

# Nebraska Department of Transportation

## Proposed Attainment Goals for the Participation of Disadvantaged Business Enterprises in Federally Aided Projects Let During Federal Fiscal Years 2021-2023

August 19, 2020

The Nebraska Department of Transportation (NDOT) Disadvantaged Business Enterprise (DBE) Office has calculated NDOT's proposed DBE participation goals for federal fiscal years (FY) 2021-2023 – October 1, 2020, through September 30, 2023 -- as required by the U.S. Department of Transportation (USDOT) under part 49 CFR 26.45(a) of the federal [DBE program regulations](#). The goal is expressed as a percentage of all federal dollars expended on NDOT projects let during this period.

The proposed attainment goals are as follows:

**Overall goal: 5.81%**

**Race Neutral portion: 3.18%**

**Race Conscious portion: 2.63%**

Below is description of the methodology used in arriving at the proposed, as well as discussion regarding adjustments to the base figure.

### Step 1: Determine a Base Figure

#### Overview

The USDOT DBE regulations at 49 CFR 26.45(c) give the following instruction:

*Step 1. You must begin your goal setting process by determining a base figure for the relative availability of DBEs. The following are examples of approaches that you may take toward determining a base figure. These examples are provided as a starting point for your goal setting process. Any percentage figure derived from one of these examples should be considered a basis from which you begin when examining all evidence available in your jurisdiction. These examples are not intended as an exhaustive list. Other methods or combinations of methods to determine a base figure may be used, subject to approval by the concerned operating administration.*

- 1. Use DBE Directories and Census Bureau Data. Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes. (Information about the CBP data base may be obtained from the Census Bureau at their*

web site, [www.census.gov/epcd/cbp/view/cbpview.html](http://www.census.gov/epcd/cbp/view/cbpview.html).) Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.

2. *Use a bidders list. Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on your DOT-assisted prime contracts or subcontracts in the past three years. Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in your market. When using this approach, you must establish a mechanism (documented in your goal submission) to directly capture data on DBE and non-DBE prime and subcontractors that submitted bids or quotes on your DOT-assisted contracts.*
3. *Use data from a disparity study. Use a percentage figure derived from data in a valid, applicable disparity study.*
4. *Use the goal of another DOT recipient. If another DOT recipient in the same, or substantially similar, market has set an overall goal in compliance with this rule, you may use that goal as a base figure for your goal.*
5. *Alternative methods. Except as otherwise provided in this paragraph, you may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market. The exclusive use of a list of prequalified contractors or plan holders, or a bidders list that does not comply with the requirements of paragraph (c)(2) of this section, is not an acceptable alternative means of determining the availability of DBEs.*

#### **Bidders List – 49 CFR 26.45(c)(2)**

NDOT used a bidders list to determine its base figure, as allowed at 49 CFR 26.45(c)(2). When using this approach, it is required that NDOT document in this report the mechanism used to directly capture data on DBE and non-DBE prime and subcontractors that submitted bids or quotes on NDOT's federally assisted contracts. NDOT collects the information for the bidders list by requiring each prime contractor, at the time of bidding, to list each subcontractor from which the prime received a quote, whether the subcontractor's quote was ultimately selected. In this way, NDOT has data on every bidder and quoter, whether successful or unsuccessful, on every NDOT-let project.

Further, every certified DBE in Nebraska is noted as such in AASHTOWare Project, NDOT's project management software. The certification status of DBEs in AASHTOWare Project are updated in real time as certification-related events occur. Consequently, NDOT can compile on demand an up-to-date bidders list that accurately reflects the current DBE status of every successful or unsuccessful bidder or quoter on every NDOT-let project.

NDOT used three years' worth of bidders list data, as required at 49 CFR 26.45(c)(2). The period examined was from the start FY17 (10/01/2016) thru the end of FY19 (09/30/2019). The following information relevant to determining the base figure was derived :

Number of DBEs that bid or quoted (successful and unsuccessful) on NDOT's federally assisted prime contracts or subcontracts in the past three fiscal years: **59**.

Number of all businesses that bid or quoted (successful and unsuccessful) on prime contracts or subcontracts in the past three fiscal years: **766**.

