
INTRODUCTION

This report describes the methodology and the process used by Milwaukee County to formulate its FFY 2009 goals for FTA and FAA federally assisted projects. It also describes the efforts of the County to comply with the goal setting provisions contained in 49 CFR Part 26.

This report contains goals for both FTA and FAA funded projects based upon anticipated revenues approved by the Milwaukee County Board. The Board will finalize the County budget for 2009 in November 2008.

Based upon the projects approved by the County Board, Milwaukee County may submit revised DBE goals to reflect the actual projects that will be undertaken by Milwaukee County Transit and the General Mitchell International Airport.

**FEDERAL FISCAL YEAR 2009 DBE PROGRAM GOALS
 FOR
 FAA AND FTA ASSISTED PROJECTS**

OVERALL GOALS FOR FTA AND FAA ASSISTED PROJECTS

The following tables display the DBE goals for FFY 2009 and show the race neutral and race conscious components of the overall goal for FTA and FAA assisted projects.

**TABLE 1a
 ANNUAL OVERALL DBE GOALS FOR FFY 2009 FOR FTA ASSISTED PROJECTS**

| TYPE OF PROJECTS | RACE NEUTRAL GOALS | RACE CONSCIOUS GOALS | OVERALL GOALS |
|------------------------------|--|--|--|
| Construction | 11.52% \$1,246,000x.1152=\$143,539 | 11.52% \$1,246,000x.1152=\$143,539 | 23.04% \$1,246,000x.2304=\$287,078 |
| Procurement | 1.00% \$5,546,000x.01=\$55,460 | 1.18% \$5,546,000x.0118=\$99,828 | 2.18% \$5,546,000x.0252=\$155,288 |
| Professional Services | 0.00% | 15.00% \$130,000x.1500=\$19,500 | 15.00% \$130,000x.1500=\$19,500 |
| Totals | 2.88% $\frac{\$198,999}{\$6,922,000} = 2.87\%$ | 3.79% $\frac{\$262,867}{\$6,922,000} = 3.79\%$ | 6.67% $\frac{\$461,866}{\$6,922,000} = 6.67\%$ |

**TABLE 1b
 ANTICIPATED FFY 2009 FEDERAL EXPENDITURES FOR FTA ASSISTED PROJECTS**

| Construction | Professional Services | Procurement | Total Contractible Dollars |
|---------------------|------------------------------|--------------------|-----------------------------------|
| \$1,246,000 | \$130,000 | \$5,546,000 | \$6,922,000 |

Note: Milwaukee County anticipates expending \$6,922,000 of contractible dollars on FTA assisted projects for FFY 2009. Contractible dollars are those funds on which DBE goals can be assigned. Approximately \$6,922,000 is available for assigning goals with DBE firms of which approximately \$1,246,000 will be expended on Construction; \$130,000 will be expended on professional services and the remaining \$ 5,546,000 will be expended on Procurement contracts.

TABLE 1c
ANNUAL OVERALL DBE GOALS FOR FFY 2009 FAA ASSISTED PROJECTS

| TYPE OF PROJECTS | RACE NEUTRAL GOAL | RACE CONSCIOUS GOAL | OVERALL GOAL |
|------------------------------|---|---|---|
| Construction | 8.29% \$14,836,204x.0829=\$1,229,921 | 16.71% \$14,836,204x.1671=\$2,479,129 | 25.00% \$14,836,204x.25= \$3,709,051 |
| Professional Services | 10.27% \$2,287,921x.1027 = \$ 234,969 | 21.42% \$2,287,921x.2142=\$490,072 | 31.69% \$2,287,921x.3169=\$725,041 |
| Procurement | | | |
| Totals | 8.48% $\frac{\$1,453,733}{\$17,124,125} = 8.48\%$ | 17.18% $\frac{\$2,942,660}{\$17,124,125} = 17.18\%$ | 25.89% $\frac{\$4,434,092}{\$17,124,125} = 25.89\%$ |

TABLE 1d
ANTICIPATED FFY 2008 FEDERAL EXPENDITURES FOR FAA ASSISTED PROJECTS

| Construction | Professional Services | Procurement | Total Contractible Dollars |
|--------------|-----------------------|-------------|----------------------------|
| \$14,836,204 | \$2,287,921 | \$0 | \$17,124,125 |

Note: Milwaukee County anticipates expending \$17,124,125 on FAA assisted projects for FFY 2009. Of this total \$ 14,836,204 will be expended on Construction projects; \$2,287,921 will be expended on construction related professional services. The County also does not anticipate any funds being expended on procurement activities.

