

Kentucky Transportation Cabinet
DBE Goal Methodology
Federal Fiscal Year (FY) 2014-2016

To comply with 49 CFR § 26.45, the Kentucky Transportation Cabinet (KYTC) established its overall DBE goal based on the availability of ready, willing and able DBEs relative to the availability of all ready, willing and able firms within the Kentucky highway construction industry. KYTC set an overall goal of 10.95% of which it expects to meet 2.29% through race neutral means and 8.66% through race conscious means.

A. Step One - Base Figure –§26.45 (c)

Under the regulations, recipients must begin the goal-setting process by determining a base figure for relative availability of DBEs.

1. Method Selected

KYTC uses an alternate method that includes census data, a prequalification directory, and the Kentucky DBE directory. This approach is based on local market conditions and accounts for state prequalification requirements. Although KYTC utilized its prequalification directory in the calculation of available DBEs and non-DBEs, it was not exclusive source of data.

2. Description of Data Used

Data used in this calculation includes prequalified prime and sub-contractors, consultants, and appraisers that sought work on FWHA-assisted construction projects in the local market area during the period of October 2012 – September 2013. Firms with NAICS codes that do not relate to highway construction have not been included in the calculations.

According to the most current census data, there are 3,312 firms across the state conducting business in the NAICS codes in which the KYTC seeks participation. The data used to make this determination was the data available from FY 2013 and it was consistent with data from previous years. KYTC has determined that 75 % or more of the contractors and subcontractors with which it does business are located within the state of Kentucky.

To comply with Kentucky law, KRS §176.140, and its related regulations, firms must be financially and professionally qualified to do business with the state before submitting bids on any project issued by KYTC. As such, the KYTC believes that use of the prequalification directory, in addition to the census data and DBE directory, is the most appropriate source from which to collect data on the actual available firms. The use of this data provides a more accurate count of firms that are able to participate and bid on KYTC projects.

KYTC acknowledges that USDOT encourages recipients to consider supplementing the number of firms in its DBE directory for the purposes of goal-setting by considering potential DBEs. KYTC has determined that its current goal-setting process truly reflects the actual availability of ready, willing, and able DBEs in the local market area without the necessity to include potential DBEs.

KYTC further acknowledges that USDOT recommends weighting based on categories of contractors. As recommended in the KYTC's DBE Goal Setting Approval letter of March 15, 2012, the KYTC has

weighted the data based on expenditures. The weighting was performed as part of the Step One calculations explained below.

3. Calculations Performed

Relative Base Figure

Considering the three categories of contracts (construction, professional services and right of way/utilities), the formula used to calculate the base figure becomes:

$$\frac{\text{DBE Contractors and Subcontractors} + \text{DBE consultants}}{\text{All Contractors and Subcontractors} + \text{All Consultants}} = \text{Relative Base Figure}$$

The resulting calculation is as follows:

Table 1: Relative Base Figure

NAICS Code	NUMBER OF AVAILABLE FIRMS		PERCENT OF AVAILABLE FIRMS		
	DBE Firms	All Firms	DBE %	Non DBE %	ALL
237310	104	756	10.4%	65.6%	76.0%
561730	31	72	3.1%	4.1%	7.2%
237990	23	99	2.3%	7.6%	9.9%
238990	18	61	1.8%	4.3%	6.1%
541380	6	6	0.6%	0.0%	0.6%
Total	182	994	18.2%	81.6%	99.8%

The KYTC believes this relative base figure calculation over counts the number of available DBEs as it assumes that every DBE has an equal opportunity and equal weight to perform KYTC contracts. However, in the practical application, not all DBEs have equal opportunity for participation as opportunity is dependent on the amount of dollars spent in each NAICS code. Therefore, to more accurately reflect the relative availability of DBE firms, as recommended by U.S. DOT, the KYTC performed a weighted calculation of availability. This calculation, which is based on the KYTC's expenditures in each NAICS code, is shown below in Table 2.

$$\text{Weight} \text{ (}\% \text{ of contract dollars for NAICS Category 2012-2013)} \left[\frac{\# \text{ of DBEs in category}}{\# \text{ of all firms in category}} \right] = \text{Weighted Percent for NACIS Category}$$

Table 2: Weighted Based Figure

NAICS	NUMBER OF AVAILABLE FIRMS		AWARDED CONTRACT AMOUNT (FY13)	WEIGHT	WEIGHTED AVAILABILITY	
	Code	DBE Firms			All Firms	Dollars
237310	104	756	\$757,201,165.11	81.30%	11.18%	70.09%
561730	31	72	\$13,566,518.81	1.45%	0.62%	0.82%
237990	23	99	\$153,646,458.58	16.49%	3.83%	12.65%
238990	18	61	\$2,782,811.24	0.30%	0.08%	0.20%
541380	6	6	\$4,347,738.17	0.46%	0.46%	0.00%
Total	182	994	\$931,544,691.91	100.00%	16.17%	83.76%

As shown above, first a weight for each NAICS code was calculated, which is the percentage of the budget for KYTC contracts awarded from October 1, 2012 to September 30, 2013. The next step was to determine weight availability by dividing the number of DBEs by the total number of firms in each NAICS code. The results were then multiplied by the corresponding weight in each NAICS code. Lastly, the weighted percentages in each NAICS code are combined to determine the weighted base figure. Table 2 above, presents the calculation of weighted availability, which was determined to be **16.17% percent** for DBEs.

