

DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM PROPOSED THREE-YEAR OVERALL GOAL & METHODOLOGY SUBMISSION TO FAA FOR FEDERAL FISCAL YEARS 2025 THROUGH 2027

October 2024 (Updated from March 2023 Original Version)

Introduction

The Arizona Department of Transportation (ADOT) hereby submits its three-year overall Disadvantaged Business Enterprise (DBE) goal for federal fiscal years (FFYs) 2025 through 2027 to the Federal Aviation Administration (FAA) pursuant to [49 CFR Part 26, Section 26.45](#). ADOT uses FAA funds for contracts at Grand Canyon National Park Airport and other purposes such as system-wide planning; therefore, the overall DBE goal pertains to those activities.

As certain factors might be considered to support a downward adjustment and other certain factors might be considered to support an upward adjustment, ADOT chose to not make any downward adjustment or upward adjustment and to use the base figure as its proposed overall DBE goal for FAA-funded contracts for FFYs 2025 through 2027. Based on the results of the 2022 Availability Study¹ and the 2020 Disparity Study² provided to FAA, as well as FAA's summer 2024 review of the DBE goal initially developed by ADOT, ADOT proposes a 4.61% DBE goal for FFYs 2025 through 2027 for FAA-funded contracts. ADOT projects that it can accomplish this goal solely through race-neutral means (ADOT outreach, training and program efforts).

Step 1. Determining a Base Figure — Pursuant to 49 CFR Section 26.45(c)

ADOT began the process of determining its overall DBE goal by establishing a base figure. Consistent with USDOT regulations and guidance, ADOT established the base figure from a DBE availability analysis conducted by Keen Independent in the 2022 Availability Study. Note that Keen Independent also prepared the 2014 Availability Study, 2015 Disparity Study, 2017 Availability Study and 2020 Disparity Study for ADOT.

Analysis in the 2022 Availability Study determined the percentage of ADOT FAA-funded contracts from October 2018 through September 2021 that might go to DBEs if they had the same chance of winning that work as any other available firm, after accounting for the type, size, and location of those prime contracts. ADOT used a dollar-weighted approach to determine this overall availability estimate. Dollar-weighting means that availability was calculated for each contract, with results weighted based on the relative size of those contracts to determine an overall DBE availability figure.

October 2018 through September 2021 were the three most recently completed fiscal years at the time of the 2022 Availability Study. There were seven prime contracts (though no associated subcontracts) that were FAA-funded during this time period. Contract dollars for FAA-funded projects totaled approximately \$9 million.

The types, sizes, and locations of FAA-funded contracts and subcontracts from October 2018 through September 2021 are similar to the work anticipated for FAA-funded contracts for FFY 2025 through FFY 2027. Therefore, the availability analysis for those three fiscal years of FAA-funded contracts provides a reasonable projection of the percentage of FAA-funded contract dollars that might go to available DBEs for FFY 2025 through FFY 2027. Please see Attachment B, which describes Grand Canyon National Park Airport's expected FAA-funded contract opportunities for FFY 2025 through FFY 2027 and how it compares to contracts reviewed for the 2022 ADOT Availability Study.

As presented in the Summary Report section of the 2022 Availability Study, one might expect current DBEs to receive 4.61% of ADOT FAA-funded transportation contract dollars. More specifically, this percentage is based on the analysis

¹ <https://azdot.gov/sites/default/files/2023-04/2022-ADOT-Availability-Study-Final-Report.pdf>

² https://azdot.gov/sites/default/files/media/2020/08/KeenIndependent_ADOT_2020DisparityStudy_FinalReport_08262020.pdf

of FAA-funded contracts from October 2018 through September 2021, as well as the current availability of firms to perform that work.

This section explains how the relative availability of the DBEs was calculated.

Keen Independent developed a database of available firms (DBEs and non-DBEs) to use when examining availability for individual contracts from October 2018 through September 2021.

- Based on analysis of FAA-funded contracts for October 2018 through September 2021, Keen Independent determined that Arizona as a whole should be selected as the relevant geographic market area for the availability study.

