

**NEAR NORTHWEST MANAGEMENT DISTRICT
OVERALL DISADVANTAGED BUSINESS ENTERPRISE (DBE)
GOAL CALCULATION**

The process used by Near Northwest Management District (NNMD) to establish its Disadvantaged Business Enterprise (DBE) goal for fiscal year (FY) 2024 through 2026 is summarized below. NNMD followed a two-step process based on documented evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate in NNMD’s FTA assisted contracts, which is referred to as relative availability of DBEs and establishes the base goal. The goal reflects NNMD’s expected level of participation by DBEs.

Step 1 – Establish Base Goal

NNMD considered all the possible FTA assisted contracting opportunities for award in FY 2024 through 2026 and compiled the North American Industry Classification System (NAICS) codes for the work included in the contracting opportunities. NNMD established the counties of the Texas Department of Transportation (TxDOT) Houston Work District as the market area to determine the total number of DBE businesses ready, willing, and able to perform work in the same NAICS codes, which includes Brazoria, Fort Bend, Galveston, Harris, Montgomery, and Waller Counties. NNMD established this market area due to the availability of contractors in the area and the size and cost of the projects projected. NNMD reviewed the total firms in the same counties in the TxDOT Houston Work District in the 2021 US Census County Business Patterns.

NNMD does not provide transit operations but does receive federal funding through grants for pedestrian improvements to support access to transit. NNMD only has two federally funded construction projects and one construction management and materials testing contract expected within the next three years.

NNMD used the suggested calculation tables to determine the weighted base goal. There are two pedestrian construction projects programmed within the next three years. Tasks involved in this project include sidewalk construction, curb construction, electrical installation, site preparation, construction management, and materials testing. Each NAICS Code is defined in the table below.

NAICS Code	Definition
221310	Water Supply and Irrigation Systems
237310	Highway, Street, and Bridge Construction – Curbs, gutters, culvert construction
238210	Electrical Contractors and Other Wiring Installation Contractors
238910	Site Preparation Contractors
238990	All Other Specialty Trade Contractors - Sidewalk construction, residential and commercial, concrete paving
237990	Other Heavy and Civil Engineering Construction – Construction Management
541380	Testing Laboratories and Services

NNMD does not have any subrecipients of federal funding.

1 - Determine the weight of each type of work by NAICS Code

Weighted NAICS Codes			
NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
221310	W. Tidwell Pedestrian-Transit Improvements	\$28,690.00	0.0185
237310	W. Tidwell Pedestrian-Transit Improvements	\$502,075.00	0.3239
238210	W. Tidwell Pedestrian-Transit Improvements	\$215,175.00	0.1388
238910	W. Tidwell Pedestrian-Transit Improvements	\$143,450.00	0.0925
238990	W. Tidwell Pedestrian-Transit Improvements	\$545,110.00	0.3517
237990	W. Tidwell - Construction Management	\$75,093.20	0.0484
541380	W. Tidwell - Materials Testing	\$40,434.80	0.0261
221310	Sharpstown Trail Construction	\$20,000.00	0.0078
237310	Sharpstown Trail Construction	\$350,000.00	0.1373
238210	Sharpstown Trail Construction	\$150,000.00	0.0588
238910	Sharpstown Trail Construction	\$100,000.00	0.0392
238990	Sharpstown Trail Construction	\$380,000.00	0.1490
Total FTA-Assisted Contract Funds		\$2,550,028.00	1.0000

2 - Determine the relative availability of DBE's by NAICS Code

Firm Relative Availability				
NAICS Code	Project	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability
221310	W. Tidwell Pedestrian-Transit Improvements	2	85	0.0235
237310	W. Tidwell Pedestrian-Transit Improvements	24	158	0.1519
238210	W. Tidwell Pedestrian-Transit Improvements	6	1170	0.0051
238910	W. Tidwell Pedestrian-Transit Improvements	17	390	0.0436
238990	W. Tidwell Pedestrian-Transit Improvements	22	583	0.0377
237990	W. Tidwell - Construction Management	8	91	0.0879
541380	W. Tidwell - Materials Testing	1	291	0.0034
221310	Sharpstown Trail Construction	2	85	0.0235
237310	Sharpstown Trail Construction	24	158	0.1519
238210	Sharpstown Trail Construction	6	1170	0.0051
238910	Sharpstown Trail Construction	17	390	0.0436
238990	Sharpstown Trail Construction	22	583	0.0377
Combined Totals		151	5154	0.0293

