

October 13, 2017

The Honorable Paul Torkelson, Chair  
House Transportation Finance Committee  
381 State Office Building  
Saint Paul, MN 55155

The Honorable Scott Newman, Chair  
Senate Transportation Finance & Policy Committee  
3105 Minnesota Senate Building  
Saint Paul, MN 55155

The Honorable Linda Runbeck, Chair  
House Transportation & Regional Governance Policy  
Committee  
417 State Office Building  
Saint Paul, MN 55155

The Honorable Scott Dibble  
Ranking Minority Member  
Senate Transportation Finance & Policy Committee  
2213 Minnesota Senate Building  
Saint Paul, MN 55155

The Honorable Frank Hornstein, DFL Lead  
House Transportation Policy & Finance Committee  
243 State Office Building  
Saint Paul, MN 55155

The Honorable Connie Bernardy, DFL Lead  
House Transportation & Regional Governance  
Policy Committee  
253 State Office Building  
Saint Paul, MN 55155

RE: 2015-16 Highway Construction Training and Disadvantaged Business Enterprise report

Dear Legislators:

In accordance with [Minn. Stat. 174.03](#) the Minnesota Department of Transportation is submitting its Highway Construction Training and Disadvantaged Business Enterprise program report for 2015 and 2016.

For the next biennium, MnDOT's civil rights programs will continue to enhance strategies proven successful to grow the on-the-job training opportunities. We will work to gain more participants within the program as well as promote relationships between contractors and training programs to ensure OJT trainees have the greatest opportunity to achieve journey level status.

The DBE program continues to show impressive strides in overall performance despite falling short of the statewide goal. MnDOT remains committed to continuous improvement in these efforts and the agency has increased training to develop staff, expanded resources for small businesses and maintained its relationship with the DBE and Workforce Collaborative to make programmatic enhancements to better serve Minnesota.

MnDOT's Office of Civil Rights created this report outlining the programs and progress made towards the goals for the Highway Construction Training program and the Disadvantaged Business Enterprise program.

- MnDOT's annual FHWA-approved On-the-Job Training goal was 100 trainees in 2015 and 150 trainees in 2016. The actual number of minority and women OJT trainees that participated in the program was 254 in federal fiscal year 2015 and 177 in FFY 2016.

- MnDOT's statewide DBE participation on federally funded transportation projects was 7.37 percent for FFY 2015 and 8.5 percent for FFY 2016, compared to a statewide annual goal of 10.3 percent for FFY 2015 and 11.7 percent for FFY 2016.

Please contact me with any questions you may have, or you may contact Kim Collins at [kim.collins@state.mn.us](mailto:kim.collins@state.mn.us) or (651) 366-3150.

Sincerely,



Charles A. Zelle  
Commissioner

# Highway Construction Training and Disadvantaged Business Enterprise Program

2015-2016 Biennial report  
October 2017

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Prepared by:

The Minnesota Department of Transportation  
395 John Ireland Boulevard  
Saint Paul, Minnesota 55155-1899

Phone: 651-296-3000

Toll-Free: 1-800-657-3774

TTY, Voice or ASCII: 1-800-627-3529

To request this document in an alternative format, call 651-366-4718 or 1-800-657-3774 (Greater Minnesota).

You may also send an email to [ADArequest.dot@state.mn.us](mailto:ADArequest.dot@state.mn.us)

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# Legislative Request

This report is issued to comply with [Minnesota Statutes 174.03, subdivisions 10 and 11.](#)

## **Minnesota Statutes 174.03 Subd. 10. Highway construction training; report.**

- (a) The commissioner of transportation shall utilize the maximum feasible amount of all federal funds available to this state under United States Code, title 23, section 140, paragraph (b), to develop, conduct, and administer highway construction training, including skill improvement programs.
- (b) The commissioner of transportation must report by February 1 of each odd-numbered year to the house of representatives and senate committees having jurisdiction over transportation policy and finance concerning the commissioner's compliance with paragraph (a). The report must, with respect to each of the two previous calendar years:
  - (1) describe the highway construction training and skill improvement programs the commissioner has conducted and administered;
  - (2) analyze the results of the commissioner's training programs;
  - (3) state the amount of federal funds available to this state under United States Code, title 23, section 140, paragraph (b); and
  - (4) identify the amount spent by the commissioner in conducting and administering the programs.

## **Subd. 11. Disadvantaged business enterprise program; report.**

- (a) The commissioner shall include in each contract that is funded at least in part by federal funds, a sanction for each contractor who does not meet the established project disadvantaged business enterprise goal or demonstrate good-faith efforts to meet the goal.
- (b) The commissioner of transportation shall report by February 1 of each odd-numbered year to the house of representatives and senate committees having jurisdiction over transportation policy and finance concerning the commissioner's disadvantaged business enterprise program. The report must, with respect to each of the two previous calendar years:
  - (1) state the department's annual overall goal, compared with the percentage attained;
  - (2) explain the methodology, applicable facts, and public participation used to establish the overall goal;
  - (3) describe good-faith efforts to meet the goal, if the goal was not attained;
  - (4) describe actions to address overconcentration of disadvantaged business enterprises in certain types of work;
  - (5) state the number of contracts that included disadvantaged business enterprise goals, the number of contractors that met established disadvantaged business enterprise goals, and sanctions imposed for lack of good-faith effort; and
  - (6) describe contracts with no disadvantaged business enterprise goals, and, of those, state number of contracts and amount of each contract with targeted groups under section [16C.16](#).

*The cost of preparing this report is less than \$5,000.*

# Overview of MnDOT’s Civil Rights Program

The Minnesota Department of Transportation’s Office of Civil Rights is responsible for the administration and management of the department’s civil rights programs that apply to MnDOT’s contracting–related activities. State or federal laws and regulations authorize these programs. In general, federal programs only apply to contracts that are federally funded. For contracts that are not federally funded, state civil rights programs may be applicable.

Table 1: List of OCR Programs: Funding source determines which programs apply

Programs	State funded Contracts	Federally funded Contracts
Workforce & EEO Contract Compliance	X	X
On-the-Job Training		X
Disadvantaged Business Enterprises		X
Targeted Group Business	X	
Title VI	X	X
Veteran-owned Small Businesses	X	

## Workforce & Equal Employment Opportunity Contract Compliance

MnDOT is responsible for monitoring the employment practices of contractors working on its road construction projects. This includes:

- Reviewing the contractor’s compliance with provisions to ensure a discrimination-free workplace
- Ensuring contractors demonstrate good-faith efforts to recruit and hire women and minorities
- Reviewing the performance of contractors towards achieving the employment goals applicable to a specific project
- Verifying that contractors properly incorporate federal employment-related contract requirements
- Establishing contractor corrective action and accountability plans

## On-the-Job Training

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The On-the-Job Training program is a federal mandate requiring MnDOT to set goals for employing minorities, women and disadvantaged persons as entry-level trainees in the construction trades. The purpose of the program is to provide equal opportunity for the training and promotion of traditionally underrepresented persons to highway heavy construction careers. The OJT trainee's objective is to reach journey-level status or become skilled in a trade.

MnDOT collaborates with many stakeholders to provide construction-related training, educational courses and apprenticeship opportunities for underrepresented groups.

## Disadvantaged Business Enterprise

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The Disadvantaged Business Enterprise program is a federal initiative that aims to increase the participation of women and minority-owned small businesses on federally funded projects. This is done by assigning a DBE participation goal to a project.

The DBE goal is met when certified DBE firms perform work on a project. The DBE can be a prime contractor or a subcontractor for a project. The goal is achieved when a certain percentage of the project work is performed by certified DBE firms.

The criteria to determine eligibility of DBE firms is established in the federal regulations and the Minnesota Unified Certification Program, a multi-agency committee that includes MnDOT, which manages matters related to certification. MnDOT OCR administers the DBE program by performing a variety of functions, such as certifying DBE firms, assigning project goals, confirming contractors' good-faith efforts are made prior to contract award and monitoring the project to ensure DBEs perform the work as contracted.

## Targeted Group Business

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Similar to the federal DBE program, the objective of the state Targeted Group Business program is to increase opportunities for traditionally under-utilized businesses in MnDOT construction contracts. The program allows for TGB participation goals and preferences on state funded projects.

A certified TGB that bids as a prime may be granted a preference for the purpose of ranking bids; or, a TGB may execute a subcontract with a prime contractor to perform specific functions of a contract, thereby fulfilling the project goal. Certifications of TGB firms are administered by the Minnesota Department of Administration.

## Title VI

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OCR is responsible for shared monitoring and coordination of MnDOT's compliance with USDOT Title VI regulations. This includes the Title VI Implementation Plan, sub-recipient compliance reviews, limited English proficiency activities, outreach, engagement and training.

## Veteran-owned Small Business

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The Veteran-owned Small Business Program creates opportunities for veteran-owned certified small businesses to participate in MnDOT state funded projects. The program assists certified firms bidding as a prime by allowing a preference in the ranking of bids. Project goals are established and the use of certified firms counts towards achievement of the project goal. The U.S. Department of Veteran Affairs and the Minnesota Department of Administration certify firms as veteran-owned small businesses.

The following OCR legislative report is focused on the DBE, OJT and TGB programs as statutorily required.

# Executive Summary

## Purpose and Scope of the Report

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This Highway Construction Training and Disadvantaged Business Enterprise Program report is prepared in response to [Minn. Stat. 174.03, Subd.10 and 11](#). A report is required by Feb. 1 of each odd-numbered year. This report covers 2015 and 2016. It is current as of February 2017.

Note that federally funded programs have a fiscal year that runs from Oct. 1 through Sept. 30. State funded programs have a fiscal year that runs from July 1 through June 30.

## Programs

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The DBE and Workforce Collaborative operates as an advisory group to MnDOT regarding the DBE program and workforce initiatives. The role of the collaborative was enacted in the 2010 legislative session, [Minn. Stat. 174.186](#). The collaborative is comprised of numerous transportation and workforce stakeholder groups that provide recommendations for improvement of MnDOT civil rights programs.

The DBE and Workforce Collaborative established a governance structure that includes a leadership committee comprised of representatives of the various stakeholder groups. The leadership committee is responsible for setting the group's agenda, developing work plans and decision-making on behalf of the larger group. This work is currently underway. MnDOT provides a third-party facilitator who works with the group and facilitates meetings. The DBE and Workforce Collaborative provides annual recommendations for program improvements in small business and workforce initiatives impacting MnDOT civil rights programs.

### Highway Construction Training Program

The Federal Highway Administration regulations for the On-the-Job Training Program require MnDOT to establish apprenticeship and training programs that assist women, minorities and disadvantaged persons in gaining entry-level positions in the construction trades. This effort helps those workers acquire the necessary skills to reach journey-level status, ensuring the availability of a competent workforce in highway heavy construction. The program addresses the historical underrepresentation of these groups in highway construction skilled crafts.

### Disadvantaged Business Enterprise

The objective of the DBE program is to increase the participation of women and minority-owned small businesses in the award and performance of federally funded contracts. The program prohibits discrimination and requires MnDOT to take specific steps to ensure these small businesses have access to contract opportunities.