The full number of DBE bidders/quoters was then divided by the number of all businesses to derive an initial and unadjusted base figure for the relative availability of DBEs in NDOT's market. The resulting figure was **7.70%**.

**Accounting for Decertifications – USDOT publication “Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program,” Section II(G).**

USDOT guidance on goal setting in the DBE Program states the following about accounting for decertifications:

*If you have, or will imminently, decertify a firm (e.g., for exceeding the Personal Net Worth (PNW) cap, or for other reasons) you should address the decertification of that firm in Step One of the process by excluding the firm from the numerator of the ratio, but not from the denominator. Likewise, if you know that a firm (DBE or non-DBE) has gone out of business or is no longer bidding for DOT-assisted contracts, then that firm should be excluded from both the numerator and the denominator of your ratio.*

The operational status of all contractors registered with NDOT is tracked in AASHTOWare and updated in real time. Any contractor that was active during the reporting period, but which now has a status of inactive (e.g. is no longer in business), was automatically excluded from the denominator.

Further, the certification status of DBEs in AASHTOWare Project are also updated in real time as certification-related events occur. Consequently, the NDOT was able to examine the complete bidders list and identify those DBE firms that were active in bidding/quoting during the reporting period but are now not certified. The NDOT was then able to exclude these firms from the numerator of the ratio but not from the denominator.

Of the 59 DBE firms identified in the complete bidders list, 15 were found to no longer be DBE certified and 3 no longer active. To reflect this, the numerator was adjusted downward by 18 to **41**. Using this adjusted numerator in the bidders list calculation resulted in an adjusted base figure of **5.35%**.

None of the remaining 41 DBE firms are known to be involved in decertification proceedings, and none are known to be inactive.

**Weighting – USDOT publication “Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program,” Section II(F).**

USDOT guidance on goal setting in the DBE Program states the following about weighting:

*Weighting can help ensure that your Step One Base Figure is as accurate as possible. While weighting is not required by the rule, it will make your goal calculation more accurate. For instance, if 90% of your contract dollars will be spent on heavy construction and 10% on trucking, you should weight your calculation of the relative availability of firms by the same percentages.*

The possibility of performing a weighting analysis on the Step One Base Figure was examined by NDOT, but as was case for the overall goal setting for FY18-20, it was determined that the data required to perform an accurate weighting analysis was not available in a readily usable form.

Work items performed on NDOT contracts are identified and tracked using a coding scheme unique to NDOT and which at present does not parse information in a manner conducive to performing a weighting analysis. Specifically, NDOT work item codes in themselves do not directly and specifically indicate whether individual work items were supplied, hauled, or installed. For example, a work item code may represent a specific type of aggregate material and its cost per unit. However, the code and its unit price may be inclusive of the supply, hauling, and installation of the material. Therefore, without reviewing each NDOT contract line-by-line for context, it is not currently possible to know how the presented data should be factored into any weighting analysis.

Further, NDOT contracts and subcontracts are categorized by and segmented into groupings of work items related to a type of project or project phase. However, this method of categorization does not lend itself to an accurate weighting analysis. For example, a contract or subcontract, or segment thereof, might be categorized as “Paving,” but the line-by-line work items that comprise “Paving” may encompass a wide range of work types from traffic control, to supply, to concrete flatwork, to the application of sealant. Therefore, using these broadly categorized groupings of work as a basis for analysis would lead to a very inaccurate ‘weighted’ figure, because individual work items would be lumped together with unrelated items, and thus participation figures by both DBE and non-DBE firms would be inaccurate.

The DBE Office is committed to working with NDOT AASHTOWare Project administration, as opportunity and resources allow, to improve the availability of data needed to perform an accurate weighting analysis. While the required data does exist, it is currently collected and organized in a method designed and intended to facilitate and support the efforts of the NDOT project estimating unit. It is not fully understood at present what effect any changes to this method would have on the project estimating process and possibly other essential NDOT operations. This will need to be studied in detail.