3 - (Weight) x (Availability) = Weighted Base Figure

Weighted Base Figure					
NAICS Code	Project	Weight	X	Availability	Weighted Base Figure
221310	W. Tidwell Pedestrian-Transit Improvements	0.0185	x	0.0235	0.0003
237310	W. Tidwell Pedestrian-Transit Improvements	0.3239	x	0.1519	0.0299
238210	W. Tidwell Pedestrian-Transit Improvements	0.1388	x	0.0051	0.0004
238910	W. Tidwell Pedestrian-Transit Improvements	0.0925	x	0.0436	0.0025
238990	W. Tidwell Pedestrian-Transit Improvements	0.3517	x	0.0377	0.0081
237990	W. Tidwell - Construction Management	0.0484	x	0.0879	0.0026
541380	W. Tidwell - Materials Testing	0.0261	x	0.0034	0.0001
221310	Sharpstown Trail Construction	0.0078	x	0.0235	0.0002
237310	Sharpstown Trail Construction	0.1373	x	0.1519	0.0208
238210	Sharpstown Trail Construction	0.0588	x	0.0051	0.0003
238910	Sharpstown Trail Construction	0.0392	x	0.0436	0.0017
238990	Sharpstown Trail Construction	0.1490	x	0.0377	0.0056
Total					0.0724
Weighted Base Percentage					7.2%

Step 2 – Base Goal Adjustment

Past Participation

Previously, NNMD had an FTA-approved DBE program goal of 7.3%. This DBE program goal was 100% race neutral. Based on the statistical analysis conducted under Step 1, Establish Base Goal, NNMD will use the 7.2% goal as the established, weighted base goal. For the past three fiscal years, NNMD has awarded one engineering contract with 20% DBE participation through race neutral means and a construction contract that did not have any DBE Participation.

	Past Participation
FY 2020	20.0%
FY 2021	0.0%
FY 2022	0.0%
Average Participation	6.7%

Instead of using the median of the past participation, NNMD adjusted based on the average participation. Since NNMD does not provide transportation and does not receive formula funding, there are minimal opportunities for third party contracting and DBE Participation. NNMD does believe that adjusting the DBE Goal based on the median (0.0%) accurately reflects that DBE Participation that NNMD has obtained in the past. Since there was only participation in one year, the average will be used over the three years instead of the median.

Market Studies

Multiple disparity studies exist in the TxDOT Houston Work District. Currently, the City of Houston is in the process of developing a new disparity study. Other agencies either have chosen not to conduct a disparity study or they are in the process of developing a disparity study.

The Metropolitan Transit Authority of Harris County (METRO) examined prime contract awards in construction, professional services, and goods and services from October 1, 2013, to September 30, 2018. The Study found that there were disparities in different contract types in both the prime contracts and subcontracts METRO awarded during the study period.

The Study found several disparities for different contract types. No disparities were found for Subcontinent Asian Americans and Hispanic Americans for prime construction contracts larger than \$15,000, but Caucasian women-owned businesses were underutilized. For subcontracts, the Study found disparities for African Americans and Caucasian Women were underutilized in Construction contracts. For professional services contracts, disparities were found for African American, Caucasian female, registered minority-owned, and registered woman-owned businesses for contracts over \$50,000.

The Harris County Disparity Study (2020) was available for review. The study was approved on July 31, 2018, and was developed by Colette Holt & Associates to form a disparity study of its County-funded contracts in conformance with strict constitutional scrutiny for data available from FY2016 to FY2019. The study compared county contracts awarded to minority- and women-owned businesses to the number of such businesses that were available. The marketplace for this study is similar to the NNMD's market area: Brazoria, Fort Bend, Galveston, Harris, and Montgomery Counties.

The study found that for every \$100 paid by the county on third-party contracts, \$90.90 went to white male-owned businesses; \$3.20 went to white women-owned business; \$4.60 went to businesses owned by people of Hispanic descent; \$0.60 went to businesses owned by people of Asian descent; \$0.10 went to businesses owned by people of Native American descent; and \$0.50 went to businesses owned by Black men and women.

