reflects payments made to DBEs on Completed Federal contracts.

Table 2 – Payments to DBEs on Completed Federal Contracts

FFY	TOTAL PAYMENTS		PAYMENTS TO DBEs		DBE %
2017	\$	457.9M	\$	54.8M	12.0%
2018	\$	562.1M	\$	58.8M	10.5%
2019	\$	549.2M	\$	36.2M	6.6%
TOTAL	\$	1,569M	\$	149.8M	9.5%

(Source: FHWA Uniform Report of DBE Commitments/Awards and Payments: 12-01-2019)

Based upon the above information in Table 2, which reflects the total expenditures of \$1,569M for the last three (3) federal fiscal years, DBEs received \$149.8M or 9.5% of the total expenditures. The median past participation of DBE firms is 10.5% or \$58.8M. Data reflected in these tables are comprised of contracts completed and closed by SCDOT's Minority and Small Business Affairs (MSBA) Office. The data duration time period includes contracts that may have been awarded 1 to 5 years ago or longer. The contract is closed based on percentage of contract completed and the time that all work has been completed by the DBE firm.

2. **Other Indicators of DBE Capacity:** In FFY 2017-2019, there were no set-aside projects in the highway letting. However, there were a total of twelve (12) state contracts awarded to seven (7) Prime DBEs during this time period. Figures indicate that there has been a decline in the number of state funded set-asides and certified Prime DBE firms to bid on set-aside projects. Although there is a downward trend of available state funded set-asides and fewer DBE firms available for bidding on these projects, SCDOT will continue efforts to identify projects both federal and state that Prime DBEs may bid on.

B. Disparity Studies – 49 CFR §26.45(d) (1) (ii)

SCDOT is unaware of any current disparity studies that would be pertinent to SCDOT's goal setting process. Therefore, such studies were not considered in adjusting the "Base Figure".

C. Evidence from Related Fields – 49 CFR §26.45(d) (2)

The regulations also allow an adjustment of the "Base Figure" based upon consideration of evidence from related fields that show how opportunities for DBEs to form, grow and compete have impacted their numbers in the SCDOT market area. SCDOT considered the possible impact of its outreach and direct efforts to grow DBE firms during FFY21 – FFY23. These efforts, sponsored through SCDOT's DBE Supportive Services initiatives, are geared toward firms in the highway transportation arena. These initiatives currently include training sessions, along with DBE Forums (highway and hauling); the Business Development Program, procurement/outreach events and other supportive services assistance provided to eligible SCDOT DBE certified highway transportation firms. Although the supportive services initiatives are enhancing the DBE firms' knowledge base and skills, it is difficult, at present, to assess whether this knowledge base will impact the DBE firms' capacity. Therefore, SCDOT made no adjustment to the "Base Figure" based on this type of evidence and is not aware of any other evidence of this kind that could be used to adjust the "Base Figure."

D. Opportunities for DBE Participation in the Federal-Aid FFY21 – FFY23 Program

In adjusting the "Base Figure", SCDOT considered the forecasted opportunities that DBEs have to participate in new contracts in the Agency's FFY21 - FFY23 federal-aid contracting program.

SCDOT has identified approximately \$628M in federal funding for utilization in FFY21; \$1,234M in FFY22; and \$300M in FFY23 for new contracts totaling \$2,162M. (See Table 3) The FFY21 - FFY23 federal-aid contracting program is expected to consist of the following types of projects: Pavement (Interstates), Bridge, System Upgrades (Interstates), System Upgrades (MPO/COG), Safety Improvement and Transportation Alternatives. 7.9% in DBE percentage represents the weighted average of the project types for the next three years of federal construction contracting opportunities.

**Table 3 – DBE Construction Commitment Contracting Opportunities
FFY21 – FFY2023 Federal-Aid Program**

PROJECT TYPE	FFY 21	FFY 22	FFY 23	Total	DBE\$	DBE\$*	DBE %
Pavement (Interstates)	90.0	93.0	91.0	274.0	15.34	15.34	5.6%
Bridge	151.0	153.0	122.0	426.0	32.80	28.34*	7.7%
System Upgrades (Interstates)	151.0	892.0	60.0	1103.0	97.06	91.96*	8.8%
System Upgrades (MPO/COG)	212.0	94.0	26.0	332.0	32.87	32.87	9.9%
Safety Improvement**	21.0	0.0	0.0	21.0	1.97	1.97	9.4%
Transportation Alternatives	3.0	2.0	1.0	6.0	0.80	0.80	13.4%
Totals	628.0	1,234.0	300.0	2,162.0	180.86	171.29	7.9%

(Source: SCDOT Finance, Planning and Engineering as of 05-2020)

* Adjustment made in DBE Contract Commitments due to delay in receiving DBE quotes for Design-Build projects, as SCDOT plans to use Design-Build procurement to assist in delivering a large part of its program.