All (100%) of the FAA-funded contract dollars from October 2018 through September 2021 went to firms with locations in different regions of the state.

Therefore, the availability analysis examined firms with locations throughout Arizona, but only counted those as available for Grand Canyon National Park Airport contracts if they indicated that they could perform work in Northern Arizona (the location of the Airport). (The geographic market area for the availability analysis is identical to the 2014, 2015, 2017 and 2020 studies.)

- Keen Independent also examined the types of work involved in FAA-funded contracts from October 2018 through September 2021. There were three types of work that accounted for 93% of FAA-funded contract dollars (runway construction, general road construction and widening, and engineering). The availability analysis focuses on firms performing these three types of work.

DBE Availability. As briefly set out below and explained in detail in Chapter 5 and Appendix D of the 2022 Availability Study report, Keen Independent compiled a master availability database. Then, Keen Independent calculated the relative availability of different groups of firms on a dollar-weighted basis (see also Dollar-Weighted Availability on page 3 of this document). This analysis produced a weighted availability figure of 32.20% for all firms identified as minority- and woman-owned businesses (MBE/WBEs) available for ADOT's FAA-funded transportation contracts. Counting only certified DBEs as a share of all available firms, weighted availability was 4.61%.

Availability is expressed as the percentage of the associated contracting dollars that one might expect DBEs to receive based on various factors including the type of work involved, the location of the work and the size of the contract or subcontract.

Master Availability Database. Keen Independent developed a master availability database (DBEs and non-DBEs) by contacting thousands of firms to collect information about availability for ADOT contracts. The firms contacted for the database came from the following sources:

- Companies that had previously identified themselves to ADOT as interested in learning about future work by being prequalified for certain types of work or by being on bidding lists; and
- Businesses that Dun & Bradstreet (D&B) identified in certain transportation contracting-related sub industries in Arizona (D&B's Hoover's business establishment database). D&B's Hoover's database is accepted as the most comprehensive and complete source of business listings in the nation.

Keen Independent completed surveys with 2,332 businesses. After consolidating duplicate responses and removing companies that are no longer in business, not-for-profit, unable to perform transportation-related work, not located in Arizona or not interested in discussing availability for ADOT work, the final database contains 503 businesses. Of those businesses 191 (about 38%) were minority- or women-owned (MBE or WBE). The left-hand columns of Figure 1 on the following page present these results.

Figure 1. Availability “Head Count” of Businesses Included in 2022 Availability Study

Race/ethnicity and gender	2022 Study		2020 Study	2017 Study
	Number of firms	Percent of firms	Percent of firms	Percent of firms
African American-owned	29	5.77 %	4.02 %	2.33 %
Asian American-owned	9	1.79	2.31	2.89
Hispanic American-owned	69	13.72	14.36	14.27
Native American-owned	12	2.39	2.31	3.08
Total MBE	119	23.66 %	22.99 %	22.57 %
WBE (white woman-owned)	72	14.31	16.77	16.14
Total MBE/WBE	191	37.97 %	39.76 %	38.71 %
Majority-owned firms	312	62.03	60.24	61.29
Total	503	100.00 %	100.00 %	100.00 %

Source: Keen Independent Research 2022 Availability Study (Summary Report, page 11).

Head Count DBE Availability. Minority- and woman-owned companies were 38% of all firms available for ADOT contacts. This 38% figure represents a simple “head count” of MBE and WBE firms and is only the initial stage of calculating the DBE availability base figure.

Dollar-Weighted Availability. The “head count” data were further analyzed to produce “dollar-weighted” availability estimates. These estimates represent the percentage of ADOT transportation contracting dollars that DBEs might be expected to receive based on their availability for specific types, sizes, and locations of ADOT FAA-funded prime contracts. This approach to calculating availability was a bottom-up, contract-by-contract process of “matching” available firms to specific prime contracts based on the types, sizes, and locations of work they do. In other words, Keen Independent performed an availability analysis for each of the seven FAA-funded prime contracts during the study period, and then summarized results.