Overall Goals

FTA assisted contracts: The overall FTA goal for Milwaukee County for FFY 2009 is the following:

FTA assisted contracts: 6.67 % of the Federal financial assistance received from FTA will be expended with DBE firms on FTA-assisted contracts, exclusive of FTA funds to be used for the purchase of transit vehicles.

Given the amount of FTA-assisted contracts Milwaukee County expects to let during the year, which is \$ 6,922,000 it means that the County has set a goal of expending \$461,866

with DBE firms during this fiscal year.

The overall FAA goal for Milwaukee County for FFY 2009 is the following:

FAA assisted contracts: 25.89% of the Federal financial assistance received from FAA will be expended with DBE firms on FAA-assisted contracts for FFY 2009.

Given the amount of USDOT-assisted contracts Milwaukee County expects to let during the year, which is \$17,124,125 it means that Milwaukee County has set a goal of expending \$4,439,052 with DBE firms during this fiscal year.

In accordance with Section 26.43 Milwaukee County will not use quotas or set asides to meet the overall goals.

Pursuant to Section 26.45, the overall goals are based upon the availability of ready willing and able DBE firms in the local market area. The local market area for Milwaukee County consists of nine Counties in the South Eastern region of Wisconsin.¹ Milwaukee County expends approximately 90% of its contracting dollars in this region. DBE firms and non-DBE firms located in these counties are contained in the bidders list and were used to calculate the baseline availability figure in the Step 1 goal setting process.

In compliance with Section 26.51 (a) Milwaukee County will meet the maximum feasible portion of the overall goals through race neutral means of facilitating DBE participation. Currently, the County uses the following race neutral approaches to ensuring DBE participation: (a) encouraging prime contractors to subcontract portions of their work, which they might otherwise perform with their own forces. (b) providing assistance to prime contractors in contacting prospective DBE firms (c) carrying out information and communication programs on contracting procedures and specific contract opportunities through mailings to DBEs and through public notices and (d) ensuring the distribution of the DBE Directory to all pre-qualified prime contractors.

¹ The nine Counties are: Dane, Kenosha, Milwaukee, Ozaukee, Racine, Sheboygan, Walworth, Waukesha, and Washington.

SECTION II

PROCESS FOR GOAL SETTING

The County in keeping with past precedent used the methodology developed with the input of all stakeholder groups. In 1999, the County had established a 22 member DBE Advisory Task Force to recommend to the County a goal setting methodology in accordance with 49 CFR Part 26.

By June 2000, the Task Force with assistance from the County's Disadvantaged Business Development Division completed the selection and development of a goal setting formula in accordance with 49 CFR Part 26 provisions.

In June 2007, the County's Disadvantaged Business Development Division used the two step approved goal setting methodology contained in 49 CFR Part 26 and formulated a preliminary annual goal for FAA and FTA assisted projects. The County had a preliminary meeting with various stakeholder groups² to apprise them of the goal setting methodology and to give the group the opportunity to provide input to the goal setting process. This DBE goal report is a result of this meeting with the stakeholder groups. Copies of the goals were presented to the stakeholder groups for comment and to give them an opportunity to provide input to the County on the preliminary DBE goals.

The County had a 45 day comment period, during which no comments were received by the Office of Community Business Development Partners. Therefore our final DBE goals represent the input from stakeholder groups during the preliminary meetings which were held with them. The County has made every attempt to be inclusive and has solicited the input from diverse groups within the DBE as well as the non-DBE communities.

An explanation and the rationale used for developing the goals appear in the following sections. In previous years before establishing the overall annual goal, Milwaukee County also consulted with various organizations to obtain information concerning the availability of DBE firms and non-DBE firms, the effects of discrimination on opportunities for DBEs and Milwaukee County's efforts at establishing a level playing field for the participation of DBEs. Consultation included but was not limited to the following organizations:

- National Association of Minority Contractors
- Associated General Contractors of Greater Milwaukee
- Milwaukee Building and Construction Trade Council

² Please refer to Appendix A for the list of the stakeholder groups invited to the meeting.