**Conclusion – Determine a base figure.**

Using the bidders list method, the NDOT DBE Office has calculated the base figure to be **5.35%**. No adjustment by weighting was performed, as data accurate enough to perform this analysis was not available.

## Step 2 – Determine Whether Adjustments to Base Figure are Necessary

### Overview

The USDOT DBE regulations at 49 CFR 26.45(d) give the following instruction:

*Step 2. Once you have calculated a base figure, you must examine all of the evidence available in your jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at your overall goal. If the evidence does not suggest an adjustment is necessary, then no adjustment shall be made.*

The USDOT DBE regulations at 49 CFR 26.45(d)(1) give examples of evidence which must be considered as part of the Step Two adjustment. This evidence is as follows:

*The current capacity of DBEs to perform work on NDOT’s federally assisted contracts, as measured by the volume of work DBEs have performed in recent years;*

*Evidence from disparity studies conducted anywhere within NDOT’s jurisdiction, to the extent it is not already accounted for in the base figure; and*

*If your base figure is the goal of another recipient, you must adjust it for differences in your local market and your contracting program.*

The USDOT DBE regulations at 49 CFR 26.45(d)(2) state that, if available, NDOT must consider evidence from related fields that affect the opportunities for DBEs to form, grow and compete. These include, but are not limited to:

*Statistical disparities in the ability of DBEs to get the financing, bonding and insurance required to participate in NDOT’s DBE program; and*

*Data on employment, self-employment, education, training and union apprenticeship programs, to the extent it can be related to the opportunities for DBEs to perform in NDOT’s program.*

### **Potential Adjustment #1 - The demonstrated capacity of DBEs to perform work on NDOT’s federally assisted contracts, as measured by the volume of work DBEs have performed in recent years.**

In determining whether the need for a Step Two adjustment on the basis of demonstrated DBE capacity was indicated, the NDOT DBE Office examined the past participation data from the FY15, FY16, FY17, FY18, and FY19 Uniform Reports to determine the median percentage of federal funds awarded to DBE contractors and subcontractors during each year of the five-year period. This methodology was applied in accordance with the guidance provided in the USDOT Publication “Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program,” Section III(A); the five-year timeframe was selected

as per the guidance provided in the Federal Highway Administration instructional presentation “2020 Overall DBE Goal Methodology.”

The findings were as follows:

<u>Fiscal Year</u>	<u>DBE Participation %</u>
2015	5.35
2016	4.90
2017	6.42
<b>2018</b>	<b>6.27</b>
2019	9.31

The NDOT DBE Office found the median overall percentage of DBE participation in the previous five-year period to be 6.27% (FY18). The difference between the five-year mean and the bidders list-derived 5.35% base figure of Step One was considered significant enough to warrant a Step Two adjustment based on the demonstrated DBE capacity. In accordance with the guidance provided in the USDOT Publication “Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program,” Section III(A), the NDOT averaged the Step One base figure with the five-year median figure of DBE participation and arrived at a Step Two adjusted figure of **5.81%**.

**Potential Adjustment #2 - Evidence from disparity studies conducted anywhere within NDOT’s jurisdiction, to the extent it is not already accounted for in the base figure.**

The most recent disparity study available that is directly applicable to the goal calculation is from the year 2000 and titled “Nebraska Department of Roads Availability and Goal-Setting Study.” The study uses data from the mid- to late-1990s in order to calculate various figures related to DBE goal setting in Nebraska. The NDOT DBE Office does not believe that the information contained in this study is recent enough to justify using it for any adjustments to the base figure.

The NDOT did contact several public and private sector organizations in an attempt to find other related disparity studies and applicable data. The list of these organizations can be found in the subsection “Potential Adjustment #6 – Additional sources of information considered” below. In summary, the NDOT DBE Office was not able to obtain additional relevant and applicable data from these organizations or other accessible sources. However, upon notification of the existence of such data, the NDOT will perform an analysis to determine whether a base figure adjustment is warranted.

**Potential Adjustment #3 - If NDOT’s base figure is the goal of another recipient, it must be adjusted for differences in the local market and NDOT’s contracting program.**

The NDOT did not derive its base figure from the goal of another USDOT recipient.

