

NOTICE OF AIRPORT DBE GOALS

The City of Bismarck (Bismarck Airport) as a sponsor for Federal Aviation Administration Grants, has established the following goal:

FY 2019-2021 Overall Construction/Professional Services Goal (49 CFR Part 26)

Goal: 1.50% The Bismarck Airport plans to achieve 0.0% by race neutral participation and 1.50% by race conscious methods (Contract Goals).

The proposed goal and its rationale will be available on the airport website, <http://bismarckairport.com/>, and in person Monday-Friday from 8:00am to 5:00pm at the Airport Administration Office, 2301 University Drive, Building #17, Suite 225B, Bismarck, ND 58504. Comments will be accepted 30 days after this notice is published (June 26, 2018 – July 25, 2018).



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Overall Goals (26.45)

Amount of Goal

Airport's overall goal for FY 2019-2021 is the following:

- 1.50% of the federal financial assistance we will expend in DOT-assisted contracts.

During FY 2019-2021 Bismarck Airport expects to let \$33,065,000 in Federal Grant assisted projects, this means that we have set a goal of spending \$495,975 with DBE's in FY 2019-2021. Bismarck Airport competes for bidders with other state airports and with highway related work.

Method

Step One: The North Dakota Department of Transportation (ND DOT) determined the availability of DBEs from information supplied by all federal-aid bidders on prime and consultant contracts from 1 April 2016 to 30 March 2017. The data from this timeframe is an accurate reflection of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on DOT-assisted contracts. As a note, several DBEs have been removed from the ND DOT DBE directory since the last goal setting period, due to firms withdrawing and/or graduating from the program.

There were a total of 424 bidders and quote supplied on construction projects: 23 DBEs and 401 Non-DBEs. A total of 59 consultant bids were included in the bid on consulting projects: 7 DBEs and 52 Non-DBEs.

A weighted average was developed by determining the comparative percentage DBEs and Non-DBEs obtained in prime contracting (Asphalt, Bridge, Concrete, Dirt, and Additional Contracting Opportunities, Consulting) and subcontracting dollars. **This calculation establishes a base figure for Step 1 of 4.91%.**

1) Description of Calculations Performed:

The relative availability was calculated by dividing the number of DBE primes that bid on **Asphalt** contracts (7) by the number of total prime bidders (99); and multiplying that quotient by the percentage of dollars projected for asphalt work in FY 2018-2020 as compared to overall dollars projected to be spent in FY 2018-2020 and multiplying that by the percentage of work paid to primes in 2016-2017 ($\$531,882,780 / \$897,357,499 = 59.27\% \times 73.93\% = 43.82\%$).

$$7 \text{ DBE primes} / 99 \text{ total primes} = 7.07\% \times 43.82\% = 3.10\%$$

The relative availability was calculated by dividing the number of DBE primes that bid on **Bridge** contracts (0) by the number of total prime bidders (14); and multiplying that quotient by the percentage of dollars projected for bridge work in FY 2018-2020 as compared to overall dollars projected to be spent in FY 2018-2020 and multiplying that by the percentage of work paid to primes in 2016-2017 ($\$56,783,293 / \$897,357,499 = 6.33\% \times 73.93\% = 4.68\%$).

$$0 \text{ DBE primes} / 14 \text{ total primes} = 0.00\% \times 4.68\% = 0.00\%$$

The relative availability was calculated by dividing the number of DBE primes that bid on **Concrete** contracts (0) by the number of total prime bidders (11); and multiplying that quotient by the percentage of dollars projected for concrete work in FY 2018-2020 as compared to overall dollars projected to be spent in FY 2018-2020 and multiplying that by the percentage of work paid to primes in 2016-2017 ($\$87,331,642 / \$897,357,499 = 9.73\% \times 73.93\% = 7.19\%$).

0 DBE primes/11 total primes = 0.00% x 7.19% = 0.00%

The relative availability was calculated by dividing the number of DBE primes that bid on **Dirt** contracts (2) by the number of total prime bidders (23); and multiplying that quotient by the percentage of dollars projected for dirt work in FY 2018-2020 as compared to overall dollars projected to be spent in FY 2018-2020 and multiplying that by the percentage of work paid to primes in 2016-2017 (\$82,738,018 / \$897,357,499 = 9.22% x 73.93% = 6.82%).

2 DBE primes/23 total primes = 8.69% x 6.82% = 0.59%

The relative availability was calculated by dividing the number of DBE primes that bid on **Additional Contracting Opportunities** contracts (0) by the number of total prime bidders (19); and multiplying that quotient by the percentage of dollars projected for other work in FY 2018-2020 as compared to overall dollars projected to be spent in FY 2018-2020 and multiplying that by the percentage of work paid to primes in 2016-2017 (\$43,923,164 / \$897,357,499 = 4.89% x 73.93% = 3.62%).

0 DBE primes/19 total primes = 0.00% x 3.62% = 0.00%

The relative availability was calculated by dividing the number of DBE **Consultants** that responded to an RFP or were included in a consultants response to an RFP (7) by the number of total consultants (59); and multiplying that quotient by the percentage of dollars projected for consultants in FY 2018-2020 as compared to overall dollars projected to be spent in FY 2018-2020 and multiplying that by the percentage of work paid to primes in 2016-2017 (\$49,151,100 / \$897,357,499 = 5.48% x 3.94% = 0.22%).