The “dollar-weighted” availability is much more precise than a simple “head count” of businesses, because it considers the following factors:

1. Type of Work. USDOT suggests calculating availability based on businesses’ abilities to perform specific types of work. One example is in Part (II)(F) of “Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program”:

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.³

The type of work was taken into account by examining 3 different sub industries related to construction and engineering as part of estimating availability for ADOT work.⁴

³ USDOT. *Tips for Goal setting in the Federal Disadvantaged Enterprise (DBE) Program as updated December 22, 2014*, <http://www.dot.gov/osdbu/disadvantaged-business-enterprise/tips-goal-setting-disadvantaged-business-enterprise>.

⁴ The subindustries considered included: general road construction and widening, engineering, and runway construction.

2. Qualifications and Interest in Transportation-Related Prime Contract Work. Keen Independent collected information on whether businesses are qualified and interested in working as prime contractors, subcontractors, or both on ADOT and local agency transportation work, in addition to the consideration of several other factors related to prime contracts (e.g., contract types, sizes and locations). Only businesses that reported being qualified for and interested in working as prime contractors (or which were found to have had prime contracts in the previous three years based on ADOT contract data) were counted as available for prime contracts.
3. Size of Contracts. Also considered was the size (in terms of dollar value) of the contracts that a business bid on or received in the previous three years (e.g., “bid capacity”) when determining whether to count that business as available for a specific contract. When counting available businesses for a particular contract, the availability analysis considered whether businesses had previously bid on or received a contract of an equivalent or greater dollar value in Arizona in the three years prior to the time the firm was surveyed.

This approach is consistent with many recent, key court decisions that have found relative capacity measures to be important to measuring availability (e.g., *Associated General Contractors of America, San Diego Chapter, Inc. v. California Department of Transportation, et al.*;⁵ *Western States Paving Company v. Washington State DOT*;⁶ *Rothe Development Corp. v. U.S. Department of Defense*;⁷ and *Engineering Contractors Association of S. Fla. Inc. vs. Metro Dade County*⁸). The 2020 ADOT Disparity Study explains the relevance of these court decisions and how Keen Independent’s approach is informed by these decisions.

4. Geographic Location of the Work. This was determined by using the location where work was performed for ADOT (Northern, Central, or Southern Arizona, or statewide). Only firms reporting that they were able to work in a region were counted as available for contracts in that region. (For example, only firms that reported being able to work in Northern Arizona were counted as available for contracts at Grand Canyon National Park Airport.)
5. Dollar-Weighted Results. Relative availability was determined on a contract-by-contract basis and then dollar-weighted to determine overall DBE availability for FAA-funded contracts. For each prime contract, Keen Independent calculated (a) the number of DBEs available for that type, size and location of work, (b) the total number of firms available for that work and (c) the percentage DBE availability for that contract, which is calculated by dividing (a) by (b).

The factor used to dollar-weight the availability results for each of the 7 prime contracts was calculated by dividing the dollars for that prime contract by \$9,000,000 (the total FAA-funded contract dollars examined). Small prime contracts received low weights and the largest contracts received the highest weights. For example, availability results for a \$90,000 prime contract would receive a weight of 1% ($\$90,000 \div \$9,000,000 = 1\%$) and availability results for a \$300,000 prime contract would receive a weight of 3% ($\$300,000 \div \$9,000,000 = 3\%$). Thus, the results of relatively large contract elements contributed more to overall availability estimates than those of relatively small contract elements. Once weighted, the DBE availability percentage results for each prime contract were added to develop the overall availability figure. This approach is consistent with USDOT’s “Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program,” which suggests a dollar-weighted approach to calculating availability.

Figure 2, below, provides an example of the contract-by-contract dollar-weighted availability calculation that was conducted on each prime and subcontract during the study period. Keen Independent repeated these calculations for each of the 7 prime contracts during the study period.