**Potential Adjustment #4 - Statistical disparities in the ability of DBEs to get the financing, bonding, and insurance required to participate in NDOT's DBE program.**

The NDOT DBE Office does not have data available on this topic. Upon notification of the existence of data on this topic, either through public comment or agency consultation, NDOT will perform this analysis and decide whether an adjustment to the base figure is warranted.

**Potential Adjustment #5 - Data on employment, self-employment, education, training, and union apprenticeship programs, to the extent it can be related to the opportunities for DBEs to perform in NDOT's program.**

The NDOT DBE Office examined data in these categories through the relevant US Census Bureau publications, specifically the released portions of the 2017 Economic Survey and the 2018 Annual Business Survey, which are the most recent publications available. However, the data did not clearly relate to opportunities for DBEs to participate in NDOT's program. Therefore, the NDOT DBE Office concluded that the justification for the proposed base figure outweighs any justification for further Step Two adjustment built off census survey data and estimates. The methodology used to arrive at the proposed base figure considered events and participation rates that have been evidenced; both the three-year bidders list and the five-year median of past DBE participation are based on hard data, rather than on surveys or estimates. Therefore, any conclusions reached using census data would not be reliable enough to use for an additional Step Two adjustment.

Upon notification of a reliable method of relating data on these topics to the opportunities for DBEs to perform in NDOT's program, either through public comment or agency consultation, NDOT is prepared to perform additional analysis and determine whether an additional adjustment to the base figure is warranted. NDOT is not, however, inclined to perform a separate Step One analysis in order to explore this type of adjustment.

**Potential Adjustment #6 – Additional sources of information considered.**

Guidance found in the USDOT publication "Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program," Section III(B). states the following about utilizing other sources of information in Step Two adjustments:

*In determining whether or not your base figure should be adjusted to account for the effects of past discrimination, you should consider consulting with the following organizations and institutions to determine whether they can direct you to information about past discrimination in public contracting; discrimination in private contracting; discrimination in credit, bonding or insurance; data on employment, self-employment, training or union apprenticeship programs; and/or data on firm formation:*

- a. *organizations serving or representing DBEs, minority-owned or women-owned businesses;*
- b. *state or local offices of procurement;*

- c. *federal, state or local offices responsible for enforcing civil rights laws;*
- d. *state or local offices responsible for minority or women's affairs;*
- e. *state or local offices dealing with business affairs, commerce or small businesses;*
- f. *state or local offices dealing with the oversight of banks and other credit institutions (sometimes this is the state treasurer's office);*
- g. *state or local labor offices; local labor organizations; institutions of higher education within your state; h. your state's Office of the Attorney General (for information about lawsuits related to contracting or obtaining credit or bonding.)*

*If you choose to make adjustments to your base figure based upon any of this evidence of past discrimination, be certain that there is a clear and rational relationship between the evidence and the adjustment.*

In consideration of this guidance, the NDOT DBE Office did reach out to several organizations to gather additional information that could be applied in a Step Two adjustment of the base figure. Below is a list of the organizations contacted, along with a summary the information obtained from each.

Nebraska Department of Economic Development: Did not have current relevant disparity data available. Did provide the NDOT with data from the 2018-2019 Business & Innovation Act program. However, while the data reflected program activity by business race/ethnicity and gender, it did not provide direct or correlated information regarding market participation and disparity for those businesses.

Nebraska Department of Administrative Services, Purchasing Bureau: Did not have data available on the participation rates or the disparity of participation for women and minority owned businesses in State of Nebraska contracts. Nebraska law does not require the department to track or gather such information.

Nebraska Department of Banking and Finance: Was not able to provide current data on the disparity of minority and women owned businesses in obtaining financing.

Nebraska Department of Insurance: Was not able to provide current data on the disparity of minority and women owned businesses in obtaining bonding.

University of Nebraska at Omaha, Nebraska Business Development Center: Did not have current relevant disparity data available.

University of Nebraska, Bureau of Business Research: Did not have current relevant disparity data available.

City of Omaha, Purchasing Department: Did not have data available on the participation rates or the disparity of participation for women and minority owned businesses in City of Omaha contracts. The City of Omaha does not require the department track or gather such information.



