

Washington State Department of Transportation
Federal Transit Administration
Federal Fiscal Year 2009 Overall Annual DBE Goal

A. Overall Annual Goal

The Washington State Department of Transportation (WSDOT) submits this Disadvantaged Business Enterprise (DBE) goal methodology to the U.S. Department of Transportation Federal Transit Administration (FTA) for review and approval pursuant to 49 CFR §26.45 to establish the overall DBE goal for its FTA financially-assisted transit projects and FTA financial-assistance passed to subrecipients. For Federal Fiscal Year (FFY) 2009¹, WSDOT has established a proposed overall DBE goal of 8.66%. This will be achieved via 4.96% race-conscious participation and 3.70% race-neutral participation. For reasons explained below, this overall annual goal only applies to Public Transportation Division (PTD) projects.

B. Summary

Washington State Ferries (WSF) has received approximately \$12,800,000 from the FTA for seven ferry vessel preservation projects. Because WSDOT knows the kinds of projects and the work associated with said projects, we are able to examine them in detail. Presently, Washington State has six DBEs certified to perform marine, vessel, or ship related work. Pursuant to 49 CFR § 26.45(b), due to the lack of availability of ready, willing and able DBEs in the marine industry, no DBE goal shall be established for the above mentioned projects.

Following FTA's advice, WSDOT established a projection of grants with contracting opportunities for FFY 2009. Based on projections provided by PTD, WSDOT determined approximately \$12,514,343 will be awarded in FFY 2009. In an effort to project what types of grants with contracting opportunities would exist in FFY 2009, WSDOT evaluated past grants awarded since FFY 2003.

C. Step One Baseline Availability

To meet the requirements of 49 CFR § 26.45, WSDOT commissioned an Availability Study, entitled "Race, Sex, and Business Enterprise: Evidence from the State of Washington" ("Study"), from NERA Economic Consulting (NERA), a nationally recognized economics consulting firm. WSDOT relied upon this Study, along with its projected projects in setting its FFY 2009 goal.

¹ All instances of FFY 2009 refer to the timeframe of October 1, 2008 through September 30, 2009.

The Study provided a statistical analysis of baseline DBE availability, and factors impacting entrepreneurial success on WSDOT contracts and subcontracts. The Study estimated statewide DBE availability using data on WSDOT's expenditures for highway construction and engineering consulting contracts and subcontracts, and databases of firms in those industries. The Study reviewed existing quantitative evidence of discrimination and assessed the likelihood that statewide DBE availability would be different if the relevant markets in which WSDOT operates were race-neutral.

The Study provided a narrowly tailored, statistically sound and detailed basis to meet the requirements of 49 CFR, Part 26, and fully addresses the remedial purpose of the DBE Program and Congressional intent. The Study examined disparities between the rates of business formation and earnings between DBEs and similarly situated businesses owned by white males. The study analysis supports the inference that discrimination continues to impede the ability of disadvantaged minority- and women-owned firms to compete fully and fairly for WSDOT prime contracts and subcontracts.

D. Step Two Adjustment

Per 49 CFR § 26.45 d(d) "Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure in order to arrive at your overall annual goal." The methodology for WSF and PTD is described below:

(1) Washington State Ferries

In FFY 2009, WSF is receiving approximately \$12,800,000 in FTA financial-assistance for seven vessel preservation projects which entail such work as structural system preservation, interior preservation, piping preservation and replacement, propulsion system preservation, major mechanical and electrical systems preservation, communication, navigation, lifesaving systems preservation and other miscellaneous preservation work.

While determining the availability of DBEs for the projects mentioned above, the Office of Minority and Women's Business Enterprises² online database, BizNet, was searched. The following search parameters were utilized:

- Business description queries:
 - Marine
 - Ship
 - Vessel
- North American Industry Classification Systems (NAICS) Codes queries³:

² Per 49 CFR § 26.81 the Office of Minority and Women's Business Enterprises is the Unified Certification Program for Washington State.

- 237990 – Other Heavy and Civil Engineering Construction, heading, including Marine Construction
- 336611 – Ship Building and Repair
- 238350 – Finish Carpentry Contractors, including Ship joinery contractors
- 238320 – Painting and Wall Covering Contractors, including Ship painting contractors
- 238990 – All Other Specialty Trade Contractors

The above mentioned NAICS codes were utilized per the scopes of the work described in the vessel preservation projects. All the results of the above mentioned searches were compiled into one list. Then each firm's business description was reviewed to verify if they performed work in the marine industry. Of the 67 DBEs identified in the original search, 6 were certified to perform marine related work.