7 DBE consultants/59 total consultants = 11.86% x 0.22% = 0.03%

The relative availability was calculated by dividing the number of DBE **Subcontractors** that bid (18) by the number of total subcontractors (303); and multiplying that sum by the percentage of dollars between 1 April 2016 to 31 March 2017 (20.04%). This serves as an indicator of the overall total dollars projected to be spend in FY 2018-2020.

18 DBE subcontractors/303 total subcontractors = 5.94% x 20.04% = 1.19%

2) Resulting Baseline Goal

The baseline goal for North Dakota is 4.91%

3.10% + 0.59% + 0.03% + 1.19% = 4.91%

Step Two: Step Two is used to adjust the Step One figure, based on factors of past DBE participation in airport projects, barrier of entry resulting from a lack of interest, and factors raised by consultation with the public.

The Bismarck Airport believes that an adjustment based on past DBE participation is warranted. Our history of DBE achievement was:

Year	Percentage Achieved
1990	0.70%
1991	0.20%
1992	1.40%
1993	No Projects (0%)
1994	3.90%

1995	0.00%
1996	8.80%
1997	9.60%
1998	No Projects (0%)
1999	5.00%
2000	1.69%
2001	1.12%
2002	1.04%
2003	0.19%
2004	2.21%
2005	0.00%
2006	0.54%
2007	5.32%
2008	3.36%
2009	0.36%
2010	2.40%
2011	0.65%
2012	0.00%
2013	1.09%
2014	1.08%
2015	11.25%
2016	3.22%
2017	1.01%

According to the US DOT’s “*Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program*” Paragraph III Subpart A Number 5, an adjustment based upon past participation can be made if we feel that it is warranted. Paragraph III Subpart A Number 5 describes a method for adjusting the Step One figure to reflect past participation by averaging the Step One figure by the median value of past participation. The median is the middle number in any group of numbers, in this case the middle percentage of our historical achievement. To obtain the median, the percentage achieved was arranged in order from the lowest percentage to the highest percentage, as shown below:

Reordered Participation	
Year	Percentage Achieved
1993	No Projects (0%)
1998	No Projects (0%)
1995	0.00%
2005	0.00%
2012	0.00%
2003	0.19%
1991	0.20%
2009	0.36%

2006	0.54%
2011	0.65%
1990	0.70%
2017	1.01%
2002	1.04%
2014	1.08%
2013	1.09%
2001	1.12%
1992	1.40%
2000	1.69%
2004	2.21%
2010	2.40%
2016	3.22%
2008	3.36%
1994	3.90%
1999	5.00%
2007	5.32%
1996	8.80%
1997	9.60%
2015	11.25%

To find the median, you take one value away from each end of the spectrum, until you are left with one or two values. In this case, there are two values left. The two values were averaged.

The median of past participation is 1.085%.

The base figure of 4.91% was averaged with the median of past participation, which is 1.085%. This yielded an adjusted figure of **2.99%**.

We estimated in meeting our adjusted overall goal of 2.99%, we would obtain 0.0% from race neutral participation and 2.99% through race conscious measure (see Breakout Paragraph). The goal was adjusted further downward to **1.50%** as a result of industry/DBE firm consultation (see Consultation Paragraph).

Process

The Bismarck Airport must submit its 3-year overall goal to the Federal Aviation Administration (FAA) by August 1, 2018 for FY 2019-2021.

Before establishing the overall goal, Bismarck Airport will consult with ND DOT and then use the current listing of minority contract associations in the DBE roster (Minority Contractors Association of ND and Minority Association of Contractors) to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBE's, and the Bismarck Airport's efforts to establish a level playing field for the participation of DBE's.

Following this consultation, we will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at Airport Administration Office, in the commercial terminal, 2301 University Drive, Building #17, Bismarck, ND 58504 and on the airport website, and informing the public that Bismarck Airport will accept comments on the goals for 30 days from the date of notice. The notice will include addresses to which comments may be sent and addresses (including offices and web sites) where the proposal may be reviewed. Following the public notice period, the final goal will be submitted to the FAA.

Consultations:

On June 8, 2018, fifty-one separate letters requesting comments were sent to: contractors, DBE contractors, the North Dakota Aeronautics Commission and the North Dakota Department of Transportation (NDDOT) Civil Rights Division, Bismarck Airport's Unified Certification Program (UCP). Additionally, letters were sent to state DBE Program managers and specialists in CO, IA, WY SD, NE, KS, MT, MN, and UT. The letter was sent to three minority contractor associations, North Central Minority Supplier Development Council in Glendale, WI, Minority Association of Contractors in Denver, CO, and Minority Contractors Association of ND, in Mandan, ND. The Tribal Rights Employment Offices of Turtle Mountain Band of Chippewa, Three Affiliated Tribes, Spirit Lake Nation, and Standing Rock Sioux Tribe received the letter.