As a recipient of federal funds from the USDOT, MnDOT is required to administer the DBE Program on federally funded projects. Federal rules in 49 Code of Federal Regulations, Part 26 govern the DBE program and requires MnDOT to establish goals for the participation of DBE firms.

## Results

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This report outlines activities to develop, conduct and administer highway construction job training and DBE small business programs during the period of 2015 and 2016.

- MnDOT's annual FHWA-approved On-the-Job Training goal was 100 trainees in 2015 and 150 trainees in 2016. The actual number of minority and women OJT trainees that participated in the program was 254 in federal fiscal year 2015 and 177 in FFY 2016.
- MnDOT's statewide DBE participation on federally funded transportation projects was 7.37 percent for FFY 2015 and 8.5 percent for FFY 2016, compared to a statewide annual goal of 10.3 percent for FFY 2015 and 11.7 percent for FFY 2016.

## Looking Forward

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For the next biennium, MnDOT's civil rights programs will continue to enhance strategies proven successful to grow the OJT opportunities. The agency will work to gain more participants within the program as well as strengthen relationships between contractors and training programs. This will ensure OJT trainees have the greatest opportunity to achieve journey-level status.

The DBE program continues to show impressive strides in overall performance despite falling short of the statewide goal. MnDOT remains committed to continuous improvement in these efforts and the agency has increased training to develop staff, expanded resources for small businesses and maintained its relationship with the DBE and Workforce Collaborative to make programmatic enhancements to better serve Minnesota.

# Highway Construction Training

## Purpose of the Program

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The FHWA’s OJT program addresses the historical underrepresentation of women, minorities and disadvantaged people employed in highway construction skilled trades. FHWA rules in 23 CFR, Part 230 require MnDOT to establish apprenticeship and training programs targeting women, minorities and disadvantaged people to help them gain entry-level positions in the construction trades and acquire the necessary skills to reach journey-level status. The OJT program aims to increase the size and competency of Minnesota’s highway heavy construction workforce.

The OJT program requires MnDOT contracts to include a provision specifying the number of trainees assigned to various highway construction skilled trades. If a contractor does not attain the contract-specific trainee goal for the project, the contractor must demonstrate good-faith efforts to recruit and train OJT trainees.

### Project-Specific OJT Goals

MnDOT’s Office of Civil Rights is responsible for setting OJT goals on federally funded projects. OJT trainee goals are set based on:

- Availability of minorities and women in the project vicinity
- Potential for effective training
- Contract duration
- Contract cost
- Total anticipated workforce
- Geographical location
- Type of work to be performed on the contract
- Need for journey-level workers in the area and by type of trade
- Statewide goal
- Ratio of journey-level workers to trainee

### OJT Alternative Program

In addition to the project-based OJT program, MnDOT offers an OJT Alternative Program. The OJT Alternative Program removes project-specific goals and sets contractor-specific goals, which are assigned for the entire construction season.

Table 2: OJT Alternative Program Participant Companies

2015	2016
Ames Construction, Inc.	Ames Construction, Inc.
C.S. McCrossan Construction, Inc.	Lunda Construction Company
Lunda Construction Company	The Mathiowetz Construction Co.
The Mathiowetz Construction Co.	Shafer Contracting Co., Inc.
Shafer Contracting Co., Inc.	
Knife River Corporation – North Central	
Forest Lake Contracting, Inc.	

## 2015 and 2016 OJT Data

The breakdown of OJT trainees by trade, gender and minority status is provided in Table 3 and Table 4.

Table 3: On-the-Job Training Program: FFY 2015

OJT Job Categories	Number of Trainees			
	Non-Minority Male	Non-Minority Female	Minority Male	Minority Female
Carpenter	0	0	17	1
Cement Mason	0	0	4	0
Electrician	0	0	2	1
Iron Worker	0	2	13	1
Laborer	0	28	83	22
Mechanic	0	0	0	0
Operating Engineer	0	26	8	2
Pile Driver	0	3	23	2
Pipelayer	0	0	0	0
Truck Driver	0	5	10	1
<b>Total</b>	<b>0</b>	<b>64</b>	<b>160</b>	<b>30</b>
<b>Percentage of Total</b>	<b>0.00%</b>	<b>25.20%</b>	<b>62.99%</b>	<b>11.81%</b>

2015 Annual OJT Placement Goal	Actual 2015 OJT Placements
100 OJT placements	254 OJT Placements

Table 4: On-the-Job Training Program: FFY 2016

OJT Job Categories	Number of Trainees			
	Non-Minority Male	Non-Minority Female	Minority Male	Minority Female
Carpenter	0	3	16	2
Cement Mason	0	0	7	2
Electrician	0	0	0	0
Iron Worker	0	1	6	0
Laborer	0	18	55	9
Mechanic	0	0	0	0
Operating Engineer	0	15	15	4
Pile Driver	0	2	10	0
Pipelayer	0	0	0	0
Truck Driver	0	4	7	1
<b>Total</b>	<b>0</b>	<b>43</b>	<b>116</b>	<b>18</b>
<b>Percentage of Total</b>	<b>0.00%</b>	<b>24.29%</b>	<b>65.54%</b>	<b>10.17%</b>

2016 Annual OJT Placement Goal	Actual 2016 OJT Placements
150 OJT placements	177 OJT Placements

The success rate in placing OJT trainees on a federally funded project with OJT goals depends on several factors, including the project location, type of highway construction work, availability of qualified OJT trainees, willingness of OJT trainees to travel and the time of year in which a project is let. Typically, a project let and awarded prior to the start of the construction season gives both the contractor and employment referral sources, including community-based organizations, enough time to place OJT trainees. This includes sufficient time to recruit and advertise open positions, and provides more opportunity for the community-based organization to recruit, orient and properly train an applicant prior to placement.

### Highway Construction Training and Skill Improvement Programs

The purpose of MnDOT’s On-the-Job Training Supportive Services Program is to develop projects and initiatives that will enhance the state’s administration of the federal OJT program and to increase the pool of qualified minorities, women and disadvantaged individuals in the highway heavy construction trades. The operation of the OJT/SS program is funded primarily with federal dollars. The types of activities these funds can be used for include: recruitment, skills training, job placement, child care, outreach, transportation to work sites, post-graduation follow-up, job site mentoring, pre-employment assessment, mediation, and pre-and post-employment counseling.

The program was redesigned in 2016 after completion of a needs assessment survey. Feedback was received from program participants, administrators and the construction trades industry. The training is comprised of two components: job skills success and hands-on technical training. Participants are also provided assistance with obtaining employment and maintaining a career in the construction trades. The budget for OJT Supportive Services Program is categorized as:

### *1. Construction Trades Highway Heavy Training*

MnDOT OCR facilitates specific trades training designed to meet the requirements and expectations of contractors that are awarded road construction projects by MnDOT. Highway heavy trades include, but are not limited to the following trades: equipment operators, laborers, carpenters, truck drivers, iron workers and cement masons.

MnDOT OCR contracts with the Minnesota Department of Employment and Economic Development, Merrick Community Services, the Minneapolis Urban League, YWCA of St. Paul and Summit Academy Opportunities Industrialization Center to provide entry-level highway heavy construction training to new trainees. These partner agencies work with trade unions and educational institutions to train and place women, minorities and disadvantaged individuals. Case management and supportive services such as child care, transportation assistance and tool kits are provided to support graduates during their initial period of highway heavy employment. Types of supportive services and training programs for OJT trainees include:

- DEED-delivered training in Mankato, Owatonna, St. Paul, Duluth and Bemidji in cooperation with Goodwill Easter Seals. The training curriculum includes skills for entry level general laborers, such as introduction to OSHA, fall protection, electrical, personal protective and lifesaving equipment, ladders and materials handling.
- Merrick's training includes basics in cement masonry, painting, bricklaying, tile laying and a life skills component; and, there is the option of Commercial Driver's License training through Century College.
- The Minneapolis Urban League provides training in the general labor category in partnership with the Construction Craft Laborers Apprenticeship Program in Lino Lakes.
- The YWCA of St. Paul partners with Interstate Trucking School for CDL training.
- Summit Academy OIC provides carpentry and heavy equipment operator training.

Twenty-three graduates of these programs were placed on highway heavy projects during the reporting period. Many more participants were trained but opted to work in non-highway heavy construction employment.

### *2. Tribal Construction Trades Highway Heavy Training*

OCR also provides highway heavy trades training specifically targeted towards federally recognized tribes and tribal colleges/universities in Minnesota. MnDOT continues to work with tribal governments to identify additional trades training resources for tribal entities in the state. The targeted training is important to improve and strengthen the relationship with sovereign governments, and the recognition that Native Americans are the primary group in greater Minnesota that remains underserved in MnDOT's programs and activities.

During the reporting period OCR contracted with the following tribal partners to build a more diverse construction labor pool:

- Cement Masons Plasterers training: a program to train members of Fond du Lac, Ho Chunk, Leech Lake, Bois Forte, Mille Lacs, Red Lake and White Earth members in cement masonry. The training was provided by the Local 633 Training Center. Fourteen graduates were placed on highway heavy projects.
- Commercial Driver’s License training: a program to train members of Leech Lake, Red Lake, White Earth, Bois Forte, Fond du Lac and Mille Lacs Reservation to obtain a Class B CDL. The training was provided by Fond du Lac Tribal & Community College. One graduate was placed on highway heavy projects.

### *3. National Summer Training Institute*

The NSTI is an education initiative established by the United States Department of Transportation and the FHWA to create awareness and stimulate interest among middle and high school-age participants, to take maximum advantage of the career opportunities that exist in the transportation industry. The program also seeks to attract a broad and diverse selection of bright minds, and acquaint those minds with the various aspects of the transportation industry to increase the number of participants who choose a career in the transportation industry. It is the intent of FHWA that state DOTs solicit the participation of Historically Black Colleges and Universities, Tribal Colleges and Universities, and other minority institutions of higher education. MnDOT administers the NSTI on behalf of FHWA in Minnesota.

MnDOT’s OCR contracted with Red Lake Tribal College and the Center for Transportation Studies at the University of Minnesota to host the NSTI program.

- In fiscal year 2015, a total of 44 graduated from the two-week institute.
- In fiscal year 2016, a total of 27 graduated from the two-week institute. Note: Red Lake Tribal College did not host a program in 2016.

### *4. Business Training and Technical Assistance*

MnDOT contracts with third party vendors to build the capacity and technical expertise of certified small businesses. This is done through in-depth, one-on-one business assessments and the development of customized business plans for certified DBE firms. Additional resources and technical assistance are made available through classroom and individual technical training components that increase participant’s technical knowledge. These training classes include the following topics:

- bidding and estimating
- legal aspects
- job-costing
- critical path scheduling
- accounting
- one-on-one technical coaching and development

There are also classroom trainings on topics specific to MnDOT such as contract specifications, prevailing wage, how to submit a claim, how to get products on the state’s approved product list, how to locate resources, how to identify contracting opportunities and do business with MnDOT.

The ultimate goal is to assess small businesses, identify their needs and growth opportunities, and then provide the appropriate tools, resources and technical assistance that work best to connect that business with procurement opportunities and training initiatives in Minnesota.

