

CHAPTER 9.

Overall DBE Goal

As part of its implementation of the Federal Disadvantaged Business Enterprise (DBE) Program, the Los Angeles County Metropolitan Transportation Authority (Metro) is required to set an overall goal for DBE participation in its Federal Highway Administration (FTA)-funded contracts. The Final Rule effective February 28, 2011 revised requirements for goal-setting so that agencies that implement the Federal DBE Program need to develop overall DBE goals every three years. However, the overall DBE goal is an *annual* goal in that an agency must monitor DBE participation in its FTA-funded contracts every year. If DBE participation for a particular year is less than the overall DBE goal for that year, then the agency must analyze the reasons for the difference and establish specific measures to enable the agency to meet the goal in the next year.

Metro must prepare and submit a Goal and Methodology document to FTA that presents its overall DBE goal that is supported by information about the steps that the agency took to develop the goal. Metro last developed an overall DBE goal for FTA-funded contracts for federal fiscal years (FFYs) 2016 through 2018. The agency established an overall DBE goal of 26 percent. Metro indicated to FTA that it planned to meet the goal through the use of a combination of race- and gender-neutral and race- and gender-conscious program measures.

Metro will be required to develop a new goal for FFYs 2019 through 2021. Chapter 9 provides information that Metro might consider as part of setting its new overall DBE goal. Chapter 9 is organized in two parts that are based on the two-step process that 49 Code of Federal Regulations (CFR) Part 26.45 outlines for agencies to set their overall DBE goals:

- A. Establishing a base figure; and
- B. Considering a step-2 adjustment.

A. Establishing a Base Figure

Establishing a base figure is the first step in calculating an overall goal for DBE participation in Metro's FTA-funded transportation contracts. As presented in Chapter 5, potential DBEs—that is, minority- and woman-owned businesses that are DBE-certified or appear that they could be DBE-certified based on their ownership and annual revenue limits described in 13 CFR Part 121 and 49 CFR Part 26—might be expected to receive 27.0 percent of Metro's FTA-funded prime contract and subcontract dollars based on their availability for that work. Metro might consider 27.0 percent as the base figure for its overall DBE goal if it anticipates that the types, sizes, and locations of FTA-funded contracts that the agency awards in the future will be similar to the FTA-funded contracts that it awarded during the study period (January 1, 2011 through December 31, 2015).

Figure 9-1 presents the construction, professional services, and goods and other services components of the base figure for Metro's overall DBE goal. The availability estimates presented

in Figure 9-1 are based on the availability of potential DBEs for FTA-funded prime contracts and subcontracts. The overall base figure reflects a weight of 0.72 for construction contracts; 0.11 for professional services contracts; and 0.17 for goods and other services contracts based on the volume of dollars of FTA-funded contracts that Metro awarded during the study period. If Metro expects that the relative distributions of FTA-funded construction, professional services, and goods and other services contract dollars will change substantially in the future, the agency might consider applying different weights to the corresponding base figure components. Metro might also consider evaluating whether the types, sizes, and locations of the FTA-funded contracts that it awards will change substantially in the future.

Figure 9-1.
Availability components of the base figure
(based on availability of potential DBEs for FTA-funded transportation contracts)

Potential DBEs	Availability Percentage			Weighted Average
	Construction	Professional Services	Goods and Other Services	
Black American owned	6.6 %	3.8 %	8.2 %	6.6 %
Asian Pacific American owned	1.3	3.0	1.6	1.5
Subcontinent Asian American owned	0.4	0.6	0.9	0.5
Hispanic American owned	14.4	3.6	23.1	14.7
Native American owned	0.1	0.0	2.5	0.5
White woman owned	0.6	2.8	14.5	3.2
Total potential DBEs	23.3 %	13.7 %	50.9 %	27.0 %
Industry weight	72 %	11 %	17 %	

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

See Figures F-16, F-17, F-18, and F-19 in Appendix F for corresponding disparity results tables.

Source: BBC Research & Consulting availability analysis.

