

**FAA DBE Goal Methodology
Yellowstone Airport and Lincoln Airport
Montana Department of Transportation
Federal Fiscal Year 2018 – 2020**

The Montana Department of Transportation (MDT), in accordance with United States Department of Transportation (USDOT) guidelines, determines MDT's Disadvantaged Business Enterprise (DBE) Goal for Federal Aviation Administration (FAA) funded contracts on a staggered three-year schedule.

MDT calculates the goal using the criteria set forth in 49 CFR Part 26.45. The determination of the level of DBE participation is based on the availability of all DBE businesses that are ready, willing, and able to participate in FAA-assisted contracts in the State of Montana in relationship to all comparable businesses which are known to be available to compete for FAA-assisted contracts.

For Federal Fiscal Year 2018 – 2020, MDT has established an overall DBE goal of 1.95% to be accomplished through the use of race neutral means.

This methodology and the supporting evidence complies with the requirements of the federal regulations and federal guidance, as well as relevant court decisions, including *Western States Paving v. Washington State Dept. of Transportation*, 907 F.3d 963 (9th Cir. 2005).

As part of the Yellowstone Airport's 7-year capital improvement plan, the Airport will be using discretionary funds over several years to design and construct modifications to the terminal building. Part of the design that occurs in Fiscal Year 2018 is to determine which portions of the construction projects can best be combined to maximize use of the allocated funding for each year. While there is an overall estimate for construction upgrades to the terminal building, the specific work items that will be performed in Fiscal Year 2019 and 2020 will not be determined until the Design project in 2018 is complete. The following funding amounts anticipated for the projects at Yellowstone Airport in 2018-2020 are as follows:

Contract(s) FY 2018 – \$300,000

Project 1. Modify Terminal Building (Phase I – Design)

Contract(s) FY 2019 – \$500,000

Project 1. Rehabilitate Runway 1-19 (Sealing/Striping) \$152,577

Project 2. Modify Terminal Building (Phase II – Construction) \$347,423

Contract(s) FY 2020 – \$200,000

Project 1. Modify Terminal Building (Phase II – Construction)

Draft methodology as of 4/20/17

For Federal Fiscal Years 2018 through 2020, the following projects are anticipated for the Lincoln Airport:

Contract(s) FY 2018 – \$356,400

Project 1. Hangar Taxilane Development

Contract(s) FY 2019 – no projects planned

Contract(s) FY 2020 – no projects planned

Step 1: Determining the Base Figure

For the Step 1 Base Figure, MDT determined the relative DBE availability in accordance with 49 CFR Part 26.45 (c)(1), which is to use DBE Directories and Census Bureau Data. When reviewing these datasets, MDT used the State of Montana as the market area because the 2016 Disparity Study found that 89% of MDT contract dollars during the study period went to firms with Montana offices.

As described previously, the work types for the entire construction modifications of the terminal building at the Yellowstone Airport are known, but the portion of work types that will be done in 2019 and 2020 will not be determined until after 2018. MDT used all work types included to design and construct the entire terminal project as well as runway rehabilitation and hangar taxilane development to determine the goal. However, after the specific projects for 2019 and 2020 are determined, MDT will review the goal to determine if it has a significant impact on the goal established for 2018-2020. If it changes significantly, MDT will prepare an adjustment and submit to FAA for review and approval.

To perform the base figure calculation, two figures need to be determined; the number of DBE firms and the number of total firms that are ready, willing, and able to compete for MDT federally assisted contracts.

DBE Firms

MDT evaluated the DBE Directory based on firms certified as DBEs as of March 20, 2017. Table 1 provides a breakdown of the number of DBE firms (based in Montana) by NAICS code for the work that is anticipated at Yellowstone and Lincoln Airports.

Table 1 – Number of DBE firms by NAICS code

NAICS Code	Description	# of DBE Firms
237310	Highway, Street, and Bridge Construction	19
236220	Commercial and Institutional Building Construction	3
238910	Site Preparation Contractors	12
238110	Poured Concrete Foundation and Structure Contractors	11
238140	Masonry Contractors	0
238120	Structural Steel and Precast Concrete Contractors	2
238130	Framing Contractors	2
238170	Siding Contractors	0
238350	Finish Carpentry Contractors	2
238320	Painting and Wall Covering Contractors	0
238330	Flooring Contractors	0
339950	Sign Manufacturing	1
238220	Plumbing, Heating, and Air-Conditioning Contractors	3
238210	Electrical Contractors and Other Wiring Installation Contractors	6
333922	Conveyor and Conveying Equipment Manufacturing	1
541310	Architectural Services	1
541330	Engineering Services	9
561730	Landscaping Services	5
Total Number of DBE firms (for these NAICS codes) based in Montana		77

Total Firms

Using the same NAICS codes as identified in Table 1, MDT reviewed the number of businesses published in the Census Bureau County Business Patterns^a. Table 2 provides a breakdown of total firms from the Census by their NAICS code.

