

MAINE DEPARTMENT OF TRANSPORTATION
FFY 2017-2019 DBE GOAL
(October 1, 2016 through September 30, 2019)

OVERALL GOAL

Pursuant to 49 CFR 26 MaineDOT has researched upcoming potential contracts for our agency and Federal Transit Administration (FTA) subrecipients, analyzed census data, reviewed bidding and DBE attainment history and has determined that the overall annual Disadvantaged Business Enterprise (DBE) attainment on FTA funded projects for FFY 2017-19 (October 1, 2016 through September 30, 2019) is **1.42%**

METHOD OF ESTABLISHING GOAL

Step 1 – Determining a base figure

49 CFR 45 (b) States “Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the “relative availability of DBEs”). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination. You cannot simply rely on either the 10 percent national goal, your previous overall goal or past DBE participation rates in your program without reference to the relative availability of DBEs in your market.”

MaineDOT will calculate the overall goal using the criteria based in **49 CFR § 26.45(c) “Step 1. You must begin your goal setting process by determining a base figure for the relative availability of DBEs.”**

The determination will be based on a level of DBE participation relative to all businesses ready, willing and able to participate on FTA-assisted contracts, and reflect a level MaineDOT would expect in the absence of discrimination. The overall goal setting procedure is based on the following:

- (1) Use DBE Directories and Census Bureau Data. Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.**

Market Area:

The market area was determined to be Statewide, since the substantial majority of the contractors and subcontractors with which MaineDOT does business are located in Maine, and the entire state is the area in which MaineDOT spends the substantial majority of its contracting dollars.

Data Sources:

The NAICS data for transit providers, agencies/firms included in category 485 for Transit and passenger transportation and automotive repair and maintenance. These codes are based on anticipated contracts specified by our subrecipient. (See Future Participation, P. 5)

NAICS code	Description	<u>Estab-lish-ments</u>
485	Transit & ground passenger transportation	109
8111	Automotive repair and maintenance	934
Total		1043

2014 County Business Patterns (NAICS)

There are no DBE firms in Maine's DBE Directory under these NAICS codes.

The MaineDOT DBE Directory lists the following firms when searching under the category "transit". Their scopes are related to the NAICS codes for other services related to transit contracts/subcontracts. We also looked for business codes are based on anticipated contracts specified by our subrecipient where DBEs are eligible for work. (See Future Participation, P. 5)

- **ALTERNATE TRANSIT ADVERTISING, INC., 541810**
- **FITZGERALD & HALLIDAY, 541330**
- **ICST, INC., 541511**
- **KFH GROUP INCORPORATED, 541320**
- **MOBILITAT, 541511**
- **ROSE'S COMMERCIAL CLEANING, LLC, 561720**
- **ADVANCED ENGINEERING DESIGN, INC. (DBE & ACDBE) 236220**
- **AI ENGINEERS, INC. (MBE) 236220**
- **DDI CONSTRUCTION (WBE) 236220**
- **GANNESTON CONSTRUCTION CORP. (WBE) 236220**
- **R . STEWART HAULING 488410**
- **RLS & ASSOC., 541618**
- **ELITE PROFESSIONALS, 541511**

The following NAICS codes match the codes offered by the above providers for Maine.

Economic Census 2010, Maine Data for various NAICS codes related to transit contracts/subcontracts:

NAICS code	Description	State Firms	DBEs
541320	Urban planning services	39	1
541330	Engineering services	269	1
541511	Computer Programming Services	145	3
541618	Management Consulting Services	14	1

541810	Advertising Agencies	56	1
484440	General Freight Trucking	121	1
488410	Motor Vehicle Towing	39	1
236220	Commercial and Institutional Building Construction	140	3
561720	Janitorial services	331	1
Total		1154	13

Therefore, the denominator would be 1154 to represent all potential transit firms and transit related firms for potential contracts and subcontracts in Maine for the upcoming 3 fiscal years. .

The numerator would be 13, the number of DBE's under these categories available to do the identified support work in Maine.

Maine chooses not to use weighting in the determination of the base goal because of the similarity in the types of DBE that participate on FTA projects and because of the limited number of NAICS codes that DBEs work under in the market area.