B. Considering a Step-2 Adjustment

The Federal DBE Program requires Metro to consider a potential step-2 adjustment to its base figure as part of determining its overall DBE goal. Metro is not required to make a step-2 adjustment as long as it considers appropriate factors and explains its decision in its Goal and Methodology document. The Federal DBE Program outlines several factors that an agency must consider when assessing whether to make a step-2 adjustment to its base figure:

1. Current capacity of DBEs to perform work, as measured by the volume of work DBEs have performed in recent years;
2. Information related to employment, self-employment, education, training, and unions;
3. Any disparities in the ability of DBEs to get financing, bonding, and insurance; and
4. Other relevant data.¹

¹ 49 CFR Section 26.45.

BBC Research & Consulting (BBC) completed an analysis of each of the above step-2 factors. Much of the information that BBC examined was not easily quantifiable but is still relevant to Metro as it determines whether to make a step-2 adjustment.

1. Current capacity of DBEs to perform work, as measured by the volume of work DBEs have performed in recent years. The United States Department of Transportation’s (USDOT’s) “Tips for Goal-Setting” suggests that agencies should examine data on past DBE participation in their USDOT-funded contracts in recent years. USDOT further suggests that agencies should choose the median level of annual DBE participation for those years as the measure of past participation:

Your goal setting process will be more accurate if you use the median (instead of the average or mean) of your past participation to make your adjustment because the process of determining the median excludes all outlier (abnormally high or abnormally low) past participation percentages.²

Figure 9-2 presents past DBE participation based on Metro’s Uniform Reports of DBE Awards or Commitments and Payments as reported to FTA. According to Metro’s Uniform Reports, median DBE participation in USDOT-funded contracts from FFYs 2011 through 2015 was 3.7 percent.

Figure 9-2.
Past certified DBE participation in USDOT-funded contracts, FFY 2011-2015

Source:
Commitments/Awards reported on Metro’s Uniform Reports of DBE Awards/Commitments and Payments.

FFY	DBE Attainment	Annual DBE Goal	Difference
2011	3.70 %	8.00 %	-4.30 %
2012	8.37	8.00	0.37
2013	0.51	26.00	-25.49
2014	22.41	26.00	-3.59
2015	2.23 %	26.00 %	-23.77 %

The information about past DBE participation supports a downward adjustment to Metro’s base figure. If Metro were to use the approach that USDOT outlined in “Tips for Goals Setting” based on Uniform Reports of DBE Awards/Commitments and Payments, the overall goal would be the average of the 27.0 percent base figure and the 3.7 percent median past DBE participation, yielding a potential overall DBE goal of 15.4 percent. BBC’s analysis of DBE participation in Metro’s FTA-funded contracts indicates DBE participation (15.1%) that is also lower than the base figure. If Metro were to adjust its base figure based on DBE participation information from the disparity study, it might consider taking the average of the 27.0 percent base figure and the 15.1 percent DBE participation, yielding a potential overall DBE goal of 21.1 percent.

2. Information related to employment, self-employment, education, training, and unions. Chapter 3 summarizes information about conditions in the local contracting industry for minorities, women, and minority- and woman-owned businesses. Additional information about quantitative and qualitative analyses of conditions in the local marketplace are presented

² Section III (A)(5)(c) in USDOT’s “Tips for Goal-Setting in the Federal Disadvantaged Enterprise (DBE) Program.” <http://www.osdbu.dot.gov/DBEProgram/tips.cfm>

in Appendices C and D, respectively. BBC's analyses indicate that there are barriers that certain minority groups and women face related to human capital, financial capital, business ownership, and business success in the Metro study area contracting industry. Such barriers may decrease the availability of minority- and woman-owned businesses to obtain and perform the FTA-funded contracts that Metro awards, which supports an upward step-2 adjustment to Metro's base figure.

Although it may not be possible to quantify the effects that barriers in human capital, financial capital, and business success may have on the availability of minority- and woman-owned businesses in the local marketplace, the effects of barriers in business ownership can be quantified. BBC used regression analyses to investigate whether race/ethnicity and gender are related to rates of business ownership among workers in the local contracting industry. The regression analyses allowed BBC to examine those relationships while statistically controlling for various race- and gender-neutral personal characteristics including education and age. (Chapter 3 and Appendix C provide details about BBC's regression analyses.) The regression analyses revealed that, even after accounting for various personal characteristics:

- Being Black American or Hispanic American was associated with a lower likelihood of business ownership in the construction industry. In addition, being a woman was associated with a lower likelihood of business ownership in the Construction industry.
- Being Black American was associated with a lower likelihood of business ownership in the professional services industry. In addition, being a woman was associated with a lower likelihood of business ownership in the professional services industry.
- Being Black American, Asian Pacific American, Subcontinent Asian American or Hispanic American was associated with a lower likelihood of business ownership in the goods and other services industries.