## Federal Funds Available

MnDOT is permitted to use a portion of its USDOT funding for the purpose of providing job training supportive services to women, minorities and for business development assistance to DBE firms. MnDOT OCR provides these programs statewide with the objective of improving opportunities for women and minorities to participate in MnDOT contracts.

MnDOT uses these supportive services to assist contractors in meeting the goals and objectives of the OJT program and small business development efforts. These programs focus on increasing the effectiveness of construction training programs, the number of opportunities for minorities and women to gain entry into the highway heavy construction industry, recruitment, counseling and remedial training. The funds are used to provide program administration and outreach activities conducted by third parties.

## Program Funding – Current and Future

MnDOT expended \$1.7 million for activities described in this report during the reporting years 2015 and 2016. This amount is less than previously forecasted and less than one-half of 1 percent of the federal appropriations. MnDOT forecasts full use of program funding; however, actual expenditures are dependent upon program development, contract execution, commencement of work and other similar factors.

OCR leadership works to fully leverage the federal funds allocated to the supportive services programs for workforce development, job training, DBE capacity building, small business training, outreach, monitoring and enforcement related to highway construction. Table 5 displays the available funding for the current years, actual spending and the planned spending in years 2017-19.

Although OCR did not fully maximize the allocated funds in 2015 and 2016, OCR continues to work with stakeholder groups to develop a comprehensive supportive services plan that will result in more training opportunities better tailored to meet the needs of the program participants.

Table 5: Available as a Percentage of Federal Monies (in millions of dollars)

Fund	Current 2015	Current 2016	Enacted 2017	Forecast 2018	Forecast 2019
USDOT Federal Highway Aid	\$482.2	\$392.9	\$395.1	\$395.1	\$395.1
½ of 1% of the Federal Funds*	\$2.4	\$2.0	\$2.0	\$2.0	\$2.0
<b>Amount Leveraged</b>	<b>\$1.0</b>	<b>\$0.7</b>	<b>\$1.7</b>	<b>\$1.7</b>	<b>\$1.7</b>

Table 6: Fiscal Year 2015 Program Expenditures

Program Type	Program Description	Actual Expenditure
Construction Trades Highway Heavy Training	Highway heavy construction training to women and minorities for work within the construction industry	\$504,044
Tribal Construction Trades Highway Heavy Training	Highway heavy construction training to Tribal women and minorities for work within the construction industry	\$86,354
National Summer Training Institute	Summer program to introduce high school juniors and seniors to careers in transportation	\$26,348
Business Training and Technical Assistance	Certified DBE training courses including intensive bidding & estimating, accounting & marketing; working capital loan fund administration, and research & analysis for the 3-year statewide DBE goal	\$352,387
	<b>Total Expenditure</b>	<b>\$969,133</b>

Table 7: Fiscal Year 2016 Program Expenditures

Program Type	Program Description	Actual Expenditure
Construction Trades Highway Heavy Training	Highway heavy construction training to women and minorities for work within the construction industry	\$182,481
Tribal Construction Trades Highway Heavy Training	Highway heavy construction training to Tribal women and minorities for work within the construction industry	\$230,986
National Summer Training Institute	Summer program to introduce high school juniors and seniors to careers in transportation	\$52,349
Business Training and Technical Assistance	Certified DBE training courses including intensive bidding & estimating, accounting & marketing; working capital loan fund administration, and research & analysis for the 3-year statewide DBE goal	\$260,314
	<b>Total Expenditure</b>	<b>\$762,129</b>

# Disadvantaged Business Enterprise Program

## Description

The Disadvantaged Business Enterprise program prohibits the exclusion of any person from participation in the award and performance of any contract on the basis of race, color, sex or national origin. The program seeks to create a level playing field, resulting in increased participation by woman and minority-owned business enterprises in state and local procurement. The state transportation agency is required to apply the DBE program according to the rules and guidelines established in the 49 CFR, Part 26.

The main objectives of the DBE program are:

- Ensure DBEs can compete fairly for federally funded transportation-related projects
- Ensure that only eligible firms participate as DBEs
- Assist DBE firms in competing outside the DBE program

As a recipient of USDOT financial assistance, MnDOT is required to establish goals for the participation of DBEs and certify their eligibility to participate in federally funded contracts. The federal DBE regulations require MnDOT to establish statewide DBE goals and contract-specific DBE subcontracting goals. Goals are expressed as the percentage of the estimated contract value that is targeted for performance by DBE firms. Goals operate to ensure these firms have an opportunity to participate in federally funded procurements and projects.

## Definition and Requirements of DBE Participation

DBE firms are for-profit small businesses in which socially and economically disadvantaged individuals own at least a 51 percent interest and have control and management of daily business operations.

To participate in the DBE program, a small business owned and controlled by socially and economically disadvantaged individuals must first receive DBE certification from a state certifying agency. In Minnesota, DBE certification is administered by the Minnesota Unified Certification Program, which is comprised of MnDOT, the Metropolitan Council, the Metropolitan Airports Commission and the City of Minneapolis.

An eligible DBE owner must have a personal net worth that does not exceed \$1.32 million. The business must also meet federal small business size criteria and have average annual gross receipts that do not exceed \$23.98 million.

## Annual Statewide Goal and Attainment Rate

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The federal DBE regulations require state and local transportation agencies that receive USDOT financial assistance to establish annual DBE goals and contract-specific DBE subcontracting goals. MnDOT's statewide DBE goal for overall participation of DBE firms operating as a prime or as subcontractors is 11.7 percent for federal fiscal year 2016-2018. The commitment rate achieved was 7.37 percent for FFY 2015 with a 10.3 percent goal; and, 8.5 percent for FFY 2016 with an 11.7 percent goal.

## Goal Methodology and Public Participation

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The overall statewide DBE goal of 11.7 percent for FFY 2016-2018 was established using the factors described in 49 CFR, Part 26.45. In broad terms, this was a two-step process:

- Evaluate the availability of DBEs
- Calculate the appropriate adjustment to account for other relevant information

In establishing the goal, the agency was required to take public comments and provide an opportunity for certified DBEs and non-DBE firms to participate and comment.

MnDOT retained the University of Minnesota, Roy Wilkins Center for Human Relations and Social Justice, to conduct an availability study and propose a methodology to set the annual DBE goal. Availability rates were computed from multiple data sets and were appropriately weighted to calculate the base goal.

MnDOT OCR conducted four public meetings and took comments on the proposed goal. The public meetings were held in Duluth, Arden Hills, Rochester and in the Twin Cities. Summit Academy hosted the event for the Collaborative Group, which is made up of contractors (prime and sub), community members and MnDOT personnel.

Table 8: Annual Commitment Goals and Actual Commitment Achieved

Federal Fiscal Year	Statement DBE Commitment Goal	Commitment Rate Achieved
2015	10.30%	7.37%
2016	11.70%	8.50%

The “MnDOT Methodology for Computing Proposed FHWA DBE Goals FFY 2016-2018” is provided in Appendix C.

## Good-faith Efforts to Meet the Annual Goal

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As a recipient of FHWA funds, MnDOT is required to help increase DBE participation in federally funded contracts. MnDOT pursued a number of strategies during the reporting period to increase opportunities for DBEs to participate.

MnDOT worked to improve outreach opportunities for DBEs by alerting them to pre-letting meetings and other networking opportunities, so they could raise their profiles among prime contractors and gain time to plan and prepare for lettings.

DBE business development services, such as the mentor-protégé program, working capital loan fund, one-on-one estimating and bidding assistance, and business development classes, were conducted during the reporting period to help existing DBEs increase their ability to compete for federally funded projects.

- Nine mentor-protégé arrangements were active during the reporting period. A mentor-protégé arrangement exists when an experienced company or individual (mentor) provides assistance and training to a certified DBE (protégé). The arrangement can range from technical or management

assistance to the creation of a new, jointly owned firm. Equipment use, bonding and record keeping are examples of common types of assistance that a mentor may provide a protégé. Applications for the mentor-protégé program are reviewed and approved by the Minnesota Unified Certification Program.

- MnDOT has authority for a Working Capital Loan Fund. MnDOT contracts with a third party administrator to manage the fund. The purpose of the fund is to offer working capital loans to eligible DBEs to provide financial assistance while working on MnDOT projects. The contract with the previous third-party administrator ended, and MnDOT is seeking a new administrator for the available funds.
- Over the course of the previous administration of the Working Capital Loan Fund, which began in 2010 and ended at the close of FY2015, the program served 64 applicants by providing financing for firms seeking working capital, project mobilization, payroll, materials and small equipment rentals. MnDOT is in the process of finding a new administrator for the fund so that this successful program will continue to benefit DBE firms in the future.
- The FY2018-19 Governor's Budget recommendation for MnDOT includes a one-time increase of \$1.5 million from the General Fund for the Working Capital Loan Fund Program. This increase would support the goals of equity and reduce disparities in contracting by providing an additional funding resource for small businesses to acquire the necessary capital to participate on MnDOT projects.
- DBE representatives attended 19 business development workshops during the reporting period. Training topics included bidding and estimating, business planning, accounting and sales. In 2015, 16 DBE firms received one-on-one bidding and estimating assistance from IMO Consulting Group, a contractor to MnDOT.
- OCR continues to identify additional opportunities to increase DBE participation through professional/technical and other procurement methods.

## Overconcentration of Disadvantaged Business Enterprises

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MnDOT's DBE program is committed to ensuring that DBEs have the opportunity to participate in the performance of contracts and subcontracts financed in whole or in part with federal funds. Federal regulations address the issue of overconcentration in 49 CFR, Part 26.33.

If MnDOT determines that DBE firms are overconcentrated within a certain type or scope of work, which unduly burdens the opportunity of non-DBE firms to participate within the same work type, MnDOT must devise appropriate measures to address this overconcentration. Measures may include the use of incentives, technical assistance, business development programs, mentor protégé programs and other appropriate measures designed to assist DBEs in performing work outside of the specific field in which it was determined that non-DBEs are unduly burdened.

MnDOT may also consider varying its use of contract goals, remaining consistent with federal regulations, to ensure that non-DBEs are not unfairly prevented from competing for subcontracts. Proposed measures to address overconcentration and the determination that such a need exists must be approved by the FHWA. Once approved, the measures become a part of the DBE program.

MnDOT has not determined that overconcentration exists in any work types or scopes of highway heavy work.

## Contract-Specific DBE Subcontracting Goals

In order to be awarded a federally funded contract, bidders must commit to or make good-faith efforts to meet contract-specific DBE subcontracting goals. Contract-specific goals are the value of DBE work stated as a percentage of the total contract value. In Minnesota, federally funded construction projects are assigned a DBE project goal by MnDOT OCR. Once OCR establishes a contract specific goal, contractors must commit to a percentage of DBE participation at the time of bid. For example, a commitment may state that “6 percent of the bid value is to be performed by DBEs.”

- In 2015, OCR set contract-specific goals on 178<sup>1</sup> contracts. Of these, prime contractors met or exceeded the goal on 170 contracts.
- In 2016, OCR set contract-specific goals on 151 contracts. Of these, prime contractors met or exceeded the goal on 140 contracts.