^a Published in April 2016 using 2014 data. Census Bureau County Business Patterns data is published on a one year cycle.

Table 2 – Number of total firms from Census Data by NAICS code

NAICS Code	Description	Total firms
237310	Highway, Street, and Bridge Construction	95
236220	Commercial and Institutional Building Construction	181
238910	Site Preparation Contractors	371
238110	Poured Concrete Foundation and Structure Contractors	187
238140	Masonry Contractors	109
238120	Structural Steel and Precast Concrete Contractors	17
238130	Framing Contractors	119
238170	Siding Contractors	76
238350	Finish Carpentry Contractors	188
238320	Painting and Wall Covering Contractors	205
238330	Flooring Contractors	95
339950	Sign Manufacturing	33
238220	Plumbing, Heating, and Air-Conditioning Contractors	556
238210	Electrical Contractors and Other Wiring Installation Contractors	445
333922	Conveyor and Conveying Equipment Manufacturing	13
541310	Architectural Services	130
541330	Engineering Services	345
561730	Landscaping Services	488
Total firms (for these NAICS codes) based in Montana		3653

Note: there was no census data available for NAICS code 333922 for Montana, so for that NAICS code, we expanded the market area to the surrounding states (Idaho, North Dakota, South Dakota, and Wyoming). There were no DBEs certified in that NAICS code in the surrounding states (one is certified in Montana); however, there were 13 total firms in the Census data for surrounding states.

The relative DBE availability is calculated as follows:

$$\frac{77 \text{ DBE firms}}{3653 \text{ Total firms}} = 2.11\% \text{ DBE availability}$$

Step 1 Base Figure Weighting

As provided in the Tips for Goal-Setting in the DBE Program, weighting DBE availability can help ensure that the Step 1 Base Figure is as accurate as possible. While weighting is recommended; it is not required and MDT chose not to weight the Step 1 base figure. Since the work types for terminal construction in 2019 and 2020 were unknown at the time of goal setting, sufficient accurate data was not available to perform the weighting analysis.

Step 2: Adjustments to the Base Figure

During Step 2, MDT examined 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 DBE participation goal. MDT considered the following Step 2 adjustments:

- Current capacity of DBEs to perform work, as measured by the volume of work DBEs have performed in recent years;
- Evidence from disparity studies
- Information related to employment, self-employment, education, training and unions;
- Any disparities in the ability of DBEs to get financing, bonding and insurance; and
- Other relevant factors

Current Capacity

To determine the impacts of the current local market conditions and work performed by DBE firms in recent years, MDT reviewed DBE participation at the Yellowstone and Lincoln Airports for the past 6 years (Fiscal Years 2011 through 2016). The Lincoln Airport did not have any projects during this time frame, therefore, Table 3 includes only past DBE participation from the Yellowstone Airport.

Table 3 – Past DBE Participation at Yellowstone Airport

Year - Project	DBE Amount	Total Amount	DBE Utilization
2011 – Airfield Striping and Signage	\$30,216	\$180,663	16.73%
2011 – Master Plan & ALP Update	\$0.00	\$181,250	0.00%
2013 – Pavement Maintenance	\$0.00	\$243,961	0.00%
2014 – ARFF Building Construction	\$0.00	\$893,440	0.00%
2015 – Snow Removal Equipment Acq.	\$0.00	\$264,365	0.00%
2016 – Engineering Design for TW/Apron Reconstruction	\$0.00	\$445,738	0.00%

The work types over the past 6 years include various types of work, some of which are similar to work anticipated in Fiscal Years 2018 through 2020. However, there isn't enough past participation data for the proposed work types to justify making an adjustment to the Step 1 figure.

Evidence from Disparity Studies

MDT engaged a consultant (Keen Independent) to conduct an Availability and Disparity Study, which focused on participation of minority- and women-owned firms in MDT's contracts from October 2009 through September 2014. The Study was completed in July of 2016. Although this Study did not examine building contracts or contracts using Federal Aviation Administration (FAA) funds; MDT and other agencies might review information in the report regarding DBE availability as they relate to operating the Program for FAA-funded contracts. Since contractors that participated on MDT road construction and design contracts during the Study period are in most cases the same contractors that are awarded FAA-funded contracts, DBE availability data from the 2016 Disparity Study was compared to the proposed work types that were not related to the terminal construction.