City of Omaha, Small and Emerging Small Business Program: The City of Omaha’s Small and Emerging Small Business Program is race and gender neutral, and, therefore, does not collect related data. However, the program office did provide the NDOT with information on the bidding activity of program participants on City of Omaha street and pathway projects for FY17-19. While the data suggests DBEs are well represented within the program, the NDOT found the data was overall not comprehensive enough to be used in consideration of a further Step Two adjustment.

City of Lincoln, Purchasing Division: Was not able to provide current data on the participation rates or the disparity of participation for women and minority owned businesses in obtaining City of Lincoln contracts.

City of Grand Island, Purchasing Division: Did not have data available on the participation rates or the disparity of participation for women and minority owned businesses in City of Grand Island contracts. The City of Grand Island does not require the division track or gather such information.

City of North Platte, City Administrator’s Office: Did not have data available on the participation rates or the disparity of participation for women and minority owned businesses in City of North Platte contracts. The City of North Platte does not require such information be tracked or gathered.

Associated General Contractors of America, Nebraska Chapter: The association did not have current relevant disparity data available and does not gather information on the race or gender of the ownership of its member businesses.

In summary, the NDOT was not able to locate and obtain from other agencies or organizations any additional data that could be effectively applied to or considered in making a further Step Two adjustment.

**Conclusion – Determine whether adjustments to the base figure is necessary.**

After examining each of the potential opportunities for Step Two adjustments, the NDOT DBE Office concluded that Potential Adjustment #1, the demonstrated capacity of DBEs to perform work on NDOT’s federally assisted contracts, specifically a five-year median participation rate of 6.27%, presented a clear and substantial opportunity to make an upward adjustment to the bidders list-derived 5.35% base figure calculated in Step One. In averaging the two figures in accordance with USDOT guidance, the NDOT DBE Office arrived at an adjusted overall goal of **5.81%**.

## **Step 3 – Race Neutral and Race Conscious Participation**

### **Overview**

The USDOT DBE regulations at 49 CFR 26.51 give the following instruction:

- a. *You must meet the maximum feasible portion of your overall goal by using race-neutral means of facilitating race-neutral DBE participation. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures or is awarded a subcontract on a prime contract that does not carry a DBE contract goal.*
- b. *Race-neutral means include, but are not limited to, the following:*
  1. *Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate participation by DBEs and other small businesses and by making contracts more accessible to small businesses.*
  2. *Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, reducing bonding requirements, eliminating the impact of surety costs from bids, and providing services to help DBEs, and other small businesses, obtain bonding and financing);*
  3. *Providing technical assistance and other services;*
  4. *Carrying out information and communications programs on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors; provision of information in languages other than English, where appropriate);*
  5. *Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs and other small businesses;*
  6. *Providing services to help DBEs, and other small businesses, improve long-term development, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;*
  7. *Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;*
  8. *Ensuring distribution of your DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors; and*
  9. *Assisting DBEs, and other small businesses, to develop their capability to utilize emerging technology and conduct business through electronic media.*

Further guidance on this topic is given in USDOT publication “Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program,” Section IV. This guidance encourages consideration of several factors in determining [Race Neutral](#) and [Race Conscious](#) goals. These factors are examined below.

### Consideration of the Amount by Which NDOT Exceeded its Overall Goal in the Past

For consistency of data evaluation, the NDOT applied the median methodology on the same five-year timeframe examined in "Potential Adjustment #1" of Step Two. In this instance, the DBE participation rate for each of FY15, FY16, FY17, FY18, and FY19 was compared to that year's overall DBE goal to determine if the goal had been exceeded and, if so, by how much.

The findings were as follows:

<u>Fiscal Year</u>	<u>DBE Participation %</u>	<u>Overall Goal %</u>	<u>Exceeded %</u>
2015	5.35	6.19	(0.84)
2016	4.90	6.19	(1.29)
2017	6.42	6.19	0.23
2018	6.27	6.21	<b>0.06</b>
2019	9.31	6.21	3.10

The median rate by which the NDOT exceeded the overall DBE goals in this five-year period was 0.06%. The NDOT has included this amount in the projected Race Neutral portion of the proposed overall goal for FY21-23.