The availability of DBEs, expressed as a percentage of all available firms is "0." Using Census Bureau data, this was computed as follows:

6 ready, willing and able DBEs = 0.15%
3900 all available firms

(2) Public Transportation Division

Per the Office of Small Disadvantaged Business Utilization *Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program*:

Use the Most Refined Data Available. When using census and other data organized by SIC codes or the NAICS codes (which will eventually replace the SIC system), try to use the most refined data available. This will help you to focus more precisely on the firms with which you or your prime contractors will actually be doing business and help you to avoid overestimating the number of firms in either the numerator or the denominator. For both SIC and NAICS, the data become more refined in the codes with higher numbers of digits. **You should take steps to filter out businesses that are not relevant to your calculations where possible.** [emphasis added] For instance, if you are using a bidders list, and you are aware that some of the firms on that list do not perform the type of work you will contract out, then exclude those firms from your calculation.

WSDOT evaluated opportunities available for PTD, and determined three projects contained opportunities for DBEs. These three opportunities included:

³ North American Industry Classification System (NAICS)." U.S. Census Bureau. 28 Mar. 2008. 09 June 2008 <<http://www.census.gov/epcd/www/naics.html>>.

1. Grays Harbor Transportation Authority, Capital Grant for \$477,500, to enhance a transit center. This work includes hiring an architect, installing new lighting at a park and ride and landscaping.
2. Mason County Transportation Authority, Capital Grant for \$260,000, to remodel an existing transit center.
3. Jefferson Transit, Capital Grant \$369,926 to build an administrative, maintenance and operations facility.

WSDOT then further examined the NERA study and determined twenty (22) of the thirty two (32) Standard Industry Classification System (SIC) codes, utilized in the study applied to contracting opportunities in the PTD grants. These SIC codes were selected based on the kinds of work and industries related to grants awarded by PTD in the past. WSDOT then converted the SIC codes to North American Industry Classification System (NAICS) codes. The codes identified are as follows:

SIC Codes	NAICS Codes
1629 – Heavy Construction, n.e.c.	236210 – Industrial Building Construction
	237110 – Water and Sewer Line and Related Structures Construction
	237120 – Oil and Gas Pipeline and Related Structures Construction
	237130 – Power and Communication Line and Related Structures Construction
	237990 – Other Heavy and Civil Engineering Construction
	238910 – Site Preparation Contractors
1771 – Concrete Work	238110 - Poured Concrete Foundation and Structure Contractors
	238140 - Masonry Contractors
	238990 - All Other Specialty Trade Contractors
1731 – Electrical Work	238210 - Electrical Contractors
1794 – Excavation Work	238910 - Site Preparation Contractors
1541 – Industrial Building and Warehouses	236210 - Industrial Building Construction
	236220 - Commercial and Institutional Building Construction
1721 – Painting	238320 - Paint and Wall Covering Contractors
1542 – Nonresidential Construction, n.e.c.	236220 - Commercial and Institutional Building Construction
1751 – Carpentry Work	238130 - Framing Contractors
	238350 - Finish Carpentry Contractors

	238330 - Flooring Contractors
1791 – Structural Steel Erection	238120 - Structural Steel and Precast Concrete Contractors
	238190 - Other Foundation, Structure, and Building Exterior Contractors
1623 – Water, Sewer, and Utility Lines	237110 - Water and Sewer Line and Related Structures Construction
	237120 - Oil and Gas Pipeline and Related Structures Construction
	237130 - Power and Communication Line and Related Structures Construction
0782 – Lawn and Garden Services	561730 - Landscaping Services
1799 – Special Trade Contractors, n.e.c	236220 - Commercial and Institutional Building Construction
	238150 - Glass and Glazing Contractors
	238190 - Other Foundation, Structure, and Building Exterior Contractors
	238290 - Other Building Equipment Contractors
	238320 - Paint and Wall Covering Contractors
	238350 - Finish Carpentry Contractors
	238390 - Other Building Finishing Contractors
	238990 - Site Preparation Contractors
	561790 - Other Services to Buildings and Dwellings
	562910 - Remediation Services
7389 – Business Services, n.e.c.	541340 - Drafting Services
	541370 - Surveying and Mapping (except Geophysical) Services
	541990 - All Other Professional, Scientific, and Technical Services
1795 – Wrecking and Demolition Work	238120 - Structural Steel and Precast Concrete Contractors
	238190 - Other Foundation, Structure, and Building Exterior Contractors
	238220 - Plumbing, Heating, and Air-Conditioning Contractors
8711 – Engineering Services	541330 - Engineering Services
4212 – Local Trucking without Storage	484110 - General Freight Trucking, Local
	484220 - Specialized Freight (except