**The base goal based upon the 2014 County Business Patterns (NAICS) and DBE Directory data would be:
 $13/1154 = 1.12\%$**

(3) Use data from a disparity study. Use a percentage figure derived from data in a valid, applicable disparity study.

Maine has not conducted any disparity studies that would apply to the calculation of this goal.

(4) Use the goal of another DOT recipient. If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal.

This method is not used for goal calculation.

(5) Alternative methods. You may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market.

MaineDOT does not propose any alternative method for base goal calculation.

Maine DOT/ FTA – Funded DBE BASE GOAL = 1.12%.

Step 2 - ADJUSTMENTS TO BASE

26.43(d) states “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 goal.”

(1) There are many types of evidence that must be considered when adjusting the base figure. These include:

(i) The current capacity of DBEs to perform work in your DOT-assisted contracting program, as measured by the volume of work DBEs have performed in recent years;

In January 2015, following a triennial review in 2014, MaineDOT submitted a short fall analysis for fiscal year 2012. Through that analysis, MaineDOT found that it was incorrectly reporting total contract dollars and has changed our reporting process. Although we do include 2011 for median attainment purposes, we did not recalculate the 2011 FFY in this process. The information that is included in this methodology may not be information that is reflected in the uniform reporting for FFY 12 and 13. That information was included in the 2015 analysis. Since we implemented our new process we have reached greater attainment and more accurately reflect DBE usage as it relates to contracts.

Past participation in FTA funded services for the Department are as follows:

FY Year	Total Attainment
2011	.03
2012	1.73
2013	4.14
2014	1.4
2015	9.5

Median attainment is 1.73 %.

The table below includes a detail of DBE commitments and awards as well as data regarding sub recipient participation as Prime as presented above:

Year	Total awarded \$	DBE Award \$	TTL Prime	Prime DBE	Sub DBE	Non-DBE subs	Total subs
11	\$5,478,497.00	\$19,057.00	37	0	4	1	5
12	\$1,090,584.00	\$18,900.00	66	1	6	2	8
13	\$3,817,878.50	\$157,936.00	57	0	17	13	30
14	\$15,172,130.00	\$208,000.00	34	1	5	2	7
15	\$3,812,741.00	\$365,943.00	18	1	6	16	22

The median past participation is 1.73%.

Adjustment for past participation: $(1.12 + 1.73)/2 = 1.42\%$

Maine will use this adjustment for its 3 year annual goal attainment. The MaineDOT FTA Goal is **1.42%**.

Future Participation

(ii) Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure; and

There have been no related disparity studies for Maine.

(iii) If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.

The base figure selected is not the goal of another recipient. Maine does not currently have enough specific data from the other states on their transit programs to adjust the goal for differences in Maine.

Anticipated sub/contract Opportunities from Recipients.

MaineDOT has surveyed sub-recipients for any known or potential subcontract opportunities for FY 2017 through 2019. MaineDOT has also included its own consulting contracts for the upcoming years. This is the information from that survey.

2017 #of anticipated Contracts	2018 # of anticipated Contracts	2019 of anticipated Contracts	2017 Type of subcontracts	2018 Type of subcontracts	2019 Type of subcontracts
4	1	1	Transportation software	Transportation Software	Transportation Software
2	2	2	Consulting	Consulting	Consulting
2	1	1	Fuel	Fuel	Fuel
2			Fleet Maintenance		
1	1	1	Drug Alcohol Testing	Drug Alcohol Testing	Drug Alcohol Testing
1	1	1	Communications/	Communications/	Communications/Co

			Computer services	Computer services	mputer services
1	1	1	Insurance	Insurance	Insurance
1	1	1	Copier Services	Copier Services	Copier Services
		1			Shelter Facility Contract
1	1	1	Phone	Phone	phone
15	9	10	TOTAL		

The number of anticipated subcontracts is consistent with prior years. Because of the limited anticipated subcontracting opportunities, the increase in potential DBE usage is minimal.

MaineDOT Transit Office anticipates 2 consulting contracts for each year and may consider a contract to assist subrecipients in potential

(2) If available, you must consider evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to:

(i) Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in your program;

Maine has not collected this data related to transit contracts. Maine does have a tribal community development financial institution, Four Directions offers business financing for members of the four major tribes in Maine, the Penobscot, Passamaquoddy, Micmac and Maliseet.