B. Step Two – Adjustments – §26.45 (d)

DBE regulations at 49 CFR §26.45 (d), require an examination of available evidence in the local market to determine what adjustment to the base figure is needed, if any, to establish the overall goal.

1. Past Participation

KYTC considered the capacity of DBEs to perform work as measured by the median past participation of DBEs on DOT-assisted contracts. From FY 2009 through FY 2013, DBEs performed 5.95%, 8.61%, 5.71%, 4.12%, and 5.74%, respectively, of the FHWA aid amount. The median past participation for these years is 5.74%. The large difference between the Step One relative weighted base figure (16.17%) and the median past DBE participation indicates that the capacity of DBEs to perform highway project work does not match the mere availability of such firms and suggests that an adjustment of the Step One figure is warranted. By calculating the average of median past participation and the Step One base availability figure, KYTC determined an adjusted base figure of 10.95%.

Fiscal Year	Total Amount of Expenditures (Federal Assisted Contracts)	Actual Amount of Expenditures to DBEs	Actual attainment of DBE goal %
2009	\$393,924,526.11	\$23,453,464.36	5.95 %
2010	\$473,837,934.00	\$40,797,446.12	8.61%
2011	\$551,762,518.37	\$31,505,402.19	5.71%
2012	\$630,224,705.67	\$25,977,135.22	4.12%
2013	\$433,346,916.00	\$24,874,112.00	5.74%

$$\frac{5.74\% \text{ Median Past Participation} + 16.17\% \text{ Base Figure}}{2} = 10.95\% \text{ Adjusted Base Figure}$$

2. Other Evidence Considered

No disparity studies have been conducted in the local market area. KYTC is not aware of other evidence that directly impacts DBE participation and seeks no further adjustments. KYTC believes that making a downward adjustment of 5.22% is warranted because it reflects a more accurate measure of capacity and uses all available evidence.

Accordingly, KYTC will set an overall DBE goal of **10.95 %** for FY 2014-16.

C. Public Participation - §26.45 (g)

The regulations require recipients to provide opportunities for public participation as part of the goal setting process. KYTC published dates and locations for public forums for discussion of the DBE goal statewide via radio, newspaper and television. These notices also announced the proposed goal and stated that the methodology was available for comment on the KYTC Office of Civil Rights and Small Business Development Website (<http://transportation.ky.gov/Civil-Rights-and-Small-Business-Development>) from May 26, 2013, until June 25, 2013. Written comments were accepted until July 10, 2013. The Kentucky Association of Highway Contractors (KAHC) submitted a written request proposing an alternate method of calculating the overall goal which they felt more adequately accounted for the capacity limits of DBEs. KYTC considered this comment and determined that the proposed alternate method was not consistent with the regulations. The public forums did not yield relevant comments. Attendees inquired extensively about opportunities related to the Louisville-Southern Indiana Ohio River Bridges Project and offered no feedback regarding the DBE goal methodology.

D. Race/Gender Neutral and Conscious Measures -§26.51

KYTC projects that it will meet its overall goal with 2.29% race neutral participation and 8.66% race conscious participation. KYTC has not met its DBE goal for the past three fiscal years. However, KYTC reviewed its DBE

participation on projects (federally assisted contracts) closed out in the past five federal fiscal years (FY09-FY13), specifically examining the breakdown between race-neutral and race-conscious participation. KYTC measures race-conscious participation by counting payments made to DBEs to fulfill contract goals. KYTC 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.

**Expenditures to DBEs with Race Neutral/Race Conscious Breakdown
(Completed Projects Only)**

Fiscal Year	Total Amount of Expenditures (Federal Assisted Contracts)	Actual Amount of Expenditures to DBEs	R/N (% of DBE Expenditures)	R/C (% of DBE Expenditures)
2009	\$393,924,526.11	\$23,453,464.36	34%	66%
2010	\$473,837,934.00	\$40,797,446.12	21%	79%
2011	\$551,762,518.37	\$31,505,402.19	30%	70%
2012	\$630,224,705.67	\$25,977,135.22	20%	80%
2013	\$433,346,916.00	\$24,874,112.00	21%	79%

Based on the above table, KYTC achieved a median of 21% of the DBE goal by race-neutral means. Therefore, KYTC anticipates it can achieve 21% of the FY 14-16 DBE overall goal through race-neutral means.

In order to foster race-neutral participation, KYTC developed a Small Business Enterprise Program which sets small business goals on projects of \$2 million or to encourage increased race neutral participation.

Also, the KYTC will seek to provide DBEs supportive services specific to their needs, to help them grow and develop. This will include classroom and on-site technical, contracting procedures and requirements, management assistance and educational training opportunities to certified DBE firms in order to increase employment potential. These services will target DBEs to improve their long-term development, increase opportunities to participate, and achieve eventual self sufficiency. Kentucky’s Business Development Program (BDP) will also aid in this regard. Those firms utilizing the BDP will be able to take advantage of classes and resources in a program that will target their company’s areas of need. We also plan to make the states DBE directory accessible in as many formats as possible to the universe of contractors.

E. Conclusion

KYTC’s goal methodology is consistent with the requirements of 49 CFR § 26.45 and reflects the availability of ready, willing and able DBEs relative to the availability of all ready, willing and able businesses within the Kentucky highway construction industry. KYTC has used all available evidence to set an overall goal of 10.95%, of which it expects to meet 2.29% through race neutral means and 8.66% through race conscious means. KYTC will monitor progress in meeting its goal over the next three years and will adjust the race conscious and race neutral split if necessary.