

**CITY OF RACINE, WISCONSIN
DISADVANTAGED BUSINESS ENTERPRISE
TRANSIT GOAL-SETTING METHODOLOGY REPORT
For the FEDERAL TRANSIT ADMINISTRATION
Federal Fiscal Year (FFY) 2016, 2017, 2018**

Revised and Resubmitted November 4, 2015

DEFINITION OF TERMS

The terms used in this program have the meanings defined in 49 CFR 26 (Chapter 49 of the Code of Federal Regulations Part 26).

OBJECTIVES

The City of Racine (Racine or the City), Wisconsin has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (USDOT), 49 CFR Part 26. The City of Racine has received Federal financial assistance from the Department of Transportation. As a condition of receiving this assistance, the City of Racine has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City of Racine to ensure that DBEs, as defined in part 26, have an equal opportunity to receive and participate in USDOT Federal Transit Administration (FTA) assisted contracts. It is also our policy to:

1. Ensure nondiscrimination in the award and administration of FTA-assisted contracts;
2. Create a level playing field on which DBEs can compete fairly for FTA-assisted contracts;
3. Ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. Help remove barriers to the participation of DBEs in FTA assisted contracts; and,
6. Assist the development of firms that can compete successfully in the market place outside the DBE program.

CONTACT

Michael J. Maierle, Racine's transit and parking system manager, has been delegated as the DBE liaison officer. In that capacity, Mr. Maierle is responsible for providing DBE program information to FTA. The transit and parking system manager and Racine's Belle Urban System general manager are responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the City of Racine in its financial assistance agreements with the USDOT.

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GOAL

AMOUNT OF GOAL

The City of Racine's overall goal for each of FFY 2016, 2017 and 2018 is 2.78% of the Federal financial assistance we will expend in FTA-assisted contracts, exclusive of FTA funds to be used for the purchase of transit vehicles.

METHOD

Step 1. Determining a base figure for the relative availability of DBEs

The City of Racine used the following methodology for determining the overall annual goal for DBE participation in FTA-assisted contracts. The methodology and goal relies heavily on “Wisconsin Department of Transportation Disadvantaged Business Enterprise Transit Goal-Setting Methodology Report FFY 2014-2016,” July 31, 2013.

The State of Wisconsin Department of Transportation (WisDOT) serves as the state clearinghouse for DBE certification. It maintains a comprehensive database and registry of certified DBE firms which serves as our primary source to identify DBE firms to do business with.

WisDOT calculated a goal of 2.78% by rigorously analyzing market conditions based on the methodology in 49 CFR 26.45.

The City of Racine carefully reviewed WisDOT’s methodology report. On p. 1 WisDOT identified 16 cost categories or “anticipated projects.” In Appendix A, WisDOT reported the NAICS (North American Industry Classification System) code for each cost category, the number of DBEs and non-DBEs that do business in that industrial classification, summed the results across all cost categories, and calculated the relative availability of DBEs. The percentage of all firms ready, willing and able that is DBE was reported as 2.78% on p. 2 of the report.

The City of Racine’s cost categories align very closely with that of WisDOT. Of the 16 cost categories identified by WisDOT, 14 are common to the City of Racine. Two categories don’t align because Racine’s Belle Urban System already provides the paratransit and bus transit services that compose those categories. Racine does, however, contract for the management of those services.

The City of Racine is very similar to the rest of the State of Wisconsin regarding availability of certified DBE firms. Nearly all communities rely on the WisDOT list of certified firms. Our

experience has been that our search for DBE firms on the WisDOT list, when done specifically for our County or region (Southeastern Wisconsin), is no different than when done as a statewide search.

Therefore, we have concluded that establishing a City of Racine DBE goal identical to the WisDOT goal is the best methodology. We have very similar cost categories, use the same registry and have the same contracting opportunities.

Step 2. Determining what adjustment, if any, is needed to the base figure to arrive at our overall goal

The City of Racine considered all evidence available in our jurisdiction to determine whether an adjustment to the base figure that we established in Step 1 was necessary. We first considered the effects of contracting opportunities that are not included in Wisconsin DOT's adopted Step 1 base figure. The biggest difference between WisDOT's contracting opportunities and Racine's is that WisDOT spends a considerable amount of its budget purchasing transportation services, whereas Racine reimburses a management company for the cost of paying wages and benefits to the employees of the transit service. Therefore, the most part, providing transit services is not a contract opportunity. The management service is a contract opportunity, but it is a small percentage of the cost of providing transit service.

The purchases made by the management company on the city's behalf and sometimes directly by the city do sometimes constitute a contracting opportunity. One of the biggest cost items is fuel. In some semi-annual reporting periods when a DBE was the fuel provider the DBE participation rate was sometimes over 50% and even as high as 85.6%. The City has also had recent reporting periods where the participation rate was zero percent. In the last 9 semi-annual reporting periods, participation has averaged 26.7%.