Table 9: MnDOT Projects with DBE Goals

GOAL	Year 2015	Year 2016
Contracts cleared (race conscious goal)	178	151
Race/gender neutral contracts (no goal)	149	112
Good faith efforts made	8	11
Met and/or exceeded the goal	170	140

When a low bidder does not commit to meeting a DBE project goal, the low bidder must demonstrate that it made good-faith efforts to meet the goal. The program rules require the bidder to meet this standard in order to be awarded a federally funded contract. MnDOT is responsible for evaluating a contractor’s good-faith efforts. In 2015, the agency evaluated good-faith efforts on eight contracts; in 2016, it evaluated good-faith efforts on 11 contracts.

A good-faith effort evaluation is a determination of whether the bidder took all necessary and reasonable steps to achieve the DBE goal that, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if the bidder was not fully successful. MnDOT may consider additional factors such as the commitment of other bidders to meet the established goal.

During the reporting period, six contractors were evaluated by OCR as not making good-faith efforts. After completing the administrative due process of reconsideration, a majority of the contractors were denied the contract award because they did not meet the good-faith efforts standard.

Race/gender neutral contracts are federally funded contracts that do not have an assigned DBE goal. Although MnDOT OCR does not set a goal on these contracts, MnDOT OCR monitors these projects and the DBE participation still counts towards the statewide achievement.

<sup>1</sup> Many factors determine how many projects are eligible to have a goal for DBE participation and therefore the number of contracts with set goals varies year to year.

## Contracts with Targeted Groups (section 16C.16) State Funded Projects

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The Targeted Group Business Program is part of MnDOT's overall initiative to increase small business participation on state-funded highway construction projects. The TGB program provides certified targeted group businesses increased access to state contracting opportunities through:

- Bid preference for TGBs bidding as prime contractors
- Participation goals for TGB subcontractors

The TGB program is solely for state funded projects. The TGB program has no statewide goal.

Eligibility requirements for the TGB program are established by the Minnesota Department of Administration in [Minn. Stat. 16C.16](#) and [Minn. Rules Parts 1230.1600-1820](#). The MnDOT TGB program is authorized in [Minn. Stat. 161.321](#).

The TGB program is only available to Minnesota-based small businesses that meet the eligibility requirements. Eligible participants must be certified as a TGB by the Minnesota Department of Administration. To qualify, the business must be 51 percent owned and operated by women, persons with a substantial physical disability, or specific minorities as determined by the Commissioner of Administration.

Under this program, a TGB firm that bids as prime contractor and requests a preference may receive a reduction of up to 6 percent of the amount of their bid for the first \$1 million, not to exceed \$60,000. This preference amount is used solely for the purpose of evaluating and ranking the low bid.

During the 2015 fiscal year, there were 127 state funded MnDOT projects evaluated for a TGB goal requirement. A list of 2015 contracts with TGB goals is provided in Appendix A.

- 51 projects had a goal of zero percent because they were identified as having no significant subcontracting opportunities for TGB firms.
- Despite a goal of zero, TGB firms participated on 13 of these projects.
- 76 projects had a TGB subcontractor goal above zero.
- 68 projects with a goal greater than zero met or exceeded goals.
- 148 subcontracts with a total value of \$15,832,319 were awarded to TGB firms.

During the 2016 fiscal year, there were 183 state funded MnDOT projects evaluated for a TGB goal requirement. A list of 2016 contracts with TGB goals is provided in Appendix B.

- 107 projects had a goal of zero percent because they were identified as having no significant subcontracting opportunities for TGB firms.
- Despite a goal of zero, TGB firms participated on 17 of these projects.
- 76 projects had a TGB subcontractor goal above zero.
- 61 projects with a goal greater than zero met or exceeded goals.
- 91 subcontracts with a total value of \$16,867,494 were awarded to TGB firms.

## Conclusion

MnDOT's OCR civil rights programs continue to improve opportunities in employment and small business contracting for women and minorities in Minnesota's highway heavy construction industry. MnDOT's stakeholder engagement through the DBE and Workforce Collaborative will continue to serve a role in the ongoing effort to make programmatic improvements and increase the effectiveness of MnDOT's civil rights programs. By developing relationships in the contracting community and enhancing on-the-job training and other business development programs to meet the needs of the emerging workforce, MnDOT remains committed to using effective strategies to achieve the objectives of these programs.

## Appendix A: 2015 TGB Contract Awards

The following information complies with the legislative request in [Minn. Stat. 174.03, subd. 11 \(6\)](#). The following lists the state-funded contracts with TGB goals by award date and district.

Date Awarded	State Project Number	District	Awarded Amount	Commitment Amount*	Set Goal	Achieved
7/7/2014	2748-63	M	\$2,158,305.76	\$57,934.00	2.40%	2.68%
7/15/2014	1480-166	4	\$288,591.12	\$3,997.72	5.90%	1.39%
7/15/2014	2710-2440B	M	\$2,414,620.00	\$65,755.26	2.70%	2.72%
7/15/2014	4712-18	8	\$2,357,433.27	\$73,124.10	1.40%	3.12%
7/18/2014	8827-225	7	\$989,134.00	\$7,672.25	6.20%	0.78%
7/29/2014	0303-64	4	\$7,918,423.51	\$120,013.75	1.50%	1.52%
8/7/2014	2772-99	M	\$615,068.75	\$48,847.80	7.80%	11.63%
8/7/2014	2782-334	M	\$6,799,033.01	\$293,385.96	4.30%	4.32%
8/14/2014	8826-143	6	\$947,785.00	\$28,800.00	2.80%	3.04%
8/18/2014	2772-114	M	\$566,151.00	\$24,200.00	4.00%	4.27%
8/19/2014	1902-69	M	\$769,661.00	\$0.00	0.00%	1.49%
8/19/2014	6286-59	M	\$99,644.00	\$0.00	0.00%	0.00%
8/27/2014	0304-36	4	\$25,344.00	\$0.00	0.00%	0.00%
8/27/2014	2704-37	M	\$109,990.00	\$0.00	0.00%	0.00%
9/5/2014	1013-93	M	\$185,946.50	\$0.00	0.00%	0.00%
9/5/2014	6285-148	M	\$206,915.00	\$0.00	0.00%	0.00%
9/30/2014	1102-62	2	\$13,311,647.93	\$0.00	0.00%	0.25%
10/1/2014	3001-26	3	\$224,570.50	\$0.00	0.00%	0.00%
10/6/2014	8825-497	M	\$429,888.00	\$53,861.25	12.40%	12.53%
10/6/2014	1810-105	3	\$62,495.00	\$0.00	0.00%	0.00%
10/6/2014	1982-171	M	\$536,531.65	\$0.00	0.00%	0.00%
10/6/2014	2782-315	M	\$226,934.00	\$0.00	0.00%	0.00%
10/6/2014	2782-341	M	\$353,765.36	\$0.00	0.00%	0.00%
10/6/2014	2785-338	M	\$559,848.32	\$0.00	0.00%	6.52%
10/10/2014	4305-89	8	\$913,917.27	\$12,049.05	1.00%	1.32%
10/20/2014	6982-314	1	\$623,625.40	\$0.00	0.00%	0.50%
10/30/2014	6222-166	M	\$169,698.60	\$0.00	0.00%	5.76%
10/30/2014	A8501-60	6	\$252,400.00	\$0.00	0.00%	0.00%
11/3/2014	6508-67	8	\$80,776.25	\$0.00	0.00%	0.00%
11/7/2014	8214-165	M	\$1,582,632.73	\$1,522,181.53	2.30%	96.18%

Date Awarded	State Project Number	District	Awarded Amount	Commitment Amount*	Set Goal	Achieved
11/12/2014	8825-383	M	\$605,670.00	\$69,000.00	2.50%	11.39%
11/26/2014	A8501-63	6	\$275,000.00	\$0.00	0.00%	0.00%
12/4/2014	8823-295	3	\$173,808.00	\$0.00	0.00%	0.00%
12/15/2014	2804-35	6	\$249,417.15	\$0.00	0.00%	0.00%
12/19/2014	8821-250	1	\$2,131,600.00	\$21,440.40	1.90%	6.51%
12/24/2014	2102-66	4	\$54,650.00	\$0.00	0.00%	0.00%
12/24/2014	2804-35	6	\$249,417.15	\$0.00	0.00%	0.00%
12/24/2014	6282-9377C	M	\$106,960.00	\$0.00	0.00%	0.00%
12/24/2014	6284-170	M	\$1,619,653.63	\$0.00	0.00%	0.16%
12/30/2014	5409-30	2	\$2,376,404.86	\$285,677.70	0.00%	12.39%
12/31/2014	8825-391	M	\$2,182,967.00	\$1,363,379.43	10.00%	5.89%
1/5/2015	6201-86	M	\$13,803,829.74	\$193,668.50	1.00%	3.71%
1/5/2015	6211-102	M	\$574,004.10	\$35,680.00	3.20%	6.22%
1/8/2015	2723-123	M	\$900,330.40	\$44,043.98	4.50%	4.89%
1/9/2015	8103-113	7	\$14,668,000.00	\$620,500.00	3.90%	4.23%
1/12/2015	2722-82	M	\$342,737.00	\$20,900.00	6.10%	12.66%
1/16/2015	06832		\$875,384.28	\$0.00	0.00%	0.00%
1/23/2015	06835		\$329,841.95	\$0.00	0.00%	0.00%
2/17/2015	5410-22	2	\$760,232.39	\$0.00	0.00%	0.00%
2/18/2015	8826-167	6	\$180,764.00	\$30,694.52	15.50%	16.98%
2/19/2015	8826-172	6	\$320,142.50	\$25,750.00	6.70%	8.04%
2/19/2015	8826-173	6	\$342,457.92	\$15,500.00	2.40%	4.53%
2/20/2015	6303-38	2	\$1,113,652.00	\$0.00	2.30%	0.00%
3/23/2015	4904-43	3	\$368,036.00	\$35,956.00	9.40%	13.02%
3/23/2015	5508-122	6	\$243,583.00	\$15,053.61	3.00%	6.18%
3/25/2015	06785		\$372,877.88	\$53,600.00	5.00%	14.37%
3/25/2015	7010-100	M	\$1,181,538.20	\$230,490.90	2.50%	19.90%
3/25/2015	0202-93	M	\$165,202.83	\$0.00	0.00%	0.00%
3/26/2015	8823-296	3	\$171,342.12	\$77,638.57	4.40%	46.48%
3/27/2015	2313-22	6	\$3,605,812.19	\$160,402.05	4.50%	4.50%
3/27/2015	8408-44	4	\$9,708,598.74	\$202,791.27	2.50%	2.09%
3/30/2015	A0001-24	M	\$502,850.00	\$0.00	0.00%	0.00%
3/30/2015	A8501-65	6	\$394,000.00	\$0.00	0.00%	0.00%
4/1/2015	06840		\$381,696.05	\$68,425.00	5.90%	17.93%