** Safety Improvement Projects developed yearly. Future totals will be reflected once projects are identified.

In addition to this, SCDOT looked at the possible impact of the SCDOT Small Business Enterprises (SBE) program. Two (2) factors were considered: 1- approximately 69.86% of the certified SBE firms consist of existing certified DBE firms, and 2- any future federal projects that may be identified for the SBE program are already included in Table 3 above. In review of the SCUCP Directory, there are several non-construction industry companies that impact SCDOT's Small Business Enterprises (SBE) program that are SCDOT certified as a DBE that would not benefit or qualify to perform highway or road construction projects. Based on this, SCDOT determined that this program would not present any additional contracting opportunities and did not make any additional adjustments to the "Base Figure" in regard to this program.

E. Impact of New State Contracting Opportunities for DBEs in FFY21 – FFY23

Also, when contemplating adjustments to the "Base Figure", SCDOT considered the impact that new State funded contract opportunities could have on DBE capacity. The total expected new FFY21 – FFY 23 state funded contracting opportunities for DBEs is estimated to be \$77.76M (See Table 4 below).

Table 4 – DBE Contracting Opportunities FFY21 - FFY23 State Funded Contracts

Project Type	In Millions State Dollars Only					DBE\$	DBE%
	FFY 21	FFY 22	FFY 23	Total			
"C" Fund	48.0	46.3	44.0	138.3	6.92	5%	
Pavement (Non-Interstates)	273.0	313.0	333.0	919.0	55.14	6%	
Rural Road Safety	45.0	45.0	45.0	135.0	10.80	8%	
Bridge Preventative Maintenance & Repair	19.2	19.2	19.2	57.6	4.90	9%	
Totals	385.2	423.5	441.2	1,249.9	77.76	6.22%	

(Source: SCDOT Finance, Planning and Engineering as of 03-05-2020)

When adding the total anticipated amount of DBE contracting opportunities in Table 3 (\$171.29M) and Table 4 (\$77.76M), SCDOT finds that DBEs could tender approximately \$249.05M in prospective work. While increased state funding should afford additional contracting opportunities for DBE firms, the SCDOT reviewed six years of past performance and adjusted the "Base Figure" accordingly to account for DBEs' capacity to perform projected federal and state contracts.

F. Final Adjustment of Base Figure - 49 CFR 26.45 (d)

The "Base Figure" was calculated at 14.0%, based solely upon the number of ready, willing and able DBEs. The "Base Figure" does not take into consideration the capacity of the firms or the type of work they perform. The "Base Figure", at minimum, must be adjusted based on evidence of past performance and capacity of the DBEs.

As mentioned in the goal setting guidance concerning the Step Two calculations, state DOTs are not required to make an adjustment if evidence does not suggest an adjustment is necessary. The rationale that no adjustments need to be made would be based on the relationship between the "Base Figure" and data supporting no change. In other words, if past participation was equal to the calculated "Base Figure", the guidance given states that no adjustment would be necessary. For SCDOT, this is not the case as past participation indicates an adjustment needs to be made.

In understanding the relationship between the calculated Base Figure and past participation, SCDOT used two sets of the past participation data points representing six concurrent years of past participation and related the information to recent historical calculated base. Table 5 below identifies past participation data as outlined in the 2017 goal setting methodology. In it, the median past participation was 9.4%.

Table 5 – Expenditures to DBEs on Closed Federal Projects
(Table 6 from SCDOT’s 2017 DBE Goal Methodology)

FFY	TOTAL PAYMENTS	PAYMENTS TO DBES	DBE %	R/N %	R/C %
2014	\$467.2M	\$43.9M	9.4%	0.1%	9.3%
2015	\$537.6M	\$66.2M	12.3%	0.3%	12.1%
2016	\$338.2M	\$29.7M	8.8%	0.2%	8.6%
TOTALS	\$1,343M	\$139.8M	10.4%	0.2%	10.2%

(Source: FHWA Uniform Report of DBE Commitment/Awards and Payments: 12-01-2016)

¹ Table 5 is based upon projects closed during the indicated FFY.

² Race-Neutral participation rates include either DBE expenditures above the contract goal or DBE expenditures on contracts with no goals.