BBC analyzed the impact that barriers in business ownership would have on the base figure if the groups of minorities and women that exhibited statistically significant disparities in rates of business ownership owned businesses at the same rate as comparable non-Hispanic white men. The results of that analysis—sometimes referred to as a *but for* analysis, because it estimates the availability of minority- and woman-owned businesses *but for* the effects of race- and gender-based discrimination—are presented in Figure 9-3.

The *but for* analysis included the same contracts that the study team analyzed to determine the base figure (i.e., FTA-funded prime contracts and subcontracts that Metro awarded during the study period). The weights for each industry were based on the proportion of FTA-funded contract dollars that Metro awarded in each industry during the study period (i.e., 0.72 weight for construction, 0.11 weight for professional services, and a 0.17 weight for goods and other services). In that way, BBC determined a potential adjustment to Metro's base figure that attempted to account for race- and gender-based barriers in business ownership in the local contracting industry.

The rows and columns of Figure 9-3 present the following information from BBC's *but for* analysis:

- a. **Current availability.** Column (a) presents the current availability of potential DBEs by racial/ethnic and gender group and by industry, as also presented in Figure 9-1. Each row presents the percentage availability for each racial/ethnic and gender group. Combined, the current availability of potential DBEs for Metro's FTA-funded contracts is 27.0 percent, as shown in row (28) of column (a).
- b. **Disparity indices for business ownership.** For each group that is significantly less likely than similarly-situated non-Hispanic white men to own construction and engineering businesses, BBC simulated business ownership rates if those groups owned businesses at the same rate as non-Hispanic white men who share similar race- and gender-neutral personal characteristics.

To simulate business ownership rates if minorities and women owned businesses at the same rate as non-Hispanic white men in a particular industry, BBC took the following steps: 1) BBC performed a probit regression analysis predicting business ownership including only workers who were non-Hispanic white men in the dataset; and 2) the study team then used the coefficients from that model and the mean personal characteristics of individual minority groups (or non-Hispanic white women) working in the industry (i.e., personal characteristics, indicators of educational attainment, and indicators of personal financial resources and constraints) to simulate business ownership for each group.

The study team then calculated a business ownership disparity index for each group by dividing the observed business ownership rate by the simulated business ownership rate and then multiplying the result by 100. Values of less than 100 indicate that, in reality, the group is less likely to own businesses than what would be expected for non-Hispanic white men who share similar personal characteristics. Column (b) presents disparity indices related to business ownership for the different racial/ethnic and gender groups. For example, as shown in row (6) of column (b), non-Hispanic white women own construction businesses at 76 percent of the rate that they would be expected to own construction businesses if they were non-Hispanic white men with similar personal characteristics.

- c. **Availability after initial adjustment.** Column (c) presents availability estimates by racial/ethnic and gender group and by industry after initially adjusting for statistically significant disparities in business ownership rates. BBC calculated those estimates by dividing the current availability in column (a) by the disparity index for business ownership in column (b) and then multiplying by 100. Note that BBC only made adjustments for those groups that are significantly less likely than similarly-situated non-Hispanic white men to own businesses.
- d. **Availability after scaling to 100 percent.** Column (d) shows adjusted availability estimates that the study team re-scaled so that the sum of the availability estimates equaled 100 percent for each industry. BBC re-scaled the adjusted availability estimates by taking each group's adjusted availability estimate in column (c) and dividing it by the sum of availability estimates shown under "Total" in column (c)—in row (9) for construction and row (18) for

consulting. For example, the scaled availability estimate for non-Hispanic white woman-owned construction businesses shown in row (6) of column (d) was calculated in the following way: $(1.4\% \div 105.6\%) \times 100 = 1.3$ percent.