- Wisconsin Transportation Builders Association
- Women's Business Initiative Corporation
- Milwaukee Urban League
- NAACP-Milwaukee Branch
- Hispanic Chamber of Commerce
- African American Chamber of Commerce
- American Indian Chamber of Commerce
- Wisconsin Association of Consulting Engineers
- Wisconsin Women's Entrepreneurs Inc.
- Wisconsin Society of Architects

Milwaukee County will begin using the overall goals on October 1, 2009

SECTION III

METHODOLOGY USED FOR DETERMINING FFY 2009 GOALS

Milwaukee County adopted the two-step goal setting methodology as outlined in 49 CFR Part 26 Section 26.45. This methodology was discussed with the DBE Task Force in April 2000 and consensus was obtained by the County in the numerous meetings it held with the Task Force. In the initial development of its goal setting methodology and databases the County also sought assistance from the following industry organizations to provide names of firms, which might have been excluded from the County's marketplace lists and databases:

- National Association of Minority Contractors
- Associated General Contractors of Greater Milwaukee
- Milwaukee Building and Construction Trade Council
- Wisconsin Transportation Builders Association
- Women's Business Initiative Corporation
- Milwaukee Urban League
- NAACP-Milwaukee Branch
- Hispanic Chamber of Commerce
- African American Chamber of Commerce
- American Indian Chamber of Commerce
- Wisconsin Association of Consulting Engineers
- Wisconsin Women's Entrepreneurs Inc.
- Wisconsin Society of Architects

The County continues to use this methodology created with stakeholder consensus.

STEP 1: Determining the Base Figure for the Overall Goal

In accordance with the provisions contained in Section 26.45, Milwaukee County used the best evidence available to determine the number of ready willing and able DBE and non-DBE firms.

Through 1999 and 2000, the DBE Task Force and the stakeholder groups considered various data sources for determining the base figure besides the County's databases. As explained on page 6 Milwaukee County had extensive public participation. The Task Force explored the feasibility of using Census Bureau data. Census data was observed and evaluated. It was the general consensus of the Task Force members that since the Census Bureau recorded data on SIC Codes at the two-digit level this would greatly distort the number of DBE firms who would actually be ready willing and able to perform work on County projects. The Committee was also of the opinion that inclusion

of all firms DBE and non-DBE at the two-digit level would not yield a narrowly tailored numerator or denominator. Instead, it was agreed upon that a more accurate and realistic approach would be to use the County's own databases since it contained data on DBE and non-DBE firms at the four-digit SIC Code level. This it was agreed upon would provide a more accurate number of firms available to perform on County projects.

This agreed upon methodology was utilized to set FFY 2009 DBE goals. After review of the County's comprehensive lists no additional names of firms have been provided by any of these organizations. The County is in communication with these groups on an on-going basis and will update its databases if new firms are created or become known. This will cause the goal to be adjusted as changes occur. The County has been using this approved and agreed upon goal setting methodology to set its annual goals.

Due to the fact that Milwaukee County did not have a single centralized repository for data on DBE participation and all County procurement activities, the Office of Disadvantaged Business Development relied both on manual records and computerized data to determine the baseline figure. The County has a computerized database on all certified DBE firms and has a bidders list consisting of pre-qualified prime contractors and sub contractors who have (1) worked on Milwaukee County projects or (2) have quoted on Milwaukee County projects or (3) have contacted the County and expressed an interest in performing on Milwaukee County projects. The County used these sources of data to obtain the numerator and denominator for the goal setting formula.

IDENTIFICATION OF PROJECTS FOR FFY 2009

The County first identified the anticipated FTA and FAA assisted projects slated for FFY 2009 to determine (1) the type of projects where DBE participation was possible and (2) the number of DBE and non-DBE firms available in the relevant North American Industry Classification System (NAICS) Codes for inclusion in the baseline formula. For FFY 2009 the County's anticipated spending is shown in Table 2 below.

