

Illinois Department of Transportation

FFY 2011

Federal Aviation Administration

Overall DBE Goal

The Illinois Department of Transportation (IDOT) has prepared this submission for the Federal Aviation Administration (FAA) to describe the methodology used to establish the overall Disadvantaged Business Enterprise (DBE) goal mandated by 49 CFR part 26 for its federally assisted Division of Aeronautics contracts for Federal Fiscal year (FFY) 2011. IDOT relied on and followed the regulations and guidance provided concerning the implementation of the regulations.

49 CFR §26.45 requires a two-step process for setting the overall DBE goal that reflects the level of DBE participation on IDOT's contracts expected in the absence of discrimination. The first step is the calculation of a base figure for the relative availability of DBEs. The second step requires consideration of a possible adjustment of the base figure to reflect the effects of the DBE program (program) and the level of participation that would be expected "but for" the effects of past and current discrimination against DBEs. As further required by §26.51(c), IDOT submits a projection of the portion of the overall goal that it expects to meet through race-neutral means and the basis for the projection.

IDOT notes that the United States Court of Appeals for the Seventh Circuit upheld the constitutionality of IDOT's 2005 goal in *Northern Contracting, Inc. v. Illinois Department of Transportation*, 473 F.3d 715 (7th Cir. 2007), affirming that the DBE goal was based on ample evidence of discrimination and was narrowly tailored to the statistical and anecdotal data and analysis. Further, FAA has approved IDOT's 2008, 2009 and 2010 goals. The 2011 goal is based upon the same methodology.

I. Methodology and Evidence

To meet the requirements of §26.45, IDOT commissioned a Disadvantaged Business Enterprise Availability Study (IDOT Study) from National Economic Research Associates, Inc. (NERA), an internationally recognized economics consulting firm (Attachment A). The IDOT Study has formed the basis for IDOT's goals since 2006, and was relied upon in *Northern Contracting*.

The IDOT Study provided a statistical analysis of baseline DBE availability, including FAA-funded contracts, and examined econometric evidence of disparities between DBEs and non-DBEs in factors affecting entrepreneurial success on IDOT contracts and subcontracts. In particular, for Step 1, the IDOT Study estimated statewide DBE availability using data on IDOT's expenditures for highway construction, engineering consulting and aviation construction contracts and subcontracts, and carefully constructed databases of firms in those industries. To address Step 2, the IDOT Study reviewed existing qualitative and quantitative evidence of discrimination and assessed the likelihood that statewide DBE availability would be different if the relevant markets in which IDOT operated were race-neutral; it then estimated the magnitude of this difference. The Study's results are summarized below.

To supplement the Study's extensive statistical evidence, IDOT also presented to the court additional quantitative and anecdotal evidence of discrimination against minority- and women-

owned construction firms in its market place. This included survey evidence and other expert reports that found disparities in the business experiences of DBEs compared to similar non-DBEs, and Census data establishing disparities in the rates at which DBEs form businesses and their earnings from those businesses compared to similar non-DBEs. The court further relied upon the record in *Builders Association of Great Chicago v. City of Chicago*, 298 F.Supp.2d 725 (N.D. Ill. 2003), wherein the court held that minorities and women suffer from the “market failure” of discrimination. The court also found relevant and probative the utilization of DBEs in “unremediated” markets, that is, markets without affirmative action contract goals. The huge underutilization of DBEs in the absence of goals supported the conclusion that discrimination still limits DBEs’ opportunities and that race-conscious remedies are necessary to achieve IDOT’s overall FAA annual DBE goal.

The favorable decision in *Northern Contracting*, as well as the United States Department of Transportation’s (USDOT) approval of IDOT’s and other recipients’ goals based upon NERA studies, gives IDOT continuing confidence in the Study’s methodology, constitutional validity and narrowly tailored results. This approach has also been upheld by the Eighth Circuit Court of Appeals in the challenge to the Minnesota Department of Transportation’s DBE program, and by the Tenth Circuit Court of Appeals in holding that the City and County of Denver’s local Minority and Women Business Enterprise Program meets strict constitutional scrutiny.¹ In finding the Washington State Department of Transportation’s goal setting methodology and evidence to be inadequate, the Ninth Circuit Court of Appeals looked to the Minnesota decision’s discussion of that study’s evidence as meeting constitutional requirements.²