- e. **Components of goal.** Column (e) shows the component of the total base figure attributed to the adjusted availability of minority- and woman-owned businesses for each industry. BBC calculated each component by taking the total availability estimate shown under “Potential DBEs” in column (d)—in row (7) for construction and row (16) for consulting—and multiplying it by the proportion of total FTA-funded contract dollars for which each industry accounts (i.e., 0.72 for construction, 0.11 for professional services, and 0.17 for consulting). For example, BBC used the 27.4 percent shown in row (7) of column (d) for construction and multiplied it by 0.72 for a result of 19.6 percent (see row (7) of column (e)). The values in column (e) were then summed to equal the overall base figure adjusted for barriers in business ownership—14.2 percent, as shown in the bottom row of column (e).

Figure 9-3.
Potential step-2 adjustment considering disparities in the rates of business ownership

Industry and group	a. Current availability	b. Disparity index for business ownership	c. Availability after initial adjustment*	d. Availability after scaling to 100%	e. Components of base figure**
Construction					
(1) Black American	6.6 %	70	9.5 %	9.0 %	
(2) Asian Pacific American	1.3	n/a	1.3	1.2	
(3) Subcontinent Asian American	0.4	n/a	0.4	0.4	
(4) Hispanic American	14.4	88	16.3	15.5	
(5) Native American	0.1	n/a	0.1	0.1	
(6) White woman	<u>0.6</u>	<u>44</u>	<u>1.4</u>	<u>1.3</u>	
(7) Potential DBEs	23.3 %	n/a	28.9 %	27.4 %	19.6 %
(8) All other businesses ***	<u>76.7</u>	<u>n/a</u>	<u>76.7</u>	<u>72.6</u>	
(9) Total	100.0 %	n/a	105.6 %	100.0 %	
Professional services					
(10) Black American	3.8 %	57	6.6 %	6.4 %	
(11) Asian Pacific American	3.0	n/a	3.0	2.9	
(12) Subcontinent Asian American	0.6	n/a	0.6	0.5	
(13) Hispanic American	3.6	n/a	3.6	3.5	
(14) Native American	0.0	n/a	0.0	0.0	
(15) White woman	<u>2.8</u>	<u>87</u>	<u>3.2</u>	<u>3.1</u>	
(16) Potential DBEs	13.7 %	n/a	17.0 %	16.5 %	1.8 %
(17) All other businesses	<u>86.3</u>	<u>n/a</u>	<u>86.3</u>	<u>83.5</u>	
(18) Total	100.0 %	n/a	103.3 %	100.0 %	
Goods and support services					
(19) Black American	8.2 %	35	23.5 %	18.8 %	
(20) Asian Pacific American	1.6	88	1.8	1.4	
(21) Subcontinent Asian American	0.9	53	1.7	1.4	
(22) Hispanic American	23.1	73	31.7	25.4	
(23) Native American	2.5	n/a	2.5	2.0	
(24) White woman	<u>14.5</u>	<u>n/a</u>	<u>14.5</u>	<u>11.6</u>	
(25) Potential DBEs	50.9 %	n/a	75.7 %	60.7 %	10.4 %
(26) All other businesses	<u>49.1</u>	<u>n/a</u>	<u>49.1</u>	<u>39.3</u>	
(27) Total	100.0 %	n/a	124.8 %	100.0 %	
(28) TOTAL	27.0 %	n/a		n/a	31.9 %

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

* Initial adjustment is calculated as current availability divided by the disparity index.

** Components of potential step-2 adjustment were calculated as the value after adjustment and scaling to 100 percent, multiplied by the percentage of total FTA-funded contract dollars in each industry (construction = 0.72, professional services = 0.11, and goods and other services = 0.155).

*** All other businesses included majority-owned businesses and minority- and woman-owned businesses that were not potential DBEs.

Source: BBC Research & Consulting.

Based on information related to business ownership alone, Metro might consider adjusting the base figure upward to 31.9 percent.