**ABLE 2
 ANTICIPATED FTA AND FAA EXPENDITURES FOR FFY 2009**

| Federal Department | Construction | Professional Services | Procurement | Total Contractible Dollars |
|--|---------------------|------------------------------|--------------------|-----------------------------------|
| FAA –General Mitchell International Airport | \$14,836,204 | \$2,2874,921 | \$0 | \$17,124,125 |
| FTA – Milwaukee County Transit System | \$1,246,000 | \$130,000 | \$5,546,000 | \$6,922,000 |

SELECTION OF RELEVANT NAICS CODES

For FFY 2009, FAA assisted proposed design and construction projects include (1) Design AND Construction of Runway 1L-19R and 7R-25L (2) Airfield Safety Improvements (3) Airfield Pavement Rehabilitation (4) Perimeter and ARFF Road Configuration (5) Runways 1L-19R and 7R-25L Intersection Repaving (6) Runway Abrasive Materials Storage Building (7) LJT Airfield Pavement Rehabilitation (8) Security and Wildlife Deterrent Fencing (9) Security System Fiber Optic Cable Replacement (10) Cargo Ramp Gate 3D access Control Security (11) LJT Runway 15L-33R extension

Proposed FTA assisted projects consist of (1) preventive maintenance of vehicles (2) Design and installation of roof top Air Conditioning – Administrative Building (3) Replace Diesel Pump and UST piping for Garage (4) Replace Roof Administration Building (5) Replace Asphalt Parking Lot-Fleet Maintenance (7) Smart Track CAD/AVL System Upgrade (8) Purchase Bus Pumps and Motors (9) Purchase Route Vehicles (10) Purchase Bus Shelter Washing Van (11) Purchase of Bus Spray Parts Washers (12) Purchase Lift Truck(13) Upgrade Telephone Upgrade System (14) Upgrade Tape Library and Backup Software

After identification of the projects the relevant NAICS Codes were selected for determining the number of ready willing and able firms to be counted in the baseline calculation. Tables 3a and 3b display the relevant NAICS Codes selected.

**TABLE 3a
 NAICS CODES FOR FTA ASSISTED PROJECTS**

| NAICS CODES | DESCRIPTION |
|-------------|--|
| 237120 | Gas and Oil Construction |
| 238160 | Roofing |
| 238220 | HVAC |
| 238990 | Asphalt |
| 333319 | Power Washer Cleaning Equipment |
| 336399 | Motor Vehicle Parts Manufacturing |
| 423120 | Motor Vehicle Supplies and Parts |
| 423430 | Computer and Software |
| 423690 | Telephone Systems Communications Equipment |
| 423830 | Industrial Machinery & Equipment |
| 441110 | Car Dealer |
| 443120 | Computer Equipment |
| 541219 | Accounting Services |
| 541330 | Engineering Services |
| 541512 | Computer System Design |
| 541219 | Other Computer Related |

TABLE 3b
RELEVANT NAICS CODES FOR FAA ASSISTED PROJECTS

| TYPE OF PROJECT | NAICS CODES | DESCRIPTION |
|------------------------------|--------------------|------------------------------|
| CONSTRUCTION PROJECTS | 236210 | General Contractors |
| | 236220 | General Building Contractors |
| | 237130 | Water & Sewer Work |
| | 238110 | Concrete |
| | 238120 | Structural Steel |
| | 238160 | Roofing |
| | 238210 | Electrical |
| | 238220 | HVAC |
| | 238330 | Flooring |
| | 238350 | Carpentry |
| | 238910 | Demolition |
| | 238910 | Site Preparation |
| | 238990 | Other Trades |
| | 327320 | Ready Mix Concrete |
| | 423510 | Metals, Reinforcing Steel |
| | 423610 | Electrical Supplies |
| | 488220 | Trucking |
| CONSULTING SERVICES | | |
| | 541310 | Architectural Services |
| | 541340 | Drafting |

DATA SOURCES

The County used its own DBE Directory, which contains a listing of all currently certified DBE firms with a description of the NAICS Codes in which they are qualified to perform. Approximately 90% of the firms in the County's database are drawn from a nine-County region. The County expends approximately 90% of its contracting dollars in this nine-county region.