The IDOT Study provides a statistically sound and detailed basis to meet the requirements of Part 26, and more fully addresses the remedial purpose of the DBE program and Congressional intent than the methodology previously relied upon by IDOT. While the underlying availability data was collected some time ago, IDOT’s product and geographic marketplaces have remained consistent. Moreover, older estimates of firm availability probably understate current availability, as firms owned by women and minorities continue to make up an ever increasing share of the economy, thereby setting a “plausible, lower bound estimate” of DBE availability.³

A. Step 1 Estimate of Relative Availability of DBEs

1. Definition of IDOT’s contracting market

The first element in estimating DBE availability was to determine empirically the relevant product and geographic markets for IDOT’s federally-assisted contracts. Based upon five years of IDOT’s contract and subcontract expenditure data, a total of 27 four-digit Standard Industrial Classification (SIC) codes⁴ were identified as IDOT’s product market, and the State of Illinois was identified as the geographic market. This approach incorporates the guidance of USDOT to use 4-digit SIC codes and to weight that data by IDOT’s expenditures. See

¹ *Sherbrooke Turf, Inc. v. Minnesota Department of Transportation*, 345 F.3d 964 (8th Cir. 2003), *cert. denied*, 124 S.Ct. 2158 (2004); *Concrete Works of Colorado Inc. v. City and County of Denver*, 321 F.3d 950 (10th Cir. 2003), *cert. denied*, 124 S.Ct. 556 (2003).

² *Western States Paving Co., Inc. v. Washington Department of Transportation*, 407 F.3d 983 (9th Cir. 2005)

³ *Northern Contracting, Inc. v. Illinois Department of Transportation*, 2005 U.S. Dist. LEXIS 19868, at *82 (Sept. 8, 2005) (*Northern Contracting II*).

⁴ SIC codes can easily be converted into the North American Industry Classification System (NAICS) codes now adopted by the U.S. Census Bureau.

<http://osdbuweb.dot.gov>. It also separates firms by detailed function, delineating, for example, general contractors from specialty trade firms that primarily act as subcontractors on IDOT projects.

2. Counting establishments in IDOT's relevant markets

The IDOT Study next examined the availability of DBEs in the relevant markets. It used Dun & Bradstreet's *Marketplace* database, an independent and established data source routinely relied upon by courts, to identify the total number of Illinois businesses in each four-digit SIC code, weighted by that code's share of IDOT's product market. It next identified the number of firms owned by minorities and women, based upon the information in *Marketplace*, IDOT's DBE directory and other regional listings. As noted by USDOT's guidance, supplementing the DBE Directory with other information on minority and women-owned firms may provide a more complete picture of the availability of firms to work on IDOT contracts than reliance solely upon the number of IDOT-certified, prequalified and registered DBEs. Because of the possible misclassification and non-classification of firms from these sources, additional scientifically accepted safeguards were taken to verify listed DBEs and estimate unlisted DBEs.

3. Estimating baseline DBE availability

Using empirical market definitions, business establishment data and statistical verification surveys, the Study estimated 22.77 percent as the base availability figure for Step 1.

B. Step 2 Consideration of Adjustment to the Base Figure

Step 2 requires IDOT to examine all evidence in its jurisdiction to determine what adjustment, if any, is needed to the base figure to arrive at the overall goal. Included among the types of evidence that must be considered are the current capacity of DBEs to perform work on IDOT's federally assisted contracts, as measured by the volume of work DBEs have performed in recent years, and evidence from disparity studies conducted anywhere within IDOT's jurisdiction, to the extent not already accounted for in the base figure. IDOT may also consider available 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 the program, and data on employment, self-employment, education, training and union apprenticeship programs, to the extent relevant to the opportunities for DBEs to perform in the program. The regulations caution that any adjustment to the base figure to account for the continuing effects of past discrimination or the effects of an ongoing DBE program must be based on "demonstrable evidence that is logically and directly related to the effect for which the adjustment is sought." §26.45(d)(3). Each of these categories is discussed separately below.

1. Past DBE Utilization

IDOT considered the current capacity of DBEs to perform on its FAA-assisted contracts, measured by the volume of work DBEs have received in recent years. For FFYs 2007 - 2009, DBEs received 9.66 percent (\$11,666,331) of total awards (\$120,787,376).