While white male-owned businesses made up 72.0% of the marketplace, those businesses received 90.9% of the third-party contracts; black-owned businesses made up 8.4% of the marketplace yet received 0.5% of third-party contracts. While the gap for Black-owned businesses was proportionately largest, all minorities and women were underrepresented in third-party contracts. Asian-owned businesses accounted for 3.0% of the marketplace but only 0.6% of third-party contracts; Native American-owned businesses made up 0.4% of the marketplace but only 0.1% of third-party contracts; Hispanic-owned businesses made up 11.0% of the marketplace but only 4.6% of third-party contracts; and businesses owned by white women made up 6.0% of the marketplace but only 3.2% of third-party contracts. As a whole, minority DBE firms made up 28.4% of the marketplace, but only received 9.1% of the third-party contracts.

The Harris County Disparity Study also reviewed disparity ratios by each demographic group. The disparity ratio is developed by dividing the demographic group's utilization rate by the group's availability in the marketplace. A "large" or "substantively significant" disparity is commonly defined by courts as utilization that is equal to or less than 80.0% of the availability measure. As demonstrated in the Harris County Disparity Study, all Minority and Women-owned Business Enterprises groups fall well below the 80.0% threshold and would be consider a "large" or "substantively significant" disparity.

As stated in the Houston Chronicle article titled "Minority businesses shortchanged by Harris County contracting practices", dated July 7, 2020, in the City of Houston, where DBE businesses make up 35.0% of the construction market, DBE businesses received 30.0% of contract dollars, according to the city's most recent disparity study. Black-owned businesses, which made up 5.0% of the market, were paid 3.0% of contracts.

While the study provided recommendations specifically for Harris County, there are some recommendations that can be included in NNMD's DBE Program and Goal. The first recommendation is

to implement more race neutral measures. While several facets of this recommendation do not apply to NNMD, NNMD can increase vendor communication and outreach to M/WBEs and small firms. NNMD will notify minority business organizations, such as Houston Minority Business Development Agency or the Houston Minority Supplier Development Council, about potential contracting, or subcontracting opportunities. Another recommendation is to set race-conscious goals, due to the demonstrated disparity.

The Port of Houston Authority also conducted a 2020 Disparity Study, developed by Griffin & Strong, P.C. The study period reviewed FY2015-2019 contracting for the industry categories of Construction, Architectural & Engineering, Professional Service, Other Services, and Goods. The study set their market area as Harris, Montgomery, and Fort Bend Counties. The study found statistically significant underutilization of minority and woman owned firms in all five (5) industry categories except Asian American and Hispanic American owned firms as prime contractors in Professional Services.

Adjustment

NNMD took the past participation percentage of the past three fiscal years and the weighted base goal and averaged them together to create the adjusted DBE Goal.

Adjusted DBE Goal	
Weighted Base Goal	7.2%
Past Average Performance Percentage	6.7%
Total	13.9%
Adjusted DBE Goal	7.0%

NNMD will set the DBE goal at 7.0% based on past performance and monitor how much DBE participation occurs over the next three (3) years. While NNMD had DBE participation on the engineering contract, NNMD had no participation on the construction contract, which did not have a DBE contract goal. Since NNMD only has three projects planned in the next three years, NNMD will have a DBE contract goal on one of the planned construction contracts.

NNMD will use the percentage of the construction contract of the overall total contracting amount to determine the Race Conscious goal.

Procurement	Method	Project Amount	Percentage of Total Amount	Percentage of DBE Goal
W. Tidwell Construction	Race Conscious	\$1,434,500	56.25%	3.94%
Management/ Testing	Race Neutral	\$115,528	4.53%	0.32%
Sharpstown Construction	Race Neutral	\$1,000,000	39.22%	2.74%

NNMD estimates that, in meeting the overall goal of 7.0%, NNMD will obtain 3.06% from race-neutral participation and 3.94% from race-conscious participation. This adjusted goal is NNMD’s overall program goal for the next three fiscal years.

Breakout of Estimated Race-Neutral & Race Conscious Participation

NNMD will meet the maximum feasible portion of its overall goal by using both race-neutral and race-conscious means of facilitating DBE participation. NNMD uses race-neutral means, including but not limited to, contacting DBE and SBE Directories, creating bidders’ lists, proactive outreach events with DBE firms in the area, and advertising prime contracts to DBEs to increase DBE participation.

NNMD estimates that, in meeting our overall goal of 7.0%, NNMD will obtain 3.06% compliance from race-neutral participation and 3.94% from race-conscious participation.

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

In order to ensure that NNMD's DBE Goal will be narrowly tailored to overcome the effects of discrimination, NNMD will use contract goals on some contracts to obtain DBE participation and 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 that a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry 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.