(ii) Data on employment, self-employment, education, training and union apprenticeship programs, to the extent you can relate it to the opportunities for DBEs to perform in your program.

Maine has not collected this data related to transit contracts.

(2) If you attempt to make an adjustment to your base figure to account for the continuing effects of past discrimination (often called the ``but for'' factor) or the effects of an ongoing DBE program, the adjustment must be based on demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought.

Maine will not attempt to adjust the base figure based upon the effects of the DBE program.

(3) Other Discussion Related to Maine's Historical Data:

MaineDOT requested all bidder information from its subrecipients for the time period April 1, 2015 – March 31, 2016. It also included all bidders on MaineDOT contracts using FTA dollars.

All other bidders that submitted either prime or subcontract bids on FTA funded work for the last years are:

1. Ace Corporation Painting
2. AL Lappin Company Landscape
3. Benchmark
4. Blane Casey
5. Concrete Craftsmen Flatwork
6. Creative Glass Glass & Storefronts
7. D &N Realty Limited Liability Co.
8. Dimatteo
9. Doten
10. Double T Fence Fencing
11. Elite Professionals
12. Frank DiDinato Masonry
13. Green River Co.
14. Hahnel Brothers EPDM Roofing and Siding
15. Hardy Pond
16. Huff Foundation Concrete Foundation
17. J&M Flooring Flooring
18. Kamco D/F/H & Specialty Items
19. Landry and Sons ACT
20. Main Street Connections
21. Mobilitat
22. Precision Welding Structural Steel
23. R Stewart Hauling
24. RA Mitchell Co
25. Rawcliff's Garage
26. RLS & Associates
27. Rose's Commercial Cleaning
28. Saco Bay Millwork Millwork
29. Standard Water Proofing
30. TBuck
31. Washburn & Sons Sitework
32. Zebra Striping Parking Lot Lines & Signs

Total number of bidders = 32 firms. The number 32, therefore, is the denominator.

Of these firms, the following are DBE's:

1. Mobilitat, Inc	2. RLS & Associates
3. Standard Water Proofing	4. R Stewart Hauling
5. Rose's Commercial Cleaning	6. RA Mitchell Co

7. Elite Professionals	
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Number of bidding DBE's = 7 firms.

Therefore for the base goal, 7 is the numerator.

$$7/32 = 21.8\%$$

We know from past attainment that this is not a reasonable base goal. Although we do have a number of DBE bidders, they are primarily bidding on small subcontracts (typically, approximately 1% of monetary value of the work) which amounts to lower attainment percentages in dollars. There was also a large construction contract that was let in 2016 that led to larger groups of contractors. There are very few opportunities for sub-recipients to sub-contract as most services are delivered by the non-profits themselves. Two Tribal Governments who provide service but as they are considered municipal, therefore; these factors cannot be considered.

OVERALL GOAL CALCULATION

FFY 2017-2019 for each year is 1.42%

RACE NEUTRAL AND CONSCIOUS MEASURES

The Department's DBE Program goal of 1.42% for FFYs 2017-2019 will be achieved entirely through race and gender-neutral means. For reasons stated above contract goals will not be necessary for additional attainment because of the limited capacity of Maine's DBE community for transit operations and needs. If we determine that we will not achieve the goal, we will take measures to do so, which may include targeted project goals or reassessing our goal.

Finally, the Department has no evidence of discrimination on the part of transit contractors and does have evidence of continuing good faith effort.

PUBLIC PARTICIPATION PLAN

The public will be notified by publication June 6, 2016 in the Kennebec Journal and will be placed on the MaineDOT Civil Rights website. Public comments will be solicited for 45 days, all comments must be received by 4:00 PM, July 20, 2016.

Additionally, the goal notification and methodology is posted on the MaineDOT website, <http://www.maine.gov/mdot/civilrights/>.

Several interested stakeholders were notified directly by e-mail of the goal publication, including current service providers and those on the bidder's list (given above in the goal discussion – See Step 2.)