Table 4 indicates the DBE availability from the Disparity Study for road construction related activities.

Table 4 – Road Construction Availability using MDT’s 2016 Disparity Study

NAICS Code	Disparity Study Work Type	# of DBE Firms	# of Total Firms	DBE Availability
237310	Asphalt and concrete paving	5	54	9.26%
	Temporary traffic control	5	41	12.20%
	Striping or pavement marking	1	23	4.35%
238910	Excavation, site prep, grading, and drainage	6	75	8.00%
238110	Drilling and foundations	2	46	4.35%
238210	Electrical work including lighting and signals	0	32	0.00%
238120	Structural steel work	2	32	6.25%
541330	Engineering	3	72	4.17%
561730	Landscaping and related work including erosion control	5	74	6.76%

Table 5 combines data from the Disparity Study for horizontal construction with the DBE Directory and Census Bureau data calculated for the Step 1 figure for vertical construction.

Table 5 – Step 2 Adjustment for Disparity Study Availability Data

Description	# of DBE Firms	Total firms	% DBE Firms
Highway, Street, and Bridge Construction	11	118	9.32%
Site Preparation Contractors	6	75	8.00%
Poured Concrete Foundation and Structure Contractors	2	46	4.35%
Electrical Contractors and Other Wiring Installation Contractors	0	32	0.00%
Structural Steel and Precast Concrete Contractors	2	32	6.25%
Engineering Services	3	72	4.17%
Landscaping Services	5	74	6.76%
Commercial and Institutional Building Construction	3	181	1.66%
Masonry Contractors	0	109	0.00%
Framing Contractors	2	119	1.68%
Siding Contractors	0	76	0.00%
Finish Carpentry Contractors	2	188	1.06%
Painting and Wall Covering Contractors	0	205	0.00%
Flooring Contractors	0	95	0.00%
Sign Manufacturing	1	33	3.03%
Plumbing, Heating, and Air-Conditioning Contractors	3	556	0.54%
Conveyor and Conveying Equipment Manufacturing	1	13	7.69%
Architectural Services	1	130	0.77%
	42	2154	1.95%
Indicates Availability from Disparity Study			
Indicates Availability from DBE Directory and NAICS Codes			

When applying data from the Disparity Study, the overall DBE availability decreased slightly. This is because one NAICS code can cover a lot of work types whereas the Disparity Study further refined the work types, which allows MDT to report firms that

were ready, willing, and able to conduct the specific work that is anticipated at the Lincoln and Yellowstone Airports. Because the data from the Disparity Study has more refined work types, MDT elected to use this Step 2 adjustment.

Employment, Education, Training, and Unions

The 2016 Disparity Study conducted analysis related to marketplace conditions in Montana and found that there are barriers that certain minority groups and women face related to entry and advancement and business ownership in the Montana construction and engineering industries. Specifically, Native Americans working in the Montana construction industry were less likely than non-minorities to own construction businesses and women working in the Montana engineering industry were less likely than men to own engineering companies.

Keen Independent estimated the availability of minority- and women-owned firms but for the effects of race- and gender-based discrimination and determined there could be a possible upward adjustment to the base figure (calculation shown in Figure 9-3). Keen Independent's adjustment analysis was based on road construction and did not factor in building construction. Because the calculated disparity index and DBE availability by gender and ethnicity does not include all work types anticipated for the Yellowstone and Lincoln Airports, MDT chose not to make a step 2 adjustment based on this data.

Financing, Bonding, and Insurance

The 2016 Disparity Study found quantitative and qualitative evidence of disadvantages for minorities, women, and minority- and women-owned firms relating to access to financing and bonding. Although the analysis indicates an upward adjustment could be made to address these barriers, the impact of those factors could not be quantified (Chapter 9, Page 9). As a result, MDT chose not to make this Step 2 adjustment.

Other Factors

The other factors examined in the 2016 Disparity Study were related to success of minority- and women-owned firms relative to majority-owned businesses in the Montana marketplace. The Study noted quantitative evidence that minority- and women-owned firms are less successful than majority-owned firms and face greater barriers in the marketplace. There was also qualitative information that suggests discrimination on the basis of race, ethnicity and gender affects minority- and women-owned firms in the Montana transportation contracting industry. Although the analysis indicates an upward adjustment could be made to address these barriers, the impact of those factors could not be quantified (Chapter 9, Page 9). As a result, MDT chose not to make this Step 2 adjustment.