	Used Goods) Trucking, Local
1711 – Plumbing, Heating, and Air Conditioning	238210 - Electrical Contractors
	238220 - Plumbing, Heating, and Air-Conditioning Contractors
8713 – Surveying Services	541370 - Surveying and Mapping (except Geophysical) Services

Within the NERA study, each industry had an associated DBE (both certified and non-certified) availability percentage.

The NERA study separated DBE participation by construction and consulting. For the twenty (20) identified NAICS, eighteen (18) were construction and two (2) were consulting businesses. The average construction DBE availability, identified in the study was 9.35%. The average consulting DBE availability identified in the study was 7.96%. To arrive at an overall annual goal 9.35% and 7.96% were averaged to equate to 8.66%. For the calculations, please refer to Appendix 1.

G. Race-neutral versus Race-Conscious Projection

To determine the race-neutral and race-conscious participation, WSDOT examined previous participation by DBEs on FTA funded projects. The average race-neutral participation on FTA funded projects in FFY 2006 and FFY 2007 was 3.7%. During FFY 2006 and FFY 2007, WSDOT established a 0% annual DBE goal; therefore all DBE participation was race-neutral.

H. Public Comment

WSDOT requested public comment on the goal methodology for 45 days from date of publication. During that period, 25 comments were received, of which 20 were DBEs and 5 non-DBEs. The comments are summarized as follows:

- One (1) suggested changes to the names of the funding types.
- Seven (7) said they did not understand the goals.
- Four (4) stated there should be goals for FTA and FAA projects.
- Three (3) supported the goals as proposed.
- Three (3) are opposed to any “set-aside” program.
- One (1) stated certification helps prevent bid shopping.
- One (1) commented that prime contractors ignore the goal.
- One (1) stated that WSDOT should include a 5% management and/or administration goal.
- One (1) noted that government projects are too large for small businesses.
- Two (2) would like to see goals set on specific work divisions, or in both design and construction.

- One (1) commented that they simply wanted to participate on WSDOT projects.

WSDOT evaluated the comments received during this period, and determined no revision to the proposed goal and methodology was appropriate.

Appendix 1
Calculations for DBE Goal

Relevant SIC Codes** - Construction	DBE Availability Percentage*
1629 – Heavy Construction, n.e.c	7.84
1771 – Concrete Work	7.75
1731 – Electrical Work	8.29
1794 – Excavation Work	6.94
1541 – Industrial Building and Warehouses	7.28
1721 – Painting	10.15
1542 – Nonresidential Construction, n.e.c.	7.2
1751 – Carpentry Work	4.39
1791 – Structural Steel Erection	10.67
1623 – Water, Sewer, and Utility Lines	10.27
0782 – Lawn and Garden Services	14.11
1799 – Special Trade Contractors, n.e.c	8.96
7389 – Business Services, n.e.c.	22.46
1795 – Wrecking and Demolition Work	10.29
8711 – Engineering Services	9.16
4212 – Local Trucking without Storage	9.72
1711 – Plumbing, Heating, and Air Conditioning	6.13
8713 – Surveying Services	6.76
Average	9.35

Relevant SIC Codes** - Consulting	DBE Availability Percentage*
8713 – Surveying Services	6.76
8711 – Engineering Services	9.16
Average	7.96

Consulting and Construction Average **8.66**

*This information was obtained from the NERA Study, Tables 13 and 14.

** SIC Codes were cross-walked to current NAICS codes in determining availability.

Note: SIC codes 8713 and 8711 were identified in the Consulting and Construction Industries.