Following is the breakdown by year:

2007 - DBEs received 7.32% (\$1,643,521) of total awards (\$22,448,871)

2008 - DBEs received 10.86% (\$4,192,168) of total awards (\$38,597,698)

2009 - DBEs received 9.76% (\$5,830,642) of total awards (\$59,740,807)

2. Evidence from local disparity studies

As discussed in the IDOT Study, several Chicago area governments have conducted studies since *City of Richmond v. J. A. Croson*⁵ to examine the extent, if any, that construction industry discrimination has affected DBE's. These studies suggest that the availability of DBEs in Illinois to do business with the public sector has been depressed by the persistent effects of discrimination. However, IDOT is not relying upon these studies because of their age.

IDOT also reviewed and relied upon the 2000 Disadvantaged Business Enterprise Availability Study for the Northeast Illinois Regional Commuter Railroad Corporation D/B/A Metra (Metra Study). This Study encompassed the Chicago region and was prepared to meet METRA's responsibilities under Part 26. The Metra Study's findings suggest that discrimination may be affecting the ability of DBEs to compete for IDOT contracts. In addition to the Step 1 availability estimate, the Study included mail surveys to quantify and compare anecdotal evidence on the experiences of DBEs and non-DBEs in construction. Overall, more than 20 percent of DBEs in the trades and professional services reported discrimination in (1) working or attempting to work on public sector subcontracts; (2) working or attempting to work on private sector subcontracts; (3) working or attempting to work on public sector prime contracts; (4) working or attempting to work on private prime contracts; (5) receiving payment for work performed; (6) applying for commercial loans; and (7) encountering double standards in quality, inspection or performance requirements. Almost 51 percent of DBEs in the trades and 54 percent in professional services reported they were seldom or never solicited by prime contractors for projects without participation goals. To test whether DBEs find procurement more difficult because they are smaller or newer firms than non-DBEs and not because of direct discrimination, the Study applied Probit regressions, with the independent variables being age of the firm, number of employees and firm revenues. Statistically significant disparities in the business experiences of DBEs and non-DBEs remained after controlling for these firm characteristics. The Metra Study also examined whether DBEs suffer discrimination in the market for business capital. Based upon data from the Federal Reserve Board and the U.S. Small Business Administration, the Study concluded that loan applications from minority-owned firms were substantially more likely to be denied than those from other groups, even after controlling for differences in size and credit history. Further, minority-owned firms that were granted loans paid higher interest rates than comparable white-owned firms.

⁵ 488 U.S. 469 (1989).

As previously discussed, IDOT also considered the trial record in *Northern Contracting*, wherein extensive evidence of local studies was presented, summarized and relied upon by the court in upholding IDOT's FFY 2005 goal.

Although not labeled a "disparity study," the City of Chicago commissioned expert reports examining statistical disparities in the Chicago area construction industry, in connection with its 2004 revisions of its Minority- and Women-Owned Business Enterprise (M/WBE) Construction Program. These studies were in addition to the extensive statistical analyses relied upon by the court in *BAGC* in holding that Chicago had presented strong evidence of discrimination in the construction market sufficient to meet strict constitutional scrutiny. Trial expert reports also documented the capacity of firms in the construction industry is relatively elastic, demonstrating that minority- and women-owned firms are available to perform additional work. Chicago's 2004 reports analyzed the 2000 Decennial Census of Population Public Use Microdata Sample (PUMS), the most detailed, individual data available. The experts found that the probability of being self-employed in the Chicago construction market remains lower for minorities and White women than for similar White men, and that self-employed White men working in the region's construction industry had considerably higher earnings and worked more hours, relative to similar self-employed Blacks, Hispanics, Asians and White women. The experts opined that the most plausible explanatory variable for the statistically significant differences in business formation and business success was minority status and gender. IDOT considered and relied upon this evidence as well.