Final Step 2 Adjustments to Step 1 Base Figure

After examining all evidence available and evaluating all Step 2 adjustment options, MDT will utilize evidence from the 2016 Disparity Study to adjust the Step 1 Base Figure. By combining the Disparity Study data for horizontal construction with the

DBE Directory and Census Bureau data for vertical construction, the overall DBE participation goal for the Yellowstone and Lincoln Airports for Fiscal Years 2018 through 2020 is 1.95%.

Race Conscious / Race Neutral Evaluation

The 2016 Disparity Study indicated that race- and possibly gender-conscious means may need to be implemented for the portion of the overall goal that cannot be met solely through race neutral measures. For projects in recent years, MDT proposed race neutral measures to achieve goals for the Yellowstone Airport. Past utilization, depending on the type of project, ranged from 0% DBE utilization to 16%. While race- and possibly gender-conscious methods may be used, MDT has shown that it can meet its overall DBE goal solely through race neutral measures. Furthermore, to comply with 49 CFR 26.51, where the maximum feasible portion of the overall DBE goal must be met through race- and gender-neutral measures MDT proposes to meet the overall goal solely through race neutral measures. If the Uniform Report indicates that the Airports fell short or will fall short of meeting the overall goal, MDT will re-evaluate how much of the overall goal can be met through race neutral means and implement race conscious measures (i.e. project specific goals) to meet the remainder of the goal.

Race Neutral Initiatives

In order to meet the overall 1.95% DBE goal, MDT is committed to implementing race neutral measures that encourage small business and DBE participation. MDT has implemented several race neutral measures to ensure the maximum feasible portion of the overall goal is achieved through race neutral means, in accordance with 49 CFR 26.51. These include:

- A Quote Request System that allows a prime contractor to solicit bids from DBE firms. <https://app.mdt.mt.gov/dbeqt/>
- An Annual Needs Assessment to solicit input from minority, women, and contractor groups to gauge the availability of disadvantaged and non-disadvantaged businesses.
- A Business Development Program where MDT works with DBEs to retrieve information on the current state of business in Montana and to determine the DBEs workforce obstacles in order to define the most effective strategies needed to increase the DBEs capacity and availability.
- MDT continues to develop its relationship with trade organizations including, Montana Contractor's Association (MCA) and American Council of Engineering Companies (ACEC), by training and educating contractors and consultants about the DBE program and the overall goal. Information is provided on the availability of DBEs, the capacity of DBEs, and the

Draft methodology as of 4/20/17

newest certified DBEs within the state. These meetings allow disadvantaged and non-disadvantaged businesses opportunities to provide feedback about the program. This relationship is strengthened with the intent of creating greater opportunity to conduct business with DBEs.

- Ensuring a reasonable number of prime contracts are of a size that small businesses can reasonably perform. As indicated in the 2016 Disparity Study, more than one-half of MDT's projects were categorized as being small contracts (under \$250,000). The proposed projects at the MDT Airport are broken into phases to allow for smaller contract sizes.

MDT provides the following Supportive Services for DBEs:

- Long-term development assistance to increase opportunities
- Trainings in contracting procedures
- Assistance to start-up firms; and
- Identification of potential DBEs

SUBMISSION AND PUBLICATION OF APG

On April 21, 2017, MDT published its proposed DBE goal and methodology (2018-2020) for the Yellowstone and Lincoln Airports. MDT posted the information on its website and distributed to MDT's certified DBE firms and partnering agencies.

MDT will hold a public hearing on May 4, 2017 in Helena and via webinar concerning the proposed overall DBE goal. The proposed Goal Methodology is available for review on MDT's website and at MDT's Headquarters Building, Office of Civil Rights, 2701 Prospect Avenue, Room 201, Helena, Montana.

MDT is asking for public comments about its proposed overall three-year DBE goal and the availability of disadvantaged and non-disadvantaged businesses. Comments will be accepted through June 9, 2017 and can be done verbally at the public hearing or sent to the following:

Mail: MDT Office of Civil Rights
PO Box 201001
Helena, MT 59620

Email: mhandl@mt.gov

MDT will review and summarize any comments and adjust the goal methodology document as necessary. The revised goal methodology will be submitted to FAA for review and approval prior to August 1, 2017.