Date Awarded	State Project Number	District	Awarded Amount	Commitment Amount*	Set Goal	Achieved
4/1/2015	1602-48	1	\$2,624,548.45	\$74,022.24	2.70%	2.82%
4/2/2015	8827-241	7	\$512,366.00	\$380,699.19	2.90%	74.30%
4/7/2015	7304-17	8	\$68,943.00	\$0.00	0.00%	0.00%
4/7/2015	8827-244	7	\$41,325.00	\$0.00	0.00%	29.11%
4/9/2015	1002-101	M	\$10,606,953.54	\$337,837.00	2.90%	3.44%
4/9/2015	8825-500	M	\$1,691,780.30	\$99,500.00	1.30%	5.88%
4/10/2015	7502-29	4	\$2,037,519.90	\$71,645.00	3.00%	4.32%
4/17/2015	8824-113	4	\$909,581.90	\$22,401.62	4.50%	2.67%
4/17/2015	8822-180	2	\$110,000.00	\$0.00	0.00%	0.00%
4/20/2015	8822-179	2	\$1,353,994.72	\$0.00	0.00%	89.11%
4/20/2015	6283-245	M	\$367,769.00	\$31,117.15	1.00%	8.46%
4/20/2015	7205-112	7	\$406,677.25	\$22,430.85	4.80%	5.52%
4/21/2015	6215-99	M	\$12,908,609.67	\$157,800.00	1.00%	1.22%
4/21/2015	7401-41	6	\$3,183,254.52	\$260,923.49	3.20%	8.29%
4/24/2015	2783-138	M	\$7,966,998.00	\$161,585.00	1.00%	2.03%
4/27/2015	1902-55	M	\$2,982,975.00	\$48,890.00	1.50%	1.78%
4/27/2015	7301-35	3	\$1,231,226.80	\$170,493.64	3.20%	16.42%
4/27/2015	8825-529	M	\$1,485,066.45	\$132,000.00	4.50%	8.89%
4/28/2015	2304-53	6	\$1,174,216.42	\$48,269.18	4.10%	4.54%
4/30/2015	8825-540	M	\$291,855.95	\$0.00	0.00%	0.00%
5/8/2015	2780-91	M	\$540,127.68	\$43,244.40	5.60%	8.09%
5/11/2015	2714-142	M	\$1,675,641.36	\$90,801.41	5.40%	10.03%
5/11/2015	8826-146	6	\$1,186,154.90	\$38,927.50	2.90%	3.28%
5/12/2015	8826-168	6	\$1,991,289.75	\$295,415.60	3.00%	14.84%
5/12/2015	8827-243	7	\$1,190,118.00	\$111,141.05	8.90%	9.34%
5/13/2015	8825-492	M	\$417,342.77	\$0.00	0.00%	0.00%
5/14/2015	8825-536	M	\$4,428,596.06	\$452,281.16	10.20%	10.21%
5/15/2015	8828-174	8	\$1,546,110.42	\$40,000.00	6.10%	2.59%
5/15/2015	8816-2314	8	\$257,528.30	\$0.00	0.00%	0.00%
5/15/2015	8816-2315	7	\$253,892.10	\$0.00	0.00%	0.00%
5/15/2015	8816-2316	6	\$236,183.70	\$0.00	0.00%	0.00%
5/18/2015	8824-122	4	\$1,304,375.62	\$994,410.90	2.10%	76.24%
5/18/2015	8822-178	2	\$1,339,259.08	\$25,500.00	1.90%	1.90%
5/18/2015	8824-130	4	\$1,009,228.12	\$136,100.00	7.60%	22.03%

Date Awarded	State Project Number	District	Awarded Amount	Commitment Amount*	Set Goal	Achieved
5/21/2015	2102-58	4	\$14,853,262.26	\$733,483.95	4.90%	4.94%
5/28/2015	4706-30	8	\$1,536,824.93	\$67,626.23	4.40%	4.50%
5/28/2015	8825-527	M	\$3,463,830.00	\$1,324,247.68	8.50%	38.23%
5/29/2015	6803-44	2	\$396,633.26	\$0.00	0.00%	0.00%
5/29/2015	8821-263	1	\$2,961,196.68	\$203,377.45	6.80%	6.87%
5/29/2015	8823-301	3	\$1,140,961.15	\$51,627.78	4.50%	4.54%
6/1/2015	4210-51	8	\$680,303.52	\$23,400.00	2.50%	4.45%
6/2/2015	00619		\$533,058.83	\$0.00	0.00%	0.00%
6/2/2015	1008-90	M	\$92,740.00	\$0.00	0.00%	3.23%
6/2/2015	5380-142	7	\$292,977.00	\$0.00	0.00%	0.00%
6/2/2015	6604-15	6	\$1,439,676.45	\$122,904.40	1.50%	8.54%
6/2/2015	8821-269	1	\$292,646.00	\$0.00	0.00%	0.00%
6/3/2015	8825-532	M	\$389,504.47	\$13,553.35	1.90%	3.48%
6/8/2015	5203-104	7	\$31,659,659.79	\$1,404,708.95	4.20%	4.63%
6/9/2015	1982-179	M	\$1,783,886.65	\$61,051.81	3.40%	8.98%
6/9/2015	2789-148	M	\$79,531.00	\$0.00	0.00%	0.00%
6/18/2015	8824-127	4	\$728,010.40	\$36,583.78	5.00%	5.03%
6/19/2015	1110-12	3	\$617,887.20	\$0.00	0.00%	0.00%
6/22/2015	1307-35	M	\$471,215.00	\$51,634.20	4.40%	10.96%
6/22/2015	2480-105	6	\$379,775.00	\$13,995.76	3.70%	3.69%
6/22/2015	2735-198	M	\$865,495.25	\$58,117.81	4.80%	7.58%
6/22/2015	4012-40	7	\$4,434,065.55	\$295,880.46	4.30%	7.27%
6/22/2015	4304-94	8	\$269,843.01	\$0.00	0.00%	0.00%
6/22/2015	8825-533	M	\$4,547,460.00	\$565,907.57	8.70%	12.44%
6/23/2015	1910-47	M	\$356,377.85	\$0.00	0.00%	13.18%
6/23/2015	5401-31	2	\$2,138,671.38	\$0.00	0.00%	0.32%
6/23/2015	6227-76	M	\$2,212,654.10	\$362,791.90	3.50%	16.40%
6/29/2015	0502-110	3	\$3,060,134.83	\$0.00	0.00%	4.72%
6/29/2015	6280-379	M	\$2,930,314.65	\$311,575.00	3.60%	10.63%

*\*Commitment amounts are subcontracts to TGB firms at the time of award.*

*Highlighted data indicates that the set goal was achieved. Those projects with no set goal, 0.00%, were not highlighted unless 0.00% was exceeded.*

## Appendix B: 2016 TGB Contract Awards

The following information complies with the legislative request in [Minn. Stat. 174.03, subd. 11 \(6\)](#). The following lists the state-funded contracts with TGB goals by award date and district.

Date Awarded	State Project Number	District	Awarded Amount	Commitment Amount*	Set Goal	Achieved
7/8/2015	06479		\$9,694,421.00	\$740,872.21	8.20%	7.64%
7/9/2015	1000593		\$371,883.00	\$28,500.00	6.60%	7.66%
7/13/2015	1380-88	M	\$1,123,295.05	\$20,582.64	1.40%	1.83%
7/13/2015	8214-114AK	M	\$1,067,785.00	\$77,159.00	2.40%	7.23%
7/17/2015	1000240		\$6,829,958.05	\$1,557,815.00	22.80%	22.81%
7/24/2015	07513		\$295,000.00	\$0.00	0.00%	0.00%
7/24/2015	07514		\$45,000.00	\$0.00	0.00%	0.00%
7/24/2015	07515		\$160,000.00	\$0.00	0.00%	0.00%
7/24/2015	07516		\$255,000.00	\$0.00	0.00%	0.00%
7/24/2015	07517		\$120,000.00	\$0.00	0.00%	0.00%
7/27/2015	1000655		\$631,985.00	\$0.00	0.00%	0.00%
7/27/2015	8822-177	2	\$1,356,689.00	\$0.00	0.00%	0.00%
7/31/2015	1001210		\$1,500.00	\$0.00	2.00%	0.00%
7/31/2015	07003		\$8,316,081.45	\$400,571.80	5.00%	4.82%
8/3/2015	1000188		\$497,528.84	\$0.00	0.00%	0.00%
8/3/2015	1000710		\$299,081.93	\$0.00	0.00%	0.00%
8/3/2015	0804-116	7	\$195,500.00	\$0.00	0.00%	0.00%
8/3/2015	1981-132	M	\$129,000.00	\$0.00	0.00%	0.00%
8/3/2015	8821-253	1	\$4,142,300.40	\$0.00	0.00%	0.00%
8/4/2015	3116-144	1	\$164,167.37	\$0.00	0.00%	0.00%
8/4/2015	8825-528	M	\$177,400.00	\$0.00	0.00%	0.00%
8/10/2015	1000785		\$320,067.89	\$0.00	0.00%	0.00%
8/17/2015	1000181		\$145,135.00	\$145,135.00	0.00%	100.00%
8/21/2015	2782-316	M	\$199,910.00	\$0.00	0.00%	0.00%
8/27/2015	1000406		\$746,243.99	\$0.00	0.00%	0.00%
8/28/2015	1000488		\$398,020.00	\$0.00	0.00%	0.00%
8/28/2015	1000725		\$600,012.07	\$180,000.00	30.00%	30.00%
8/28/2015	6284-178	M	\$236,457.56	\$19,963.60	7.80%	8.44%
9/1/2015	7007-33	M	\$187,635.82	\$19,602.00	8.80%	10.45%
9/3/2015	1000786		\$799,737.00	\$0.00	0.00%	0.00%