3. Statistical evidence of disparities

a. IDOT Study

To provide a quantitative analysis of the effects of discrimination in IDOT's marketplace, the IDOT Study examined disparities in Illinois in earnings and business formation rates between DBEs and non-DBEs based upon the 2000 PUMS and Census Bureau's Current Population Survey (CPS).

i. Disparities in earnings

The Study analyzed whether minority and female entrepreneurs earn less from their businesses than do their White male counterparts. Other things being equal, if minority business owners as a group have lower earnings from their businesses than comparable non-minorities, economic theory suggests that minority business failure rates will be higher and minority business formation rates will be lower than those that would be observed in a race-neutral marketplace. Applying linear regression to assess whether minorities earn less than Whites with similar characteristics, the Study concluded that similarly situated minorities and women, especially Blacks, earn less than their comparable White male counterparts.

ii. Disparities in business formation

Likewise, the Study examined whether more minority businesses would have been formed if minorities were as likely to own their own businesses as were similarly situated White males and, if so, how many more such businesses would have been expected to be formed but for discrimination. Using Probit regression to control for age, industry and education, the Study found large and statistically significant disparities in the business formation rate for DBEs.

iii. DBE availability “but for” discrimination

Using the statistical data on disparities, the Study estimated that DBE availability in Illinois in a race-neutral market would be approximately 20.8 percent higher than the Step 1 estimate, for an estimated availability of DBEs “but for” discrimination of 27.51 percent in a fully race-neutral market. The base figure is depressed because discrimination has impacted the likelihood that minorities and women will become entrepreneurs and that when they do, those firms are likely to be less profitable and to fail more frequently.

b. Disparities in access to commercial credit

IDOT also examined expert reports submitted in the *BAGC* trial concerning disparities in the access of minority and women-owned construction firms to commercial credit. This testimony established that minority-owned businesses face impediments to obtaining credit that go beyond observable differences in their creditworthiness. Loan denial rates were significantly higher for minority-owned firms than for white-owned firms, controlling for measures of assets, liabilities, creditworthiness and other characteristics. This result was largely insensitive to changes in econometric specification. Overall, the evidence was consistent that minority-owned firms are disadvantaged in the credit market. This evidence was specifically cited by the court in holding that Chicago established its compelling interest in maintaining race-conscious remedies for discrimination in the construction market.

4. Anecdotal evidence of discrimination

IDOT considered and relied upon several sources of anecdotal evidence of discriminatory barriers to full and fair opportunities for DBEs to compete for its contracts. First, the testimony in the *Northern Contracting* trial provided ample un rebutted evidence of the discrimination still experienced by minority and women business owners in IDOT’s construction marketplace. Contractors testified that they experienced bias in bidding work as both prime contractors and subcontractors; that prime contractors who solicited them on projects with DBE goals rarely or never solicited them on contracts without goals; and that lenders and sureties sometimes discouraged them from growing their businesses and may have charged DBEs higher rates than their white male counterparts. DBEs further testified that the program is essential to their continued business survival. Without DBE goals, they would receive little or no work on IDOT projects.

DBEs presented similar testimony to IDOT substantiating discrimination by IDOT’s prime contractors at IDOT’s 2004 hearings on its program. Particularly striking were the consistent and repeated statements from qualified DBEs that prime contractors who regularly use them on projects with DBE goals refuse to even solicit them for bids on projects without goals. After describing their business credentials, work history and awards, citations and honors, these witnesses identified by name over 20 of the most dominant IDOT construction and consultant prime contractors who regularly engage in this practice. DBEs were unanimous that without mandated good faith efforts to meet contracting goals, they would receive few, if any, public subcontracts. Some DBEs also discussed the barriers to transitioning to prime contract work, making the continuation of race-conscious subcontracting measures especially critical to their firms’ survival. The representative from the Illinois Roadbuilders Association also supported the need for the program and the problem of insufficient bid solicitations. He acknowledged that the availability and capacity of DBEs is increasing, and stated that approximately 20 percent of the organization is now comprised of minority and women members.

In response to the testimony that DBEs suffer disparate treatment in receiving prompt payment by prime contractors, IDOT reviewed lien and bond claims for FFY 2003 and FFY 2004. DBEs filed 40.6 percent of the claims during that period but received only 22 percent of the subcontract awards and 22 percent of the subcontracting dollars. This large disparity suggests that prime contractors disproportionately fail to pay or to pay promptly socially and economically disadvantaged firms.