³ Race-Conscious participation rates include DBE expenditures to meet contract goals.

From this year’s exercise, the past participation data yielded a 10.5% median goal (Table 2, page 2). Following the tips document Section I.A instructing us to reference Step Two in order to identify the method for including past participation as a consideration, the adjusted “Base Figure” is calculated using the median past participation data from 2014 to 2016, (9.4%) and the data from 2017 to 2019, (10.5%). These data points averaged together to get an overall median past participation of 10%. The adjusted “Base Figure” then from Step 1 is calculated as shown below and follows the example outlined in the tips document Step 2, Section 5c.

Adjusted Step One Base Figure:
2020 Base Figure = 14.0%
6-Year Median of Actual DBE Participation = 10.0%

$$(.14) (.5) + (.10) (.5) = 0.12 \text{ or } 12\%$$

Step Three: Express Overall Goal as a Percentage of Federal Funds – 49 CFR §26.45(e)(1)

Based upon the above methodology, SCDOT set its FFY21 - FFY23 Overall DBE Goal at 12.0%.

Step Four: Race-Conscious versus Race-Neutral Methods – 49 CFR §26.45(f) (3)

The regulations require SCDOT to determine how much of its FFY21 - FFY23 DBE goal it expects to meet through race-conscious methods and how much through race-neutral methods. For FFY21– FFY23, SCDOT projected that of its overall goal of 12.0%, it would meet 0.3% through race-neutral methods and 11.7% through race-conscious methods.

SCDOT examined its record of accomplishment on DBE participation for projects closed out in the past six (6) Federal Fiscal Years (FFY 2014 – FFY 2019), looking specifically at the breakdown between race-neutral and race-conscious participation. SCDOT measures

race-conscious participation by counting payments made to DBEs to fulfill contract goals. SCDOT measures race-neutral participation by counting payments made to DBEs in excess of contract goals or payments made to DBEs on contracts where no DBE goal has been set. Payments to DBEs on Completed Federal Contracts with Race-Neutral/Race-Conscious Breakouts are summarized in Table 5 and Table 6. Data reflected in these tables are comprised of contracts completed and closed by SCDOT's MSBA office. The data duration time period includes contracts that may have been awarded 1 to 5 years ago or longer. The contract is closed based on percentage of contracts completed and the time that all work has been completed by the DBE firm. Additionally, SCDOT examined closely the proposed federal DBE Commitment Contracting Opportunities for FFY 2021-23 (7.9% or \$171.29M, Table 3, page 3) and determined it would not be feasible to set a projected DBE goal higher than anticipated future contract opportunities.

Table 6 – Payments to DBEs on Completed Federal Contracts with Race-Neutral/Race-Conscious Breakout

FFY	TOTAL PAYMENTS	PAYMENTS TO DBES	DBE %	R/N %	R/C %
2017	\$457.9M	\$54.8M	12.0%	0.6%	11.3%
2018	\$562.1M	\$58.8M	10.5%	0.3%	10.2%
2019	\$549.2M	\$36.2M	6.6%	0.0%	6.6%
TOTALS	\$1,569M	\$149.8M			

(Source: FHWA Uniform Report of DBE Commitment/Awards and Payments: 12-01-2019)

¹ Table 6 is based upon projects closed during the indicated FFY.

² Race-Neutral participation rates include either DBE expenditures above the contract goal or DBE expenditures on contracts with no goals.

³ Race-Conscious participation rates include DBE expenditures to meet contract goals.

Race-Neutral – During FFY17 – FFY19, SCDOT achieved a median race-neutral participation of .3%, as reflected in Table 6 above. In keeping with the mandate to meet the maximum *feasible* portion of the overall goal by race-neutral means, SCDOT anticipates it can achieve .3% of its FFY21 - FFY23 DBE goals through race-neutral means.

Race-Conscious – Because SCDOT has established its race-neutral goal at .3%, the Agency will accomplish the remaining balance of its stipulated goal through race-conscious means. Therefore, SCDOT establishes the race-conscious goal at 11.7% for FFY21 - FFY23.

Overall Goal - Based on the above analysis, SCDOT proposes to establish its FFY21 - FFY23 DBE goals as follows:

Overall DBE Goal	12.0%
Race-Conscious Goal	11.7%
Race-Neutral Goal	0.3%

SCDOT will monitor its progress in meeting its goal over the next three (3) years and, if necessary, will adjust its proposed split of race-conscious and race-neutral measures each year accordingly.