The airport received four responses from the fifty-one letters sent out. The responses were received from two contractors Strata Corporation and Northern Improvement, one consultant, KLJ, and a ND state commission, the ND Aeronautics Commission.

On June 18, 2018 Jared Wingo, Airport Planner with the North Dakota Aeronautics Commission, e-mailed a letter comments on the airport's goal. Mr. Wingo stated that he found the proposed goal of 2.99% reasonable. Mr. Wingo went on to state, "I would recommend consulting relevant entities, such as contractors and DBE firms, to determine if a downward adjustment to the 2.99% goal is warranted"

On June 18, 2018 Bruce Thompson, Vice President and Estimator of Northern Improvement Company (NIC), e-mailed a letter with comments. NIC has completed the great majority of FAA funded projects at Bismarck Airport since 2002. NIC's comments have consistently recommended that race conscious goals that are above 2% are too high. NIC's June 18th comments were similar: "Northern Improvement Company will continue to do our best to solicit DBE quotes through Good Faith Efforts. As you are well aware the ability to achieve the goal is based largely on scope of work and DBE subcontractors willing to quote FAA projects" Mr. Thompson also notes in an e-mail that when the oilfield or highway programs are strong, DBE are difficult to get. Currently the oilfield and highway programs are strong.

On June 19 Eric Simek, Project Manager for Strata Corporation, e-mailed comments in response to our letter. Mr. Simek states "The lower goal is always better for us (contractors) in North Dakota, the main reason is - there are very few qualified small businesses in the State that can work on Air Field projects - besides seeding types of contractors. Other types of professional contracting firms seem to be highly priced and are do not usually fall in a competitive range to be

used. So from our point of view to get a truly competitive bid we like to see the DBE Goal around 1 to 2 percent.”

On June 20, 2018, Tom Neigum, Project Manager for KLJ, the Bismarck Airport’s Engineering Consultant, provided some additional comments based on KLJ’s experience as the Airport’s consultant. “Under Professional Services, DBE accomplishments have historically been very challenging. There are very few DBE consulting firms registered in ND, and even fewer that can offer services applicable to working on the Bismarck Airport. In the past, we’ve had MABU on our team in case we had any services they could assist with. During that time, we didn’t have work for their team. In addition, they lost their DBE status in ND. For this next term of our consultant selection, we have proposed to utilize Holly Beck to assist with survey on the airport. Since much of the airport has been surveyed previously, we anticipate some DBE participation but don’t see this as a large part of our services. In summary, DBE accomplishments under Professional Services has been very challenging. We would recommend lowering the proposed overall goal of 2.99 percent down to 1 percent to allow the potential to accomplish the goal.”

As a result of the comments and recommendations from Mr. Wingo, Mr. Thompson, Mr. Simek. and Mr. Neigum, the Bismarck Airport believes that lowering the overall DBE goal is justified. We have decided to further lower our goal by 1.49% to **1.50%**. This number reflects the comments and recommendations received as part of the consultation period, and also our actual DBE achievement in recent years.

The 30-day public comment period began June 26, 2018 when a public notice requesting comments was published in the Bismarck Tribune.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

The Bismarck Airport will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The Bismarck Airport uses the following race-neutral means to increase DBE participation:

1. Advertise program goals.
2. Encouraging prime contractors to subcontract portions of work they would otherwise perform with their own forces.
3. Providing engineer consultant technical assistance and other service to fill out bids.
4. Ensuring prime contractors have lists of potential DBE subcontractors.
5. Inform prime contractors of past DBE participants.
6. Ensuring prime contractors have address and web page for ND DOT DBE directory.
7. Utilize engineer consultant to administer and monitor compliance.

We estimate that, in meeting our overall goal of 1.50%, we will obtain 0.0% from race-neutral participation and 1.50% through race-conscious measures.

The following is a summary of the basis of our estimated breakout of race-neutral and race-conscious DBE participation:

The Bismarck Airport used strictly race-neutral means of DBE participation in FY 2000, those contracts resulted in 1.69% DBE participation. In 2001, we used an overall goal of 1.7% through race-neutral means and 4.2% race-conscious means. That contract resulted in 1.12%. For FY 2002 Bismarck Airport used strictly race conscious means resulting in 1.04%. For FY 2003, 2004, 2005, 2006, 2007, 2008, 2009, 2010, 2011, 2012, 2013, 2014, 2015, 2016, and 2017 Bismarck Airport used strictly race conscious means resulting in 0.19%, 2.21%, 0%, 0.54%, 5.32%, 3.36%, 0.36%, 2.4%, 0.65%, 0%, 1.09%, 1.08%, 11.25%, 3.22%, and 1.01% respectively. For FY 2019-2021, we believe that our previous experience justify that our goal of 1.50% can only be accomplished by use of race conscious means.

We will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51 (f)) and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

Contract Goals (26.51)

The Bismarck Airport will use contract goals to meet any portion of the overall goal the Bismarck Airport does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

We will establish contract goals only on those DOT assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBE's to perform the particular type of work).

We will express our contract goals as a percentage of the total amount of the DOT assisted contract.