Date Awarded	State Project Number	District	Awarded Amount	Commitment Amount*	Set Goal	Achieved
9/4/2015	1000712		\$246,796.00	\$33,000.00	10.00%	13.37%
9/4/2015	1001250		\$209,495.00	\$0.00	0.00%	0.00%
9/8/2015	1901-171	M	\$39,755.00	\$0.00	0.00%	0.00%
9/8/2015	2750-84	M	\$89,532.00	\$0.00	0.00%	0.00%
9/8/2015	5680-136	4	\$249,380.00	\$0.00	0.00%	0.00%
9/10/2015	1000684		\$703,347.77	\$26,800.00	0.00%	3.81%
9/10/2015	07300		\$498,814.88	\$215,963.40	10.00%	43.30%
9/11/2015	8503-52	6	\$151,798.15	\$0.00	0.00%	0.00%
9/17/2015	2313-23	6	\$414,568.24	\$29,480.18	11.90%	7.11%
9/18/2015	1000410		\$2,893,263.59	\$408,834.70	14.00%	14.13%
9/24/2015	1000816		\$179,468.07	\$0.00	0.00%	0.00%
9/24/2015	1000843		\$478,536.45	\$0.00	0.00%	0.00%
9/24/2015	1000908		\$828,094.18	\$0.00	0.00%	0.00%
9/30/2015	1001212		\$158,389.21	\$0.00	0.00%	0.00%
10/6/2015	2783-157	M	\$3,643,803.45	\$0.00	0.00%	0.00%
10/6/2015	5906-39	8	\$1,003,368.36	\$19,953.56	1.60%	1.99%
10/6/2015	8205-143	M	\$248,359.70	\$18,000.00	6.80%	7.25%
10/7/2015	2783-137	M	\$1,703,498.31	\$46,157.00	1.00%	2.71%
10/7/2015	8825-556	M	\$1,387,130.63	\$78,000.00	5.60%	5.62%
10/8/2015	1001119		\$530,763.14	\$127,724.44	25.00%	24.06%
10/9/2015	5410-24	2	\$2,600,552.08	\$511,546.00	1.80%	19.67%
10/19/2015	1001272		\$100,000.00	\$0.00	0.00%	0.00%
10/21/2015	1000679		\$123,916.35	\$0.00	0.00%	0.00%
10/28/2015	1000532		\$646,986.97	\$0.00	0.00%	0.00%
10/30/2015	1000789		\$165,582.73	\$0.00	0.00%	0.00%
10/30/2015	1001323		\$57,478.96	\$0.00	0.00%	0.00%
11/2/2015	8214-160	M	\$546,346.50	\$0.00	0.00%	0.00%
11/3/2015	6244-101	M	\$328,671.00	\$0.00	0.00%	0.00%
11/4/2015	8826-178	6	\$3,026,941.91	\$31,049.60	2.00%	1.03%
11/5/2015	6280-369	M	\$2,092,021.87	\$86,398.20	4.00%	4.13%
11/6/2015	6212-148	M	\$9,946,032.64	\$0.00	5.70%	0.00%
11/9/2015	1301-110	M	\$11,182,249.61	\$451,271.75	3.80%	4.04%
11/10/2015	1001186		\$274,515.00	\$0.00	0.00%	0.00%
11/10/2015	1001198		\$189,964.47	\$0.00	0.00%	0.00%

Date Awarded	State Project Number	District	Awarded Amount	Commitment Amount*	Set Goal	Achieved
11/12/2015	1001169		\$800,000.00	\$0.00	0.00%	0.00%
11/12/2015	1001262		\$386,000.00	\$0.00	0.00%	0.00%
11/13/2015	1001305		\$60,875.00	\$0.00	0.00%	0.00%
11/17/2015	1001516		\$87,595.97	\$0.00	0.00%	0.00%
11/18/2015	1000788		\$209,833.44	\$0.00	0.00%	0.00%
11/18/2015	1001180		\$164,152.84	\$0.00	0.00%	0.00%
11/19/2015	4206-22	8	\$4,100,056.17	\$124,836.66	3.00%	3.04%
12/1/2015	7005-114	M	\$72,864.00	\$0.00	0.00%	0.00%
12/1/2015	8826-179	6	\$456,987.76	\$64,710.00	7.20%	14.16%
12/2/2015	3006-40	3	\$111,663.00	\$0.00	0.00%	0.00%
12/4/2015	1000050		\$2,149,019.34	\$0.00	0.00%	0.00%
12/10/2015	6285-143	M	\$34,695,021.94	\$1,795,875.57	5.00%	5.18%
12/10/2015	8826-180	6	\$3,155,336.90	\$50,400.00	1.50%	1.60%
12/15/2015	1001645		\$249,549.00	\$0.00	0.00%	0.00%
12/16/2015	1001244		\$2,241,083.70	\$410,000.00	20.40%	18.29%
12/16/2015	1001507		\$851,439.51	\$40,000.00	4.00%	4.70%
12/18/2015	2706-231	M	\$325,585.76	\$85,000.00	4.50%	26.11%
12/29/2015	1001632		\$206,470.74	\$70,886.35	18.00%	34.33%
12/31/2015	1000929		\$2,090,045.59	\$264,269.67	15.00%	12.64%
1/5/2016	1001621		\$254,713.71	\$44,847.20	5.00%	17.61%
1/5/2016	1001882		\$83,996.19	\$83,996.19	0.00%	100.00%
1/5/2016	1001889		\$90,650.00	\$0.00	0.00%	0.00%
1/6/2016	1001879		\$799,780.00	\$0.00	0.00%	0.00%
1/7/2016	2772-103	M	\$1,599,630.05	\$197,103.00	1.90%	12.32%
1/7/2016	8822-166	2	\$515,708.00	\$0.00	0.00%	0.00%
1/8/2016	1001470		\$265,844.56	\$0.00	0.00%	0.00%
1/11/2016	8824-132	4	\$528,007.20	\$0.00	0.00%	0.00%
1/12/2016	2789-143	M	\$1,179,261.62	\$76,010.94	6.60%	6.45%
1/15/2016	6280-380	M	\$667,680.00	\$0.00	0.00%	0.00%
1/20/2016	1000930		\$1,966,861.80	\$516,058.71	25.00%	26.24%
1/26/2016	1001185		\$138,462.00	\$0.00	0.00%	0.00%
1/26/2016	1001627		\$466,210.00	\$0.00	0.00%	0.00%
1/27/2016	1001307		\$760,007.69	\$76,600.00	10.00%	10.08%
2/1/2016	1001803		\$336,856.51	\$0.00	0.00%	0.00%

Date Awarded	State Project Number	District	Awarded Amount	Commitment Amount*	Set Goal	Achieved
2/2/2016	1001923		\$66,503.50	\$0.00	0.00%	0.00%
2/8/2016	1001474		\$295,317.98	\$24,351.25	8.00%	8.25%
2/8/2016	1001493		\$498,579.76	\$200,000.00	40.00%	40.11%
2/8/2016	1001872		\$149,902.94	\$0.00	0.00%	0.00%
2/9/2016	2773-16	M	\$248,456.00	\$0.00	0.00%	0.00%
2/11/2016	3509-24	2	\$484,591.50	\$4,939.42	1.60%	1.02%
2/16/2016	1001804		\$550,778.85	\$0.00	0.00%	0.00%
2/23/2016	1001471		\$242,568.20	\$0.00	0.00%	0.00%
3/1/2016	1982-172	M	\$920,712.05	\$36,678.16	3.70%	3.98%
3/3/2016	1001181		\$720,063.91	\$158,598.14	22.00%	22.03%
3/3/2016	8824-120	4	\$661,802.20	\$4,355.71	4.20%	0.66%
3/8/2016	3505-19	2	\$3,667,671.14	\$38,697.90	1.00%	1.06%
3/8/2016	5680-138	4	\$2,225,287.90	\$140,260.00	4.50%	6.30%
3/8/2016	7005-106	M	\$1,047,737.76	\$36,767.25	3.10%	3.51%
3/9/2016	1001518		\$347,732.59	\$40,597.00	9.90%	11.67%
3/9/2016	8825-566	M	\$68,766.75	\$0.00	0.00%	0.00%
3/10/2016	1001284		\$326,812.24	\$68,737.38	18.00%	21.03%
3/10/2016	0285-66	M	\$1,259,505.00	\$58,800.00	2.20%	4.67%
3/10/2016	0303-65	4	\$2,601,763.95	\$150,178.00	2.10%	5.77%
3/11/2016	2319-16	6	\$3,813,794.43	\$81,470.50	2.00%	2.14%
3/11/2016	8822-192	2	\$1,409,693.06	\$1,232,249.66	0.00%	87.41%
3/14/2016	1001800		\$309,159.84	\$0.00	0.00%	0.00%
3/14/2016	1001801		\$294,244.70	\$0.00	0.00%	0.00%
3/14/2016	1001802		\$316,845.25	\$0.00	0.00%	0.00%
3/18/2016	1001120		\$278,244.68	\$0.00	0.00%	0.00%
3/21/2016	1002204		\$580,959.45	\$73,481.76	10.00%	12.65%
3/24/2016	6284-163	M	\$3,677,006.73	\$181,833.17	4.60%	4.95%
3/25/2016	0416-52	2	\$230,293.11	\$36,320.00	0.00%	15.77%
3/25/2016	6227-74	M	\$248,323.99	\$12,347.50	0.00%	4.97%
3/29/2016	7380-248	3	\$1,280,504.64	\$97,960.25	2.60%	7.65%
3/29/2016	8823-310	3	\$2,480,178.50	\$0.00	0.00%	0.00%
3/30/2016	6933-94	1	\$72,464.35	\$0.00	0.00%	0.00%
3/30/2016	8821-267	1	\$199,910.00	\$199,910.00	0.00%	100.00%
3/30/2016	8821-268	1	\$170,825.25	\$0.00	0.00%	0.00%

Date Awarded	State Project Number	District	Awarded Amount	Commitment Amount*	Set Goal	Achieved
3/30/2016	A0001-25	M	\$576,750.00	\$0.00	0.00%	0.00%
3/31/2016	1001656		\$299,167.80	\$0.00	0.00%	0.00%
3/31/2016	7005-105	M	\$811,776.15	\$42,900.00	4.60%	5.28%
3/31/2016	8205-146	M	\$118,957.07	\$20,620.00	0.00%	17.33%
3/31/2016	8828-177	8	\$117,795.80	\$0.00	0.00%	0.00%
4/1/2016	2735-193	M	\$573,844.10	\$89,010.00	15.30%	15.51%
4/1/2016	8825-508	M	\$798,875.70	\$36,944.00	2.70%	4.62%
4/5/2016	2723-129	M	\$258,865.00	\$12,758.00	0.00%	4.93%
4/11/2016	5608-23	4	\$3,771,988.12	\$261,191.00	5.50%	6.92%
4/12/2016	3109-40	2	\$757,196.70	\$7,914.06	1.00%	1.05%
4/13/2016	1002100		\$261,667.94	\$0.00	0.00%	0.00%
4/18/2016	7480-126	6	\$29,648,252.00	\$2,084,530.81	6.40%	7.03%
4/29/2016	1001322		\$231,367.93	\$84,640.48	0.00%	36.58%
4/29/2016	1002205		\$399,619.94	\$80,211.07	20.00%	20.07%
4/29/2016	0605-17	4	\$253,420.00	\$4,196.46	0.00%	1.66%
4/29/2016	2007-27	6	\$1,382,017.03	\$39,898.21	1.20%	2.89%
5/4/2016	1001795		\$731,464.00	\$24,992.87	5.00%	3.42%
5/4/2016	1002263		\$343,242.98	\$0.00	0.00%	0.00%
5/4/2016	5809-15	1	\$560,849.69	\$26,183.42	4.50%	4.67%
5/5/2016	1002552		\$138,467.08	\$0.00	0.00%	0.00%
5/9/2016	1002236		\$536,357.30	\$0.00	0.00%	0.00%
5/10/2016	1002164		\$186,029.74	\$0.00	0.00%	0.00%
5/10/2016	1002252		\$488,919.99	\$428,493.41	7.00%	87.64%
5/10/2016	1002998		\$6,100.00	\$0.00	0.00%	0.00%
5/10/2016	3405-93	8	\$3,911,405.68	\$268,580.80	12.80%	6.87%
5/11/2016	1001874		\$787,724.01	\$0.00	0.00%	0.00%
5/12/2016	8823-308	3	\$1,972,281.89	\$0.00	0.00%	0.00%
5/17/2016	1002497		\$154,124.61	\$0.00	0.00%	0.00%
5/18/2016	1002425		\$139,415.08	\$0.00	0.00%	0.00%
5/19/2016	1001786		\$1,234,961.00	\$0.00	0.00%	0.00%
5/23/2016	1002362		\$243,611.82	\$152,096.81	0.00%	62.43%
5/26/2016	1002912		\$75,000.00	\$0.00	0.00%	0.00%
5/27/2016	1002405		\$2,488,222.44	\$290,465.47	5.00%	11.67%
5/27/2016	1003045		\$59,983.16	\$0.00	0.00%	0.00%