⁵ *Associated General Contractors of America, San Diego Chapter, Inc. v. California Department of Transportation, et al.*, 713 F.3d 1187, (9th Cir. 2013).

⁶ *Western States Paving Co. v. Washington State DOT*, 407 F.3d 983 (9th Cir. 2005), *cert. denied*, 546 U.S. 1170 (2006).

⁷ *Rothe Development Corp. v. U.S. Department of Defense*, 545 F.3d 1023 (Fed. Cir. 2008).

⁸ *Engineering Contractors Association of S. Fla. Inc. vs. Metro Dade County*, 943 F. Supp. 1546 (S.D. Fla. 1996).

Figure 2. Example of an Availability Calculation for an ADOT subcontract on an FAA-funded contract

One of the prime contracts examined was for an engineering contract (\$22,900) on a 2019 FAA-funded contract in Northern Arizona. To determine the number of MBE/WBEs and majority-owned firms available for that subcontract, the study team identified businesses in the availability database that:

- a. Were in business in 2019;
- b. Indicated that they performed engineering;
- c. Reported ability to perform work in Northern Arizona;
- d. Indicated qualifications and interest in such subcontracts; and
- e. Reported bidding on work of similar or greater size in the three years in Arizona.

There were 128 businesses in the availability database that met those criteria. Of those businesses, 34 were MBE/WBEs. Therefore, MBE/WBE availability for the subcontract was 26.6% (i.e., $34/128 = 26.6\%$).

The contract weight was $\$22,900 \div \$9 \text{ million} = 0.255\%$ (equal to its share of total FAA-funded contract dollars). Keen Independent made this calculation to determine the weight for each prime contract.

Source: Keen Independent Research analysis.

Summing the Dollar-Weighted Availability. Keen Independent performed the calculations presented in Figure 2 for all of its USDOT-funded contracts (by mode), including its seven FAA-funded prime contracts for the study period. When Keen Independent summed the results for all FAA-funded contracts, overall dollar-weighted MBE/WBE availability for FAA-funded contracts was 32.20%. However, only some of those MBE/WBEs are certified as DBEs. Keen Independent's analysis indicates that the dollar-weighted availability of the DBEs is 4.61% for ADOT's FAA-funded contracts.

Figure 3 presents overall dollar-weighted availability by MBE/WBE group for ADOT FAA-funded contracts. Keen Independent’s availability analysis for ADOT FAA-funded contracts indicates that MBE/WBEs might be expected to receive about 32% of these contract dollars, somewhat less than the “headcount” availability in Figure 1.

Figure 3. Overall Dollar-Weighted Availability Estimates by MBE/WBE Group for ADOT FAA-Funded Contracts, October 2018–September 2021

Race/ethnicity and gender	FAA
African American-owned	2.09 %
Asian-Pacific American-owned	0.01
Subcontinent Asian American-owned	0.00
Hispanic American-owned	15.25
Native American-owned	0.42
Total MBE	17.77 %
WBE (white woman-owned)	14.43
Total MBE/WBE	32.20 %
Majority-owned firms	67.80
Total	100.00 %

Note: Results include MBE/WBEs not certified as DBEs.

Source: Keen Independent Research 2022 ADOT Availability Study (Summary Report, page 13).

Calculation of Final Base Figure for ADOT’s Overall FAA DBE Goal

Keen Independent considered whether it was appropriate to use 32.20%, or a value close to those results, as ADOT’s base figure for FAA-funded contracts.

Keen Independent recommended using dollar-weighted availability for current DBEs (4.61%), not all MBE/WBEs (32.20%), to calculate the base figure analysis for FAA-funded contracts. This is because a goal of 32.20% would be three times ADOT’s current goal for FAA-funded contracts (10.69%). Another reason is that many MBE/WBEs have had the opportunity to become DBE-certified and have not done so, even after outreach from ADOT.