3. Any disparities in the ability of DBEs to get financing, bonding, and insurance.

BBC's analysis of access to financing, bonding, and insurance also revealed quantitative and qualitative evidence that minorities, women, and minority- and woman-owned businesses in Los Angeles County do not have the same access to those business inputs as non-Hispanic white men and businesses owned by non-Hispanic white men (for details, see Chapter 3 and Appendices C and D). Any barriers to obtaining financing, bonding, and insurance might limit opportunities for minorities and women to successfully form and operate businesses in the Los Angeles County contracting marketplace. Any barriers that minority- and woman-owned businesses face in obtaining financing, bonding, and insurance would also place those businesses at a disadvantage in competing for Metro's FTA-funded prime contracts and subcontracts. Thus, information from the disparity study about financing, bonding, and insurance also supports an upward step-2 adjustment to Metro's base figure.

4. Other factors. The Federal DBE Program suggests that federal fund recipients also examine "other factors" when determining whether to make step-2 adjustments to their base figures.³

Success of businesses. There is quantitative evidence that certain groups of minority- and woman-owned businesses are less successful than businesses owned by non-Hispanic white men and face greater barriers in the marketplace, even after accounting for race- and gender-neutral factors. Chapter 3 summarizes that evidence and Appendix C presents corresponding quantitative analyses. There is also qualitative evidence of barriers to the success of minority- and woman-owned businesses, as presented in Appendix D. Some of that information suggests that discrimination on the basis of race/ethnicity and gender adversely affects minority- and woman-owned businesses in the local contracting industry. Thus, information about the success of businesses also supports an upward step-2 adjustment to Metro's base figure.

Evidence from disparity studies conducted within the jurisdiction. USDOT suggests that federal aid recipients also examine evidence from disparity studies conducted within their jurisdictions when determining whether to make step-2 adjustments to their base figures. Metro should review results from those disparity studies when determining its overall DBE goal. However, Metro should note that the results of those studies are tailored specifically to the contracts and policies of each agency and entity. Those contracts and policies may differ in many important respects from those of Metro.

Summary. Taken together, the quantitative and qualitative evidence that the study team collected as part of the disparity study may support a step-2 adjustment to the base figure as Metro considers setting its overall DBE goal. As noted in USDOT's "Tips for Goal-Setting:"

If the evidence suggests that an adjustment is warranted, it is critically important to ensure that there is a rational relationship between the data you are using to make the adjustment and the actual numerical adjustment made.⁴

³ 49 CFR Section 26.45.

⁴ USDOT. "Tips for Goal-Setting in the Federal Disadvantaged Enterprise (DBE) Program." <http://www.osdbu.dot.gov/DBEProgram/tips.cfm>.

Based on information from the disparity study, there are reasons why Metro might consider an upward adjustment to its base figure:

- Metro might adjust its base figure upward to account for barriers that minorities and women face in human capital and owning businesses in the local contracting industry. Such an adjustment would correspond to a “determination of the level of DBE participation you would expect absent the effects of discrimination.”⁵
- Evidence of barriers that affect minorities, women, and minority- and woman-owned businesses in obtaining financing, bonding, and insurance, and evidence that certain groups of minority- and woman-owned businesses are less successful than comparable businesses owned by non-Hispanic white men also supports an upward adjustment to Metro’s base figure.

There are also reasons why Metro might consider a downward adjustment to its base figure:

- Metro must consider the volume of work DBEs have performed in recent years when determining whether to make a step-2 adjustment to its base figure. Metro’s utilization reports for FFYs 2011 through 2015 indicated median annual DBE participation of 3.7 percent for those years, which is lower than its base figure.
- USDOT’s “Tips for Goal-Setting” suggests that an agency can make a step-2 adjustment by averaging the base figure with past median DBE participation. BBC’s analysis of DBE participation in METRO’s FTA-funded contracts also indicates DBE participation (15.1%) that is lower than the base figure. If Metro were to adjust its base figure based on DBE participation information from the disparity study, it might consider taking the average of its base figure and the 15.1 percent DBE participation.

USDOT regulations clearly state that an agency such as Metro is required to review a broad range of information when considering whether it is necessary to make a step-2 adjustment—either upward or downward—to its base figure. However, *Tips for Goal-Setting* states that an agency such as Metro is not required to make an adjustment as long as it can explain what factors it considered and can explain its decision in its Goal and Methodology document.

⁵ 49 CFR Section 26.45 (b).