Further, as established by the unrebutted trial testimony in *BAGC*, minorities and women continue to face significant obstacles to entering into and succeeding in the construction industry. These include: the pervasive pattern of general contractors refusing to allow ready, willing and able minority- or women-owned firms to submit bids and compete for subcontracts on the same terms as majority-owned firms; the use by contractors of racial or gender epithets in refusing to deal with minority- and women-owned subcontractors; barriers to entry of minorities and women into the construction trades; disparate treatment of minority- and women-owned firms by unions; lack of mentoring opportunities and networking relationships to build skills and business contacts; overt harassment on the job site from White male employees and from majority-owned prime contractors; bid shopping; slow pay or no pay beyond that experienced by majority-owned firms; substitutions by prime contractors with non-DBEs post-award; higher performance standards not applied to majority-owned contractors; denial of bonding and financing or payment of higher rates than non-DBEs; and discrimination in price and delivery by suppliers.

In revising its M/WBE Program for construction contracts, the City Council of the City of Chicago conducted extensive hearings in the spring of 2004. In addition to the expert statistical evidence discussed above, numerous witnesses described discriminatory barriers to their success in the construction industry, and several groups submitted reports detailing the experiences of minorities and women with discrimination by prime contractors, banks, bonding companies, unions and other segments of the industry.

5. DBE utilization in race-neutral programs and unremediated markets

One indicator of the need to continue to apply race-conscious measures is the participation of DBEs in the absence of those measures. The results of unremediated markets were an important component of IDOT's successful defense of the DBE program in the *Northern Contracting* trial. The precipitous decline in DBE participation after the Minnesota Department of Transportation's (MnDOT) DBE program was enjoined was noted by the courts in holding the revised Part 26 and MnDOT's implementation of the new regulations to be constitutional. Likewise, expert testimony in the *BAGC* trial documented the experiences of state and local governments whose race-conscious programs have either been enjoined or that do not set goals on locally-funded transportation contracts. In the absence of DBE programs, utilization of minority- and women-owned construction firms dropped dramatically below availability in all jurisdictions, including Cook County, Illinois. For the twelve months ending in December 2003, minorities and women received 4.78 percent of Cook County's construction contracts; prior to the injunction, the County had met its goals for 30 percent MBE and 10 percent WBE participation.

In addition, the experience of the Illinois State Toll Highway Authority is particularly instructive. The Authority's service area is encompassed by IDOT's District 1. Until very recently, it had a voluntary goal of awarding 15 percent of its prime and subcontracting dollars to DBEs. Operating in the same market for highway contracts as IDOT's District 1, the Tollway awarded 1.3 percent of its contracts to DBEs in 2002 (none as prime contractors) and 0.9 percent in 2003

(two as prime contractors). In comparison, IDOT awarded 14.2 percent of its District 1 contracts to DBEs in 2002; 13.7 percent in 2003 and 17.8 percent through June 2004.

These data also mirror the results of IDOT's Zero Goals experiment. Like all the other agencies, utilization of DBEs on IDOT contracts without goals was marginal.

The participation of DBEs on contracts with the Missouri Department of Transportation (MoDOT) is also probative, especially since many firms seek to work on both IDOT and MoDOT projects in the St. Louis area. Between July 2002 and July 2003, MoDOT achieved 7.68 percent race-conscious and 1.36 percent race-neutral DBE utilization on its federally assisted projects. For the same period on its state-funded contracts for which no goals may be set, DBE utilization was 1.68 percent for subcontractors and 1.68 percent for prime contractors.

6. Step 2 adjustment evaluations

IDOT determined that the past participation of DBEs should not be used to adjust the Step 1 base figure. First, there is no evidence that DBEs are being overutilized relative to their availability and capacity. To the contrary, IDOT reviewed extensive evidence, including that proffered at the *Northern Contracting* trial, that firms owned by minorities and women are available to do more, not less, work, and IDOT's utilization of DBEs has increased in recent reporting periods. Therefore, relying upon past participation to define current capacity in determining the goal for a non-discriminatory market is inapposite for IDOT.

All of the evidence described above supports the qualitative judgment that, but for the continuing effects of discrimination, the availability of minorities and women to participate on IDOT's contracts would be considerably higher than 22.77 percent in a race-neutral market. The IDOT Study provides a quantitative estimate of the degree to which discriminatory factors artificially depress DBE participation in the marketplace. While the statistical disparities established by the IDOT Study could serve as the basis for an upward adjustment of the base figure, for an overall goal of 27.51 percent, IDOT believes that the increase over prior years' goals to 22.77 percent is a plausible, lower bound estimate of DBE availability, and is currently sufficient to meet the objective of further remedying discrimination against DBEs.