Date Awarded	State Project Number	District	Awarded Amount	Commitment Amount*	Set Goal	Achieved
5/27/2016	1907-113	M	\$147,844.00	\$0.00	0.00%	0.00%
5/27/2016	8828-187	8	\$397,290.00	\$5,010.75	0.00%	1.26%
5/31/2016	2713-112	M	\$668,875.00	\$97,008.48	13.00%	14.50%
5/31/2016	6403-36	8	\$68,243.00	\$0.00	0.00%	0.00%
5/31/2016	8680-174	3	\$1,254,987.40	\$31,450.00	2.50%	2.51%
6/7/2016	2713-119	M	\$880,704.40	\$41,638.35	4.40%	4.73%
6/7/2016	8826-159	6	\$433,285.00	\$33,900.00	3.00%	7.82%
6/9/2016	8828-152	8	\$324,360.00	\$80,792.06	10.60%	24.91%
6/10/2016	8823-303	3	\$257,679.00	\$0.00	0.00%	0.00%
6/10/2016	8827-272	7	\$123,635.00	\$19,968.66	0.00%	16.15%
6/13/2016	1001878		\$431,458.29	\$0.00	0.00%	0.00%
6/13/2016	1002305		\$378,284.52	\$94,070.00	25.00%	24.87%
6/17/2016	1002551		\$60,581.74	\$43,119.20	0.00%	71.18%
6/17/2016	1380-93	M	\$270,646.00	\$5,760.00	0.00%	2.13%
6/24/2016	4203-53	8	\$434,087.92	\$38,493.60	0.00%	8.87%
6/29/2016	3116-142	1	\$5,887,833.13	\$296,374.43	5.00%	5.03%
6/30/2016	8825-483	M	\$1,187,135.00	\$70,774.20	5.50%	5.96%

\*Commitment amounts are subcontracts to TGB firms at the time of award.

Highlighted data indicates that the set goal was achieved. Those projects with no set goal, 0.00%, were not highlighted unless 0.00% was exceeded.

# Appendix C: Goal Setting Methodology

## Goal Setting Methodology Executive Summary

This report provides MnDOT’s proposed DBE goal and race neutral participation for fiscal years 2016-2018 on Federal Highway Administration funded expenditures. The report uses comparable methodologies to those used in the previous report, adapted to revised time periods and sources of data for computing the base goal, making adjustments to the base goal and computing the race-neutral portion of the goal. This report was constructed based on the best available information received from MnDOT as well as the government-published secondary data.

The analysis undertaken suggests a proposed agency-wide DBE goal of 11.7 percent for 2016-2018 on FHWA-funded projects.

This goal was derived in the following manner:

- A base goal of 8.03 percent was computed.
- An adjustment to the base goal was made to account for disparities in prime and subcontract awards that cannot be attributed to differences in industry, location, firm size, credit risk, or other characteristics of DBE versus non-DBE contracts. The adjustment was to increase the base goal by 45.7 percent, resulting in the adjusted goal of 11.7 percent ( $= 8.03 \times 1.457$ ).
- The maximum portion of the adjusted goal deemed to be achievable by race-neutral means was found to be equal to 38.2 percent. Therefore, the race neutral goal was computed to be equal to 4.5 percent ( $= 11.7 \times 0.382$ ) and the race-conscious goal was computed to be equal to 7.2 percent ( $= 11.7 \times (1 - 0.382) = 11.7 \times 0.618$ ).

Table 1. Proposed MnDOT FHWA DBE Goals FY2016-2018

GMA	Definition
<b>Base Goal</b>	<b>8.03%</b>
Discrimination Gap for Adjustment	45.70%
<b>Adjusted Goal</b>	<b>11.70%</b>
Race-Neutral Portion	38.20%
<b>Race-Neutral Goal</b>	<b>4.50%</b>
Race-Conscious Portion	61.80%
<b>Race Conscious Goal</b>	<b>7.20%</b>

Source: Author’s calculation using the FHWA data files.

### Background

As a recipient of federal transportation dollars awarded through the U.S. Department of Transportation’s Federal Highway Administration, MnDOT is required to establish and submit a three-year goal to the FHWA for review (Final Rule, 2010; FHWA Memorandum HCR-1, March 16, 2010). This goal is to be established in

compliance with the federal regulations governing the Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs (hereafter referred to as “USDOT regulations”). The USDOT regulations instruct state and local grant recipients to follow a two-step process to establish their annual DBE goal [49 C.F.R. §26.45]. The analysis conducted by the Roy Wilkins Center complies with these guidelines.

## Methodology

In order for the MnDOT FHWA DBE goals to satisfy the requirements set forth in the USDOT regulations, availability rates of willing, able and qualified firms must be computed for well-defined geographic market areas. We established three different geographic market areas. Two were based on political jurisdictions and the other one was based on zip codes where there were substantial numbers of prime and subcontractors for MnDOT contracts between fiscal year 2012 and 2014. Relevant industries with MnDOT contracts were identified by examining the distribution of MnDOT contract dollars by industry classification for contracts awarded between Oct. 1, 2011 and Sept. 30, 2014. We then estimated the distribution of anticipated MnDOT contract dollars by industry classification for FY 2016-2018 from the information about future projects that MnDOT had.

Availability rates were computed from multiple data sets and were appropriately weighted to produce a base goal. The base goal was then adjusted to account for disparities in prime contract and subcontract award amounts. The result is the proposed goal. The proposed goal was further partitioned between a race conscious and race neutral portion using a methodology upheld by the 3rd Circuit Federal Court in *GEOD v. New Jersey Transit* and published in the peer reviewed journal, *Applied Economics Letters*.

## Data

The research team obtained all prime contract and subcontract files from MnDOT’s Office of Civil Rights for the years 2012 to 2014. Obvious data entry errors, improbable measures, possible duplicates and related questionable items were flagged and forwarded to MnDOT staff for clarification and/or correction.

Contract files were supplemented with data obtained from Dun & Bradstreet. Other data used included: the MnDOT DBE Certification Directory, MnDOT BizTrak Vendors List, MnDOT Bidders List and the U.S. Census ZIP code Business Patterns (ZBP) data for 2012.

## Use

In Table 2, the use analysis shows that 99.7 percent of prime contract dollars were awarded to non-DBE prime contractors (equivalent to \$2.34 billion dollars) while 0.3 percent of prime contract dollars were awarded to DBE prime contractors (\$7.22 million dollars). Of the \$618 million dollars subcontracted by prime contractors, 32.0 percent went to DBE subcontractors and 68.0 percent to non-DBE subcontractors. In total, DBE prime contractors and subcontractors received 8.75 percent of total contract dollars awarded from 2011 to 2014.

Table 2. DBE Share of FHWA Contract Amount

		N	Contract amount	Percent
Prime Contracts	Total	529	\$2,345,528,580.11	
	DBE	8	\$7,216,612.03	0.31%
	Non-DBE	521	\$2,338,311,968.08	99.69%
Sub Contracts	Total	3,865	\$618,136,200.84	
	DBE	1,288	\$197,998,961.01	32.03%
	Non-DBE	2,579	\$420,137,239.83	67.97%
Both Prime and Sub Contracts <sup>2</sup>	DBE	1,296	\$205,215,573.04	8.75%

Of the contract dollars awarded to eight DBE prime contractors, 100 percent were awarded to white females. Among DBE subcontracts, 87.2 percent were awarded to white females, 4.8 percent to Asian Pacific Americans, 3.4 percent to Blacks, 3.0 percent to Hispanics, 1.4 percent to Native Americans and 0.1 percent to Asian Indians.

The vast majority of prime contract dollars were awarded to Minnesota firms (96.8 percent) followed by Wisconsin (2.4 percent). The bulk of contracts and contract dollars awarded were in the construction industry with a non-trivial share of contracts and contract dollars in various professional services.

### Geographic Market Areas

In order for the MnDOT FHWA DBE goal to satisfy the requirements set forth in the USDOT regulations as well as comply with the Supreme Court’s narrowly tailored standard, the DBE goal must be based on a narrowly defined geographic market. In order to define the geographic market in such a manner that the vast majority of contract dollars awarded would be incorporated in the definition, the research team considered two broad methods: a) political jurisdiction method (PJM), based on the counties where contracts were awarded; and b) virtual jurisdiction method (VJM), based on the zip code location of contracts and/or contractors in the client’s database. All methods yield different counts or estimates of the numbers of firms within industry codes, and accordingly will yield alternative measures of availability. For this report, the following alternative markets were used.

<sup>2</sup> This figure includes DBEs in either prime or subcontract.

Table 3. MnDOT Geographic Market Areas (GMAs) for FHWA DBE Goals

GMA	Definition	Total Amount	Share of Dollars
<b>Political Jurisdiction Method (PJM)</b>			
PJM-1	All Minnesota counties	\$2,269,737,436.23	96.80%
PJM-2	0 Ranked Counties in USA where the total contract dollars for the sum of the counties exceeds 75% and the marginal contribution to the overall total is at least 1%	\$2,091,621,059.51	89.20%
<b>Virtual Jurisdiction Method (VJM)</b>			
VJM-1	Ranked zip codes anywhere in the USA where the total contract dollars awarded for the sum of the zip codes exceeds 75% and the marginal contribution to the overall total is at least 0.25%	\$2,238,004,515.52	95.40%
	<b>Total</b>	<b>\$2,345,528,580.11</b>	

Source: FHWA contracts between Oct. 1, 2011 and Sept. 30, 2014

The first method, PJM-1, represents the state of Minnesota. The second method, PJM-2, defines those counties where there are enough contracts to represent the Minnesota counties where the total contract amount exceeds 75 percent and the marginal contribution of each county to the overall total contract amount is at least 1 percent. The other measure, VJM-1, is similar to PJM-2, but focuses on zip codes.

The distribution of dollars per GMA is presented in Table 3 as well. Each geographic market area has more than 85 percent of contract dollars.

### Discussion of Availability Methods

The research team obtained from MnDOT a list of all firms that were in their various databases, which include prime contractors and subcontractors, certified DBEs, bidders and vendors. NAICS codes for the firms were obtained from the BizTrak database, BizTrak vendors list, and Dun & Bradstreet. When no NAICS could be found, observations were not used in the weighted availability counts.

The research team also obtained from MnDOT the list of projects that MnDOT expects to undertake and identified 129 separate six-digit NAICS codes associated with comparable projects from the period of 2011-2014. Weights were obtained by using the projected expenditures<sup>3</sup> provided by MnDOT.<sup>4</sup>

<sup>3</sup> State Transportation Improvement Program 2015-2018, [STIP](#)

<sup>4</sup> According to U.S. Department of Transportation regulations, the availability rate should be weighted by the “amount of money to be spent” in each industry. The research team requested a copy of MnDOT’s estimated expenditures for the next three years, broken down by NAICS code. Projected expenditures for the next three years included in the State Transportation Improvement Program 2016-2018 data files were provided and categorized by type of work. In order to calculate the weights for the availability analysis, the research team categorized projected expenditures by NAICS code. The result was 129 NAICS codes.