For FAA assisted projects, to obtain the number of non-DBE firms the County used its bidders list which contains a listing of all prime contractors who are pre-qualified to perform work on County projects and subcontractors who have (1) performed work on County projects (2) have quoted on Milwaukee County projects but were unsuccessful and (3) those that have expressed an interest in doing County work. In addition, for FAA projects, the County used the Department of Public Work's listing of all contractors and consultants who received monies for work performed on non-federal and federally funded County projects. For FTA projects the Milwaukee County Transit System, a privately managed Division of the County, used its bidders list, which contains listings of firms which had provided services to the County in the past three years and those that have expressed an interest in working on FTA funded projects. Listings maintained by the Office of Disadvantaged Business Development were also utilized for determining the number of firms eligible for inclusion on FTA and FAA assisted projects.

SELECTION OF READY WILLING AND ABLE DBE AND NON-DBE FIRMS

The County defined ready willing and able DBE firms as those firms (1) currently certified by the County (2) have performed work for the County or (3) have sought work on County projects. Ready willing and able non-DBE firms were defined as those contractors, suppliers and consultants who are (1) pre-qualified with the County or (2) have performed work on County projects in the past three years or (3) have sought work on County projects. Based upon the data sources described above, only those firms meeting the screening criteria described above were selected for inclusion in the baseline formula.

CALCULATION OF STEP 1 BASE FIGURE

The following formula was used to calculate the baseline figure/goal:

$$\frac{\text{Number of DBE firms in relevant NAICS Codes}}{\text{Number of DBE+ Non-DBE firms in relevant SIC Codes}} = \text{Baseline figure/goal}$$

The results of application of this formula described above are displayed in Table 4 below

**TABLE 4
 CALCULATION OF BASELINE GOAL FOR FAA AND FTA ASSISTED PROJECTS**

| Federal Department | Construction | Professional Services | Procurement | Aggregate Totals |
|--|-----------------------------|------------------------------|--------------------------|-----------------------------|
| FAA –Airport | | | | |
| # of DBEs | 262 | 61 | | 323 |
| # of ALL FIRMS | 496 | 211 | | 703 |
| Goals = $\frac{\text{\# of DBEs}}{\text{\# of ALL FIRMS}}$ | $\frac{203}{615} = 52.58\%$ | $\frac{61}{211} = 28.90\%$ | | $\frac{249}{826} = 45.94\%$ |
| FTA – Transit (MCTS) | | | | |
| # of DBEs | 50 | 26 | 6 | 80 |
| # of ALL FIRMS | 237 | 43 | 332 | 610 |
| Goals = $\frac{\text{\# of DBEs}}{\text{\# of ALL FIRMS}}$ | $\frac{50}{237} = 21.09\%$ | $\frac{24}{41} = 60.46\%$ | $\frac{14}{338} = 1.8\%$ | $\frac{117}{916} = 13.11\%$ |

Only those DBE firms that met 49 CFR Part 26 eligibility standards were included in the baseline figure.

STEP 2 ADJUSTMENT

To adjust the baseline goal the County considered the following adjustment factors:

- DBE capacity as measured by the DBE performance and achievement for the past ten years.
- Past and present anecdotal information on discrimination
- Statistical disparities in lending practices and business formation

The effects of this adjustment factors will result in either a decrease or increase to the baseline goal and provide a final goal. This translates into the following formula:

$$\frac{\text{\# DBE firms}}{\text{\# DBE firms} + \text{\# all non-DBE firms}} = \text{Baseline Goal (+) or (-) Adjustment Factor} = \text{Adjusted Goal \%}$$

Application of the adjustments to the baseline goal yielded the results displayed in Tables 5a and 5b below.