- Keen Independent determined that about 27 percentage points of the 32.20% availability figure for MBE/WBEs are firms not currently certified as DBEs. Achieving utilization close to this goal would require many non-DBE firms to immediately become certified.
- To support the 2022 Availability Study, ADOT contacted firms that appeared they could be DBE certified based on revenue criteria described in federal regulations including 49 CFR Section 26.65. The follow-up interview with potential DBEs found that many would not qualify or were not interested in DBE certification with ADOT.
- A goal of 32.2% is three times ADOT’s current goal for FAA-funded contracts (10.69%).

For these reasons, Keen Independent recommended that ADOT use currently certified DBEs in the base figure analysis for FAA-funded contracts.

Step 2. Determining if an Adjustment is Needed — 49 CFR Section 26.45(d)

Per the Federal DBE Program, ADOT considered potential step 2 adjustments to the base figure as part of determining its overall annual DBE goal for FAA-funded contracts. Federal regulations outline factors that an agency must consider when assessing whether to make any step 2 adjustments to its base figure:

1. Current capacity of DBEs to perform work, as measured by the volume of work DBEs have performed in recent years;
2. Information related to employment, self-employment, education, training and unions;
3. Any disparities in the ability of DBEs to get financing, bonding and insurance; and
4. Other relevant factors.⁹

Taking into account relevant information from the 2022 Availability Study and the 2020 Disparity Study, ADOT considered each of the factors listed above in determining whether or not to adjust the base figure. As certain factors might be considered to support a downward adjustment and other certain factors might be considered to support an upward adjustment (explained below), ADOT chose not to make a downward or upward adjustment and to use the base figure as its proposed overall DBE goal for FAA-funded contracts for FFYs 2025 through 2027.

1. Current Capacity of DBEs to Perform Work, as Measured by the Volume of Work DBEs have Performed in Recent Years. USDOT's "Tips for Goal-Setting" suggests that agencies should examine data on past DBE participation on their USDOT-funded contracts in recent years (i.e., the percentage of contract dollars going to DBEs). USDOT further suggests examining *median* DBE participation for several years as a measure of current capacity.

ADOT reported no prime contract or subcontract or payments to DBEs in its FFYs 2019, 2020, 2021, 2022 and 2023 Uniform Reports of DBE Awards or Commitments and Payments to the FAA. Therefore, the median participation is 0%.

2. Information Related to Employment, Self-Employment, Education, Training and Unions. Chapter 4 of the 2020 Disparity Study report summarizes information about conditions in the Arizona transportation contracting industry for minorities, women and MBE/WBEs. Detailed quantitative analyses of marketplace conditions in Arizona are presented in Appendices E through H. Keen Independent's analyses indicate barriers that certain minority groups and women face related to entry and advancement and business ownership in the Arizona construction and engineering industries. Such barriers may affect the availability of MBE/WBEs to obtain and perform ADOT and local agency transportation contracts.

It may not be possible to quantify the cumulative effect that barriers in employment, education and training may have had in depressing the availability of minority- and women-owned firms in the Arizona transportation contracting industry. However, the effects of barriers in business ownership can be quantified.

In the 2020 Disparity Study, the study team used regression analyses to investigate whether race, ethnicity and gender affected rates of business ownership among workers in the Arizona construction and engineering industries. The regression analyses allowed the study team to examine those effects while statistically controlling for various personal characteristics, including education and age. (Appendix F of the 2020 Disparity Study provides detailed results of the business ownership regression analyses.¹⁰)

⁹ 49 CFR Section 26.45.

¹⁰ The study team examined U.S. Census data on business ownership rates using methods similar to analyses examined in court cases involving state departments of transportation in California, Illinois, and Minnesota.

- Those analyses revealed that African Americans, Asian Americans, Native Americans and white women working in construction were less likely than nonminorities and white men to own construction businesses, even after accounting for various race- and gender-neutral personal characteristics. Each of these disparities was statistically significant.
- In addition, there were statistically significant disparities in firm ownership for other minorities and white women in the Arizona engineering industry.