II. Projection of Race-Neutral vs. Race-Conscious Goal Attainment

IDOT will meet the maximum feasible portion of its overall goal through race-neutral means. Ongoing initiatives seek to reduce discriminatory barriers, increase capacity and level the playing field for the participation of DBEs and other small contractors. They are also designed to assist IDOT in meeting the increased goal for DBE participation as prime contractors and subcontractors and to arrest the decline in race-neutral participation on its contracts.

A. Race-neutral initiatives

1. Emerging contractors support initiatives

To increase competition for IDOT's smaller prime contracts and provide more contract opportunities for DBEs and other small businesses, IDOT implemented a Small Business Initiative (SBI) program in June 2005 on state-only funded projects. In FFY 2009, there were 20 SBI contracts awarded (\$5,901,815), six (6) of which were awarded to four (4) DBE firms (\$2,537,770 / 43.00%).

IDOT continues to evaluate this program for its effectiveness in reducing barriers to participation as prime contractors by DBEs and other small firms, and will pursue other possible mechanisms to support emerging businesses.

2. Supportive services program

IDOT provides its DBE firms with technical and management assistance through a statewide network of consultants. The DBE Resource Centers (Centers) in Chicago (District 1) and East St. Louis (District 8) have proven quite popular with IDOT's DBE firms and, as a result, Centers in Districts 2,3,4,5,6,7 and 9 were opened in September 2009. The management and technical consultants offer assistance in such areas as bidding, estimating, marketing, technology, bonding/financing, accounting methods, web site development, loan packaging, prime-subcontractor networking, scheduling and more.

3. Mentor-protégé program

Highway Construction

IDOT's highway construction Mentor Protégé Program (Program) was established in 2007 to give DBEs the opportunity to expand their businesses and successfully compete for work on IDOT contracts. This Program is the only federally approved Mentor Protégé Program in the nation.

The Program was initially offered in Districts 1, 4, 6 and 8, but was later expanded to include all nine districts. By working with experienced highway construction prime contractors (Mentors), DBEs (Protégés) can learn how to operate more efficiently and bid more competitively on IDOT contracts. Any contract that fits the criteria of a Mentor Protégé project is eligible.

Mentors must have at least five years' experience as a contractor (preferably, but not necessarily as a prime contractor) on IDOT highway construction contracts and agree to devote a minimum of five to ten hours per month working with the Protégé.

Proteges must have at least three years of experience in the highway construction industry, be a certified DBE (certified by IDOT or another member agency of the Illinois Unified Certification Program), and remain eligible for DBE certification throughout the duration of its participation.

Presently, there are 25 approved mentors and 37 approved Protégé's. Three projects have been successfully completed by Mentor Protégé teams, and there is one project in progress.

Consultant Engineering

On November 1, 2009, IDOT announced the establishment of the consultant engineering Mentor-Protégé Program (Program). This Program allows DBE firms to partner with veteran consultant engineering firms to gain knowledge and experience performing IDOT engineering projects.

To become a Mentor, a firm must have at least five years of experience as a consultant (preferably, but not necessarily as a prime consultant) on IDOT highway engineering contracts and may not have a less than satisfactory performance rating in the categories mentored. The

Protégé must be a certified DBE firm and perform at least one task on the project in which they are currently prequalified.

4. IDOT's Partnership with the Model Contractor Development Program

To address barriers to small firms' participation in IDOT's contracts and subcontracts posed by lack of financial and bonding capacity, IDOT has partnered with multiple governmental agencies, the surety industry and construction-related associations to support the Model Contractor Development Program in Illinois.

The Model Contractor Development Program provides relevant training, including professional advisors and introductions to specific procurement opportunities. The Program includes:

- Identifying resources available for small, minority and women contractors to build bonding capacity, including the Small Business Administration's Bond Guarantee Program and similar state and local programs.
- Participating in forums to address construction-related projects with city, state and federal procurement opportunities, as well as informal meetings with decision makers.
- Providing assistance and referrals to small, minority and women contractors in obtaining appropriate accounting, project management and financing expertise.

The target audience is small and minority- and women-owned construction contractors with annual revenues of at least \$500,000. Additional bonding workshops will be conducted throughout the state during the winter to ensure maximum participation.