**TABLE 5a
 ADJUSTMENT OF BASELINE GOAL FOR FTA ASSISTED PROJECTS**

| | Construction | Prof. Services | Procurement | Overall Goal |
|---|--|-----------------------|--------------------|---------------------|
| 1. Enter Step #1 Goals targeted for DBEs | 21.09% | 60.46% | 1.8% | 13.11% |
| 2. Anecdotal Information on Discrimination | Due to the lack of a disparity study and the difficulty of assigning a numerical value to the effects of discrimination this factor was not used to adjust the final goal. Information presented by the University of Wisconsin – Milwaukee on the rate of minority and women business formation was considered but not incorporated into the adjustment of the final goals due to the difficulty of assigning a numerical value. DBE capacity as indicated by the last 7 years ³ of DBE participation was a significant adjustment factor in obtaining the final goal. | | | |
| 3. Statistical Disparities | | | | |
| 4. DBE Capacity and Local Market Conditions | | | | |
| ➤ Adjusted Total as Percentages | 23.04% | 15.00% | 2.18% | 6.67% |

Adjustments for FTA projects based upon DBE Capacity as measured by past achievements and subcontracting possibilities

The County reviewed DBE achievements for the past seven years and obtained the median. The median was then added to the step 1 base line goal and then averaged. The result was then used as the final adjusted goal. Applying this formula we get a median of 24.99% for Construction. The step 1 goal was 21.09%. Adding 21.09% and 24.99% we get 46.08%. The average of this figure is 23.04%. Therefore the baseline figure was adjusted upwards to 23.04 %. For procurement, the step 1 goal was 1.8%. The median for seven years of achievement was 2.56%. This was added to the step 1 goal giving us a goal of 4.36% which was then averaged giving a figure of 2.18%. For professional services the baseline goal of 60.46% was adjusted downward. There was only two years (FFY 2003 and FFY 2007) of data available to determine the capacity of DBE firms. In 2007 the achievement was only 7.42% and the projected goal was 21.57% while the DBE achievement for FFY 2003 was 100%. Based upon the number of DBE firms available

³ See Appendix B (7 year DBE achievements)

and the type of professional services contract it is reasonable that the baseline goal of 60.46% be adjusted downwards to 15.00%. Based on these adjustments the overall goal was set at 6.67%.

TABLE 5b

ADJUSTMENT OF BASELINE GOAL FOR FAA ASSISTED PROJECTS

| | Construction | Professional Services | Overall Goal |
|---|--|------------------------------|---------------------|
| 1. Enter Step #1 Goals targeted for DBEs | 52.58% | 28.90% | 45.94% |
| 2. Anecdotal Information on Discrimination | Due to the lack of a disparity study and the difficulty of assigning a numerical value to the effects of discrimination this factor was not used to adjust the final goal. | | |
| 3. Statistical Disparities | Information presented by the University of Wisconsin – Milwaukee on the rate of minority and women business formation was considered but not incorporated into the adjustment of the final goals due to the difficulty of assigning a numerical value. | | |
| 4. DBE Capacity and Local Market Conditions | DBE capacity as indicated by the last 7 years ⁴ of DBE participation was a significant adjustment factor in obtaining the final goal. | | |
| ➤ Adjusted Total as Percentages | 25.00% | 31.69% | 25.89% |

⁴ See Appendix C (7 year DBE achievements)

Adjustments for FAA projects based upon DBE Capacity as measured by past achievements

The County reviewed DBE achievements for FFY 2001 through 2007 and obtained the median. The median was then added to the step 1 base line goal and then averaged. The result was then used as the final adjusted goal. Applying this formula we get a median of 30.71% for Construction. The step 1 goal was 52.58%. Adding 30.71% and 52.58% we get 83.29%. The average of this figure is 41.64%. Based upon the nature of the contracts and the number of DBE firms available the goal was adjusted downwards giving a final adjusted goal of 25.00%. For professional services, the median is 34.48%. The step 1 goal of 28.9% was added to the median giving a figure of 63.38%. This was then divided by two giving an adjusted goal of 31.69%. This gave an overall adjusted goal for all FAA projects at 25.89%.

SECTION IV

DETERMINATION OF RACE NEUTRAL AND RACE CONSCIOUS COMPONENTS

To break down the overall goal into the race neutral and race conscious components the County relied on its' past experience. In the past, before implementing 49 CFR Part 26 requirements in 2001, the County had a 25% goal for construction, a 21 % goal for professional services and a 17% goal for procurement contracts. Data after FFY 2000 was used to compute the race neutral and race conscious components.