### Consideration of Past Participation by DBE Prime Contractors

The NDOT DBE Office examined the five-year period of FY15-19 for the median participation rate of DBE firms awarded prime contracts. The findings were as follows:

<u>Fiscal Year</u>	<u>DBE Participation %</u>	<u>DBE as Prime %</u>
2015	5.35	0.50
2016	4.90	0.80
2017	6.42	2.50
2018	6.27	<b>1.40</b>
2019	9.31	2.30

The five-year median for participation of DBE firms as prime contractors was 1.40%. The NDOT has included this amount in the projected Race Neutral portion of the proposed overall goal for FY21-23.

### **Consideration of Past Race Neutral Participation by DBE Subcontractors**

The NDOT DBE Office examined the five-year timeframe of FY15-19 for the median rate of Race Neutral participation of DBE firms in subcontracts. The findings were as follows:

<u>Fiscal Year</u>	<u>DBE Participation %</u>	<u>Race Neutral Subcontracts %</u>
2015	5.35	1.04
2016	4.90	1.13
2017	6.42	<b>1.72</b>
2018	6.27	2.95
2019	9.31	4.79

The five-year median for participation of DBE firms in Race Neutral subcontracting was 1.72%. The NDOT has included this amount in the projected Race Neutral portion of the proposed overall goal for FY21-23.

### **Consideration of MBE/WBE/DBE Participation Pursuant to Race/Gender-Neutral State or Local Programs**

The NDOT DBE Office does not have applicable data on this topic. Upon notification of the existence of such data, either through public comment or agency consultation, NDOT will perform this analysis.

### **Consideration of Concrete Plans to Implement New Race-Neutral Methods**

The NDOT is readying the launch of its first ever DBE Business Development Program (BDP) using federally allocated Supportive Services funds. The NDOT has recently completed the request for proposal (RFP) process and is currently finalizing the contract with the selected vendor. Once a contract is in place, the NDOT will move to formally launch the program and begin recruiting DBEs as soon as possible. However, the current COVID-19 public health crisis may have a necessary, direct and, at this point, unknown impact on when the program launches.

The BDP/SS will provide targeted training and technical assistance to DBE construction firms so they may develop and improve both their capability and capacity to successfully compete for and execute contracts in highway and other infrastructure projects; so they may achieve sustained profitability in areas outside of their traditional DBE participation; and so they may reduce or eliminate noncompliant performance, delays in project completion, and delays in progress payments.

The above program objectives encompass and are likely to achieve several of the regulatory suggestions (listed at the beginning of this Step 3 section) for means of increasing Race Neutral participation. The NDOT DBE Office believes that the BDP/SS will, over time, result in greater Race Neutral participation as DBE firms in the program are strengthened and better able to compete in the marketplace outside of the DBE Program.

### **Consideration of Past History of Inability to Achieve Goals**

The NDOT has met or exceeded its annual overall DBE goal past three consecutive fiscal years, FY17-19. Based upon this recent history, and in recognition of the Race Neutral attainment in those years, the NDOT does not believe it will need to rely solely on Race Conscious measures to attain the proposed overall DBE goal for FY21-23. Therefore, the NDOT will work to achieve the proposed overall goal with a combination of Race Conscious and Race Neutral measures.

### **Conclusion – Race Neutral and Race Conscious Participation**

The total of the FY15-19 medians for participation by DBE primes (1.40%), Race Neutral participation by DBE subcontractors (1.72%), and the amount NDOT exceeded its overall goal (0.06%) is **3.18%**. The NDOT DBE Office believes this is an attainable Race Neutral portion of the proposed overall goal for FY21-23 and confirms the commitment by the NDOT to achieve the greatest possible portion of the overall goal through Race Neutral measures.

## **Solicitation for Public Comment**

The NDOT encourages and welcomes public comment and consultation on the proposed DBE attainment goals for FY21-23. Comments will be accepted for 30 days from the date of publication of this notice and may be submitted in writing using the contact information below.

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