## Bidders List Method<sup>5</sup>

The bidders list includes firms that bid on a federal prime contract or subcontract. The research team obtained the list of bidders on each prime contract and associated subcontracts from the BizTrak system maintained by MnDOT. The prime contract and subcontract lists were matched with the certified DBE list and Dun & Bradstreet database to identify the race/ethnicity and gender status of bidders.

The availability rate is the weighted share of certified DBEs within each NAICS code for a given geographic market area. The weights are based on the expected share of dollars MnDOT anticipates it will spend on different types of projects in 2016-2018. The numerator is the number of minority bidders and the denominator is the total number of bidders. With the Bidders List method, the numerator and denominator come from the same source.

Information on NAICS codes is not available for all firms. NAICS codes associated with each firm come from two different sources: MnDOT information and Dun & Bradstreet. When we were unable to obtain NAICS from the MnDOT information, we used the D&B database. When we were unable to find a NAICS code for the firm, that firm was not included in this availability method. Only a small number of firms (0.44 percent) were excluded due to lack of information.

## Vendors List Method<sup>6</sup>

The vendors list is the list of the firms that have done businesses with MnDOT. This list was obtained from the BizTrak system MnDOT maintains. MnDOT updates the list continuously by identifying firms that are no longer in business. We used the most recently updated list.<sup>7</sup>

The availability rate is the weighted share of certified DBEs within each NAICS code for a given geographic market area. The counts for the numerator and the denominator come from the same data source – the vendors list. As is the case with the bidders list, when we were unable to match a firm with a NAICS code that firm was not included in the count.

## Dun and Bradstreet Method<sup>8</sup>

The research team obtained access to Hoover's database, a subsidiary of Dun & Bradstreet, to compute the number of firms in each relevant NAICS code within a specified geographic market area. This research product

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5 The formula below was used to the availability analysis using the Bidders List method.

$$\text{Availability Rate} = \sum_{j=1}^n \frac{(\text{Number of DBE Bidders})_j}{(\text{Total Number of Bidders})_j} \times \text{weight}_j, \text{ where } j = \text{industry}$$

The numerator is the number of DBE bidders in a given industry  $j$  and the denominator is the total number of bidders with the same industry  $j$ . The weight  $j$  is the percent of contract amounts in each industry.

6 The formula below was used to the availability analysis using the Vendors List method. The numerator is the number of DBE vendors in a given industry  $j$  and the denominator is the total number of vendors with the same industry  $j$ . The weight  $j$  is the percent of contract amounts in each industry.

7 The BizTrak vendor list was provided on May 21, 2015.

8 The formula below was used to the availability analysis using the D&B method.

$$\text{Availability Rate} = \sum_{j=1}^n \frac{(\text{Number of WBEs or MBEs})_j}{(\text{Total Number of Firms})_j} \times \text{weight}_j, \text{ where } j = \text{industry}$$

The numerator is the number of WBE or MBW firms in a given industry  $j$  and the denominator is the total number of firms with the same industry  $j$ . The weight  $j$  is the percent of contract amounts in each industry

covers some 900 industries, which includes about 65 million corporations and other entities (i.e., government agencies, partnerships, non-profits, and educational institutions) and 85 million individuals. For the state of Minnesota, the database included information on headquarters, branches and single locations.<sup>9</sup>

The availability rate is computed by finding the weighted share of women- and minority-owned businesses within each NAICS code for a specified geographic market area. Unlike the other methods, the D&B method uses “self-reported” minority/gender designations. Thus, the D&B method can include firms that are not MnDOT-certified DBEs. On the other hand, not every certified DBE is included in this database because a requirement of inclusion is the existence of a DUNS number. According to Hoover’s customer service, D&B contacts firms directly to verify their gender or minority status and checks with third party sources and proprietary databases for further verification.

### DBE List Method<sup>10</sup>

We obtained the list of certified DBEs from MnDOT. The numerator in the availability rate is the number of certified DBE firms for specified NAICS codes within a given geographic market area. The denominator is the number of firms in the County Business Patterns or ZIP code Business Patterns database, depending on the definition of the geographic market area, for specified NAICS codes within a geographic market area. The numerator and denominator come from different sources. The numerator counts firms and the denominator counts establishments with paid employees.<sup>11</sup> The Census Bureau explains:

*An establishment is a single physical location at which business is conducted or services or industrial operations are performed. An establishment is not necessarily equivalent to a company or enterprise, which may consist of one or more establishments. A single-unit company owns or operates only one establishment. A multi-unit company owns or operates two or more establishments.*

*<http://www.census.gov/econ/cbp/methodology.htm>, accessed, June 1, 2015<sup>12</sup> (Census Bureau, County Business Patterns, “How the Data Are Collected (Coverage and Methodology)”).*

### The Base Goal

Depending on the method used to calculate availability rates, each geographic market area captures a different share of available contract dollars. As a result, each method also yields a different DBE availability goal for each geographic market.

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9 Headquarter: indicates that the company has subsidiaries or branches; branch indicates a company location other than the headquarters; and single location indicates that the company does not have any subsidiaries or branches.

10 The formula below was used to the availability analysis using the Certified DBE List method.

$$Availability\ Rate = \sum_{j=1}^n \frac{(Number\ of\ DBEs)_j}{(Number\ of\ Firms\ in\ ZBP)_j} \times weight_j, \text{ where } j = \text{industry}$$

The numerator is the number of DBE firms in a given industry j and the denominator is the total number of firms with the same industry j from ZIP Code Business Patterns dataset. The weight j is the percent of contract amounts in each industry.

11 Note that the denominator may overstate the number of firms since it includes each establishment owned by a multi-unit firm.

12 As a result, the denominator includes many establishments that might not normally contract with MnDOT.

In order to derive a single base goal for MnDOT that uses all the goals calculated for each geographical market, it is necessary to weight each geographical market-specific goal according to the percentage of contract dollars awarded in that area (shown in Table 3).

The four different methods use data that report multiple industries for many of the firms in their databases. Table 4 presents the details of the weighted availability rate using all NAICS code level. When using the main NAICS code level computation, the base goal is found to be 8.03 percent. This base goal is used in subsequent analyses.

**Table 4. FHWA Availability Rates and Base Goal**

Method	PJM-1	PJM-2	VJIM-1	Weighted Base Goal
Bidders List Method	5.06%	3.87%	2.91%	8.03% <sup>13</sup>
DBE List Method	7.31%	8.89%	6.47%	
Vendors List Method	11.85%	11.04%	18.73%	
D&B Method	7.48%	7.04%	5.70%	

Source: Authors’ calculation using FHWA data files, D&B, and US Census data

**Adjustments to the Base Goal**

According to the USDOT regulations, recipients of federal funds are required to adjust their base goals in light of other evidence regarding the market area [49 C.F.R. §26.45(d)]. One valid reason for adjusting the goal would be if the analysis showed discrimination, either in the overall market place or in the specific agency or governmental unit undertaking the procurement and contracting process.

The research team used two standard methods to measure and detect market discrimination in prime and subcontract award amounts at the contract-level.<sup>14</sup> The first method computes the percentage difference in log-transformed (natural log) contract amounts that cannot be explained by relevant characteristics of the firm, the contract, or the industry. This method estimates a regression equation that controls for relevant factors and also whether a firm is a DBE. The coefficient on the DBE term (appropriately transformed) measures the discrimination that DBEs face in competing for prime or subcontracts. This method is called the “dummy variable” method because it computes the discrimination measure from the coefficient on the dummy variable, DBE. The estimated equation is as follows:

$$\ln(\text{Award Amount}) = \beta_0 + \beta_1 \text{DBE} + X'\beta + \varepsilon$$

Where X vector contains control factors such as year, credit risk, geographic dummy, size of firm, age of firm and industry types.<sup>15</sup>

13 Note that the weighted base goal is not a simple average of the measures shown in the table. Instead, it is the weighted average using the percent distribution of contract amount by geographic market area. See Table 8 for details.

14 Blinder, Alan, (1973), Wage Discrimination: Reduced Form and Structural Estimates, Journal of Human Resources, 8, issue 4, p. 436-455; Oaxaca, Ronald, (1973), Male-Female Wage Differentials in Urban Labor Markets, International Economic Review, 14, issue 3, p. 693-709

15 See Table c-1 for details of the variables included in the model.

A second method, called the Blinder-Oaxaca-Duncan residual difference decomposition<sup>16</sup>, estimates separately the log-transformed contract amounts to DBEs and non-DBEs and computes the amount that DBEs would have received had they been treated like equally situated non-DBEs. The difference between the actual contract amounts and the “equal-treatment” amounts defines the discriminatory portion of the gap between DBEs and non-DBEs.

Factors in the control for relevant characteristics include: year of contract, industry, whether the firm is located in Minnesota, and the credit rating, tenure, size and revenues of the firm. The research team estimated the measures of discrimination for prime contracts and subcontracts for different model specifications. The reasons for different specifications include the fact that there are missing values for some observations on the credit risk, tenure, and size of firms.

The base goal is adjusted using the average from the best regression models – dummy variable method and residual difference composition – for prime and subcontractors contract disparities. This adjustment equals 45.7 percent.<sup>17</sup>

### Race Neutral Analysis

In compliance with federal regulations, state and local transit authorities must identify the maximum feasible portion of the DBE goal that can be achieved through race-neutral measures and the percentage of the goal that can only be achieved through race-conscious measures [49 C.F.R. §26.51(a)]. Myers and Ha have pioneered the use of a detailed econometric procedure that maximizes the race-neutral component of the DBE goals.<sup>18</sup> This method has established a rigorous standard for maximizing the race neutral portion of the overall DBE goal.<sup>19</sup>

The logic of the analysis is that some share of DBE dollars awarded would have gone to DBEs without goals. One can compute the share of dollars that would have gone to DBEs without goals for contracts and firms that are comparable. This method requires the estimation of a regression model that controls for a list of relevant variables.

The race neutral analysis uses the best regression model for predicting DBE contract amounts with and without goals. Following this specification, our analysis shows that 38.2 percent of the goal can be achieved through race neutral measures and 61.8 percent can be achieved through race conscious goals.

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<sup>16</sup> Many analysts reference the technique simply as the Oaxaca method, due to the continuing role that Ronald Oaxaca has played in developing and expanding the decomposition methodology.

<sup>17</sup> Standard regression and Oaxaca command in Stata 13 is used for the analysis.

<sup>18</sup> Myers, Samuel L. and Inhyuck “Steve” Ha. “Estimation of Race Neutral Goals in Public Procurement and Contracting,” *Applied Economics Letters*, 2009, vol. 16, issue 3, pages 251-256.

<sup>19</sup> 2010-10-19, Civil Action No. 04-2425, GEOD CORPORATION, et al., Plaintiffs v. NEW JERSEY TRANSIT CORPORATION, et al., Defendants.