To get a break-down of the race neutral and race conscious components, the County looked at the achievement of the goals for FFY 2001 through 2007. The race neutral and race conscious components were determined by analyzing the DBE achievements against the actual goals set for FTA and FAA funded projects.⁵

RACE NEUTRAL AND RACE CONSCIOUS GOALS FOR FTA ASSISTED PROJECTS

Using the rationale described above, the final overall goal was adjusted to show the race conscious and race neutral components as displayed in Table 6a below. For FTA procurement since there are limited opportunities for subcontracting, the County's past DBE achievement in this area has been attained primarily through race neutral means. DBEs were used because they were the lowest bidder and not because of an assignment of DBE goals. However except for two years (FFY 2001 and 2005) the County has not achieved its procurement goals. The median difference between the DBE goal and the DBE achievement was -0.40%. Based upon the type of projects it is reasonable to expect that 1.00% of the goal will be achieved through race conscious means, while the remaining 1.18% of the overall goal will be achieved through race neutral means. This overall goal for procurement is based upon the number of DBEs available, the capacity of DBEs as measured by the past seven years of DBE goal attainment and the types of procurement anticipated.

For FFY 2009, in the area of construction the County will undertake some replacement and installation projects. The overall construction goal was set at 23.04%.

Reviewing past participation of DBE firms for the past seven years it is evident that except for FFY 2001 and 2002 the County met and exceeded the DBE goal. The median overage is 3.82%. In FFY 2005 and 2006 the overage was 61.40% and 80.02% respectively. In these years a DBE was awarded a prime contract which lead to the high achievement. Based upon the contracting opportunities available it is reasonable to expect that a similar achievement level is unlikely. Therefore it was decided to set the race neutral portion at 11.52%. The County proposes to achieve 11.52% of its 23.4% construction goal through use of race neutral means. The remainder half of the goal

⁵ Please refer to Appendices B and C.

(11.52%) will be met through race conscious means through the assignment of contract goals.

As explained above, for professional services the baseline goal of 58.53% was adjusted downward. There was only two years (FFY 2003 and FFY 2007) of data available to determine the capacity of DBE firms. In 2007 the achievement was only 7.42% and the projected goal was 21.57% while the DBE achievement for FFY 2003 was 100%. Based upon the number of DBE firms available and the type of professional services contract it is reasonable that the baseline goal of 58.53% be adjusted downwards to 15.00%. Milwaukee County obtained that entire 7.42% in 2007 through race conscious means. Since the achievement was below the projected 21.57% goal the entire 15% will be obtained through race conscious means.

Milwaukee County estimates that in meeting the overall goal of 6.67% the County will obtain 2.88% from race neutral means and 3.79% will be achieved through race conscious measures.

The County will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation in accordance with Section 26.51(f). The County will track and report race neutral and race-conscious separately. For reporting purposes race neutral includes but is not limited to the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a 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.

TABLE 6a
FINAL ANNUAL OVERALL FTA DBE GOALS FOR FFY 2009

| TYPE OF PROJECTS | RACE NEUTRAL GOALS | RACE CONSCIOUS GOALS | OVERALL GOALS |
|------------------------------|--|--|---|
| Construction | 11.52% \$1,246,000x.1152=\$143,539 | 11.52% \$1,246,000x.1152=\$143,539 | 23.04% \$1,246,000x.2304=\$287,078 |
| Procurement | 1.00% \$5,546,000x.01=\$55,460 | 1.18% \$5,546,000x.0118=\$99,828 | 2.18% \$5,546,000x.0252=\$155,288 |
| Professional Services | 0.00% | 15.00% \$130,000x.1500=\$19,500 | 15.00% \$130,000x.1500=\$19,500 |
| Totals | 2.88% $\frac{\$198,999}{\$6,922,000} = 2.87\%$ | 3.79% $\frac{\$262,867}{\$6,922,000} = \%$ | 6.67% $\frac{\$461,866}{\$6,922,000} = \% 6.67$ |

Breakdown of Overall Goal Into Race Neutral and Race Conscious Components For FAA Projects

For FAA assisted construction projects, the seven year history of DBE goal attainment from FFY 2001 to FFY 2007 indicates that the County exceeded the DBE Goal every year except in FFY 2001, FFY 2003 and FFY 2006. FFY 2000 was an unusual year since the County was in the process of changing its process of awarding bids on the sound mitigation project at the General Mitchell Airport. The median overage for the ten years (2001 through 2007) is 8.29%. The median overage in large part is attributable to the unbundling of large contracts which allowed smaller DBE firms to bid as prime contractors on the sound mitigation program. For FFY 2009 we anticipate that the race neutral achievement will come close to the median of 8.29%. For this reason the race neutral component was set at 8.29% and the remaining 16.71% of the goal will be achieved through the assignment of race conscious contract goals.