5. Complaint procedures

IDOT adopted a procedure to process complaints of discrimination in the operation of the program and against contractors receiving IDOT contracts. This will ensure prompt, uniform and fair responses to allegations of unlawful conduct so that DBEs, non-DBEs and interested persons can have confidence in the integrity of IDOT's operations.

6. Non-discrimination assurances

To ensure that its prime contractors are providing full and fair opportunities for DBEs to compete and succeed, IDOT mandates as part of its prequalification process that applicants regularly maintain and make available at IDOT's request evidence that they are soliciting and evaluating subcontractors on a non-discriminatory basis in their daily business activities in the public and private sectors.

7. Prompt payment

IDOT continues to enforce its prompt payment provisions and processes. It impresses upon its personnel and prime contractors the necessity and importance of meeting these requirements.

8. Outreach

IDOT continues its outreach efforts to attract additional DBE participation and to assist those businesses to become competitive in a race-neutral environment. It is further contacting firms

identified as possible program participants to encourage their applications and assist with meeting eligibility criteria.

9. Networking

IDOT sponsors networking activities to provide education and encourage participation on major construction projects. It is also cooperating with a statewide network of 20 Small Business Development Centers administered by the U.S. Small Business Administration and the Illinois Department of Commerce and Economic Opportunity to provide information on the DBE program and training and assistance to DBEs and small businesses.

10. Information sharing

IDOT continues to develop and expand its website as a valuable source for information and communication. The Contractor's Market Place provides an electronic bulletin board where prime contractors, subcontractors and suppliers can communicate about quotes on specific letting items and work categories. Information is organized by letting date and posted in an easy-to-read report format and updated daily.

11. Stakeholder Inclusion

IDOT seeks input into the DBE program through contacts with relevant stakeholders. For example, it is an active member of the State of Illinois Central Management Services' Business Enterprise Program. As part of IDOT's partnering with minority and women business associations and industry associations, IDOT continues to participate in industry organizations, such as the Illinois Road Transportation Builders Association's EEO/DBE Subcommittee, Black Contractors United, the Hispanic American Construction Industry Association, the Association of Asian Construction Enterprises, the Federation of Women Contractors and the Women Construction Owners and Executives, among others.

B. Projection of Race-Neutral Versus Race-Conscious Participation

IDOT will meet the maximum feasible portion of its overall aspirational goal through these race-neutral measures.

To estimate the portions of the goal to be met through race-neutral and race-conscious measures, IDOT evaluated past race-neutral DBE participation as defined in §26.51(a).

Federal Fiscal Year	Total FAA Awards	Race-neutral DBE Utilization
2007	\$22,448,871	0.80% (\$170,572)
2008	\$38,597,698	2.30% (\$903,653)
2009	\$59,740,807	1.41% (\$842,880)

The median of IDOT's achievement of its goal through race-neutral means for FFY 2007-2009 is 1.41 percent. Therefore, IDOT anticipates that it will meet 1.41 percent of its overall goal of 22.77 percent through race-neutral measures and 21.36 percent of its overall goal through race-conscious contract goals.

IDOT will monitor DBE participation throughout the year to adjust its use of contract goals to ensure that their use does not exceed the overall goal.

III. Public Participation

A public meeting was held at IDOT's Central Office in Springfield on August 10 from 4:30 - 6:00 pm to discuss IDOT's FFY 2010 DBE goal. Ten DBE firms, one majority industry association member, and 14 IDOT personnel attended the meeting. Written comments were submitted by three DBE firms and one majority industry association.

The proposed FFY 2011 FAA DBE goal of 22.77 percent was published November 10, 2010 in the *Breeze-Courier*, the Official State Newspaper for SFY 2011 (see attached advertisement). The deadline for inspecting the goal document is **December 10, 2010**, with public comments accepted by IDOT and USDOT until **December 25, 2010**.

On November 10, 2010, IDOT emailed copies of its proposed FFY 2011 FAA DBE goal submission to numerous stakeholders who may have information concerning the availability of DBEs and non-DBEs, the effects of discrimination on opportunities for DBEs, and IDOT's efforts to establish a level playing field for DBE participation, for their review and comments.

Based on the comments heard and received at the August 10, 2010 meeting, IDOT believes that changes to its proposed FFY 2011 FAA DBE goal are not warranted.