The huge variance in DBE participation from period to period makes the use of averaging in adjusting the goal, even by use of a median, questionable. Basing a future goal on the past success of one or two firms in getting large contracts would mean that our goal is to hire those one or two firms – clearly problematic from a nondiscrimination perspective. And a goal of zero is not productive either. Currently the city has a single contract for marketing services with a DBE that will raise the DBE participation rate to about 8%, exceeding our goal.

Other means of considering whether the overall goal should be adjusted were examined by WisDOT in setting their goal. Recall that Racine's method relies heavily on WisDOT's goal setting methodology report. WisDOT concluded that use of a disparity report conducted for the Milwaukee area was questionable. The City of Racine is the next county south of Milwaukee County. Discussions that the WisDOT DBE liaison officer facilitated with past bidders, DBE firms, and subrecipients were fruitful in identifying means of increasing DBE participation, but no issues were identified to warrant adjusting the goal.

As discussed in the next section, in the next triennium Racine will likely rely less on a single category of contracting to meet our goal and broaden our successful efforts to ensure non-discrimination in the award of DOT-assisted contracts in other categories of contracting.

Race/Gender-Neutral and Race/Gender-Conscious Split

Based on current practice and in accordance with 49 CFR 26, the City has determined that it is

feasible to meet the entire goal with race neutral means. Therefore, our goal will comprise 0% race conscious and 2.78 % race neutral measures.

Part 26.51 requires meeting the “maximum feasible portion of your overall goal by using race-neutral means of facilitating...DBE participation.”

The City has shown an ability to exceed its overall goal using 100% race/gender-neutral means in past reporting periods. Although year-to-year experience varies widely, in over half the last nine periods, the goal was exceeded.

Also, many of the City’s contracts (because of their size or nature of the product or service) do not lend themselves to sub-contracting, which is a predicate to race conscious means. It is more effective to highlight DBE and small business opportunities for prime contracting.

The City will actively foster small business participation by continuing to arrange solicitations, times for presentations of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses. The City will actively seek to publicize contracting opportunities by means most likely to be seen by DBE’s and other small businesses by carrying out information and communication programs tailored to individual contracting categories.

PROCESS

The City of Racine submits its overall goal for the three year period to the FTA. While establishing the goal, the City of Racine consults with various local organizations representing DBE and non-DBE entities, including, but not limited to: Racine County AFL-CIO; UAW International; NAACP – Racine Branch; Racine Area Manufacturers and Commerce; Racine Spanish League; Urban League of Racine to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses.

DBE FINANCIAL INSTITUTIONS

It is the policy of the City of Racine to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on FTA-assisted contracts to make use of these institutions.

DIRECTORY

The City of Racine subscribes to the State of Wisconsin Minority Owned Business Directory and also used the Wisconsin Department of Transportation Disadvantaged Business Enterprise Program internet site <https://trust.dot.state.wi.us/dbedir/> as resources to locate DBE vendors. The directory lists the firm's name, address, phone number, and the type of work the firm has been certified to perform as a DBE.

TRANSIT VEHICLE MANUFACTURERS

The City of Racine will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, to certify that it has complied with the requirements of this section. Alternatively, the City of Racine may, at its

discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

CONTRACT GOALS

The City of Racine reserves the right to use contract goals to meet any portion of the overall goal the City of Racine does not project being able to meet using race-neutral means. Contract goals would be 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 FTA-assisted capital contracts that have subcontracting possibilities. We will not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work). We will express our contract goals as a percentage of the Federal share of an FTA-assisted contract.

REPORTING TO DOT-FTA

We will report DBE participation to FTA on a semi-annual basis, using FTA Form 4630. These reports will reflect payments actually made to DBEs on FTA assisted contracts.

CONFIDENTIALITY

We will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law. Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than FTA) without the written consent of the submitter.

SMALL BUSINESS SECTION

- a.) The City of Racine will take all reasonable steps to eliminate obstacles to participation of small businesses in contracting opportunities as a component of this overall DBE plan. We have established the following criteria for identifying “Small Business” opportunities:

Small Business Status

The firm (including its affiliates) must be a small business as defined by Small Business Administration standards. It must not have annual average gross receipts over \$19.057 million in the previous three fiscal years. This threshold is to be adjusted periodically for inflation by the US-DOT-FTA.

- b.) The following strategies will be employed:

(1) Establish a race-neutral small business set-aside for prime contracts under \$1 million.

(2) On prime contracts not having DBE contract goals, require the prime contractor to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work involved.

3) Structure procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBEs, to compete for and perform prime contracts.

(4) Ensure that a reasonable number of prime contracts are of a size that small businesses, including DBEs, can reasonably perform.