For professional services, the County surpassed its DBE Goal every year except FFY 2003. The median overage was 10.29% for the seven-year period. Therefore it is reasonable to expect a similar achievement through race neutral means. This translates into a race neutral component of 10.29% and a race conscious portion of 21.42% giving a total overall goal of 31.69%. Combining the two categories we get 8.48% of the overall goal of 25.66% being met through race neutral means and 17.18% through race conscious means.

The County will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation in accordance with Section 26.51(f). The County will track and report race neutral and race-conscious separately. For reporting purposes race neutral includes but is not limited to the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry a 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.

TABLE 6b
FINAL ANNUAL OVERALL FAA DBE GOALS FOR FFY 2008

| TYPE OF PROJECTS | RACE NEUTRAL GOAL | RACE CONSCIOUS GOAL | OVERALL GOAL |
|------------------------------|---|---|---|
| Construction | 8.29% \$14,836,204x.0829=\$1,229,921 | 16.71% \$14,836,204x.1671=\$2,479,129 | 25.00% \$14,836,204x.25= \$3,709,051 |
| Professional Services | 10.27% \$2,287,921x.1027 = \$ 234,969 | 21.42% \$2,287,921x.2142=\$490,072 | 31.69% \$2,287,921x.3169=\$725,041 |
| Procurement | | | |
| Totals | 8.48% $\frac{\$1,453,733}{\$17,124,125} = 8.48\%$ | 17.18% $\frac{\$2,942,660}{\$17,124,125} = 17.18\%$ | 25.89% $\frac{\$4,434,092}{\$17,124,125} = 25.89\%$ |

The annual overall goals stated above are an aspirational target for expending federal funds with DBE firms. Local market conditions and capacity of DBE firms in specific industry classifications may make ongoing adjustments of the overall goal necessary.

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

Contract Goals

Following Section 26.51(e) (1) and (2) contract goals will be used to meet any portion of the overall goal that the County projects cannot be met through race neutral participation. The County will assign contract goals only on those projects, which have subcontracting possibilities. In accordance with Section 26.51(e)(4) the County will also ensure that the assignment of contract goals will provide for the participation of all certified DBEs and will not be sub-divided into group specific goals.

Milwaukee County in compliance with Section 26.51 (f) will continue to monitor DBE participation and will make necessary adjustments to ensure that the program is narrowly tailored.

Milwaukee County will express contract goals as a percentage of the total amount of a USDOT assisted contract (i.e. including local and federal funds).

Good Faith Efforts

In accordance with Section 26.53, Milwaukee County will require a prime contractor to submit a good faith waiver request in instances where the prime contractor is unable to meet the contract goal.

In determining whether a prime contractor has demonstrated good faith in meeting the goal the goal will follow provisions contained in Section 26.53. The County has implemented policy and procedures to provide administrative reconsideration to contractors deemed not to have demonstrated good faith in meeting the goal. As part of this administrative reconsideration, the contractor is afforded an opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. Contractors can request a hearing before a three-member Committee within two days of the notification of denial.

The three-member panel consists of officials who did not participate in the original determination that the contractor failed to demonstrate good faith efforts or meet the goal.

Contractors therefore have the opportunity to meet with the reconsideration officials to discuss the issue and to present additional evidence or information to enable the panel to make a final determination as to whether or not the contractor has demonstrated good faith efforts in not meeting the goal. The panel will issue its final decision in writing within three days of the informal hearing. The decision will contain the basis for finding that the contractor did or did not demonstrate good faith in meeting the goal.

The result of the reconsideration will not be administratively appealable to the United States Department of Transportation.

Counting DBE participation towards the overall and contract goals

Milwaukee County will follow crediting and counting provisions contained in Section 26.55 to determine DBE participation on USDOT assisted projects.