Keen Independent analyzed the impact that barriers in business ownership would have on the base figure if African Americans, Asian Americans, Hispanic Americans, Native Americans and white women owned businesses at the same rate as similarly situated nonminorities and white men. This type of inquiry is sometimes referred to as a “but for” analysis because it estimates the availability of MBE/WBEs *but for* the effects of race- and gender-based discrimination.

As the explanation of these calculations is somewhat complex, ADOT provides Figure 4 below to document how the upward adjustment was determined. A detailed explanation of each portion of the calculation follows the figure.

Figure 4 calculates the impact on overall DBE availability, resulting in a possible upward adjustment of the base figure to 6.19%. The analysis included the same contracts that the study team analyzed to determine the base figure (i.e., FAA-funded construction and engineering prime contracts that ADOT awarded from October 2018 through September 2021). Calculations are explained below.

Figure 4. Potential Step 2 Adjustment to ADOT’s Overall DBE Goal for FAA-Funded Contracts Considering Disparities in the Rates of Business Ownership

	a. Weighted DBE availability	b. Disparity index for business ownership	c. Availability after initial adjustment*	d. Availability after scaling to 100%	e. Components of overall DBE availability**
Construction					
African American	0.00 %	61	0.00 %	0.00 %	
Asian American	0.00	65	0.00	0.00	
Native American	0.42	36	1.16	1.14	
Other minorities	2.09	n/a	2.09	2.06	
White women	2.09	69	3.03	2.98	
Minorities and women	4.60 %	n/a	6.28 %	6.18 %	6.16 %
All other businesses	95.40	n/a	95.40	93.82	
Total firms	100.00 %	n/a	101.68 %	100.00 %	
Engineering and other subindustries					
Hispanic American	2.34 %	n/a	2.34 %	2.24 %	
Other minorities	1.56	37	4.22	4.04	
White women	3.91	67	5.83	5.57	
Minorities and women	7.81 %	n/a	12.40 %	11.85 %	0.03 %
All other businesses	92.19	n/a	92.19	88.15	
Total firms	100.00 %	n/a	104.59 %	100.00 %	
Total for current DBEs	4.61 %	n/a	n/a		6.19 %
Difference from base figure					1.58 %

Note: Numbers may not add to 100.00% due to rounding.
 * Initial adjustment is calculated as current availability divided by the disparity index for business ownership.
 ** Components of the goal were calculated as the value after adjustment and scaling to 100%, multiplied by the percentage of total FAA-funded contract dollars in each industry (construction = 99.7%, engineering = 0.3%).

Source: Keen Independent Research 2022 Availability Study.

The study team completed these “but for” analyses separately for construction and engineering contracts. Then, the study team weighted the results based on the proportion of FAA-funded contract dollars that ADOT awarded for October 2018 through September 2021 (i.e., a 99.7% weight for construction and a 0.3% weight for engineering). The rows and columns of Figure 4 present the following information from Keen Independent’s “but for” analyses.

1. Current DBE Availability. Column (a) presents the current availability of DBEs by group for construction and engineering/other sub industries. Each row presents the percentage availability for minority- and women-owned DBEs. The current combined availability of DBEs for ADOT FAA-funded transportation contracts for October 2018 through September 2021 is 4.61%, as shown in the bottom row of column (a).
2. Disparity Indices for Business Ownership. As presented in Appendix F of the 2020 Disparity Study report, African Americans, Asian Americans, Native Americans and white women were less likely to own construction firms than similarly situated nonminorities and white men. This difference was statistically significant for each of those groups.

Keen Independent calculated simulated business ownership rates if those groups owned businesses at the same rate as nonminorities and white males who share similar personal characteristics. The study team then calculated a business ownership disparity index for each group by dividing the observed business ownership rate by the benchmark business ownership rate and then multiplying the result by 100.

Column (b) of Figure 4 presents disparity indices related to business ownership for the different racial/ethnic and gender groups. For example, as shown in column (b), Native Americans own construction businesses at 36% of the rate that would be expected based on the simulated business ownership rates of white males who share similar personal characteristics. Appendix F of the 2020 Disparity Study report explains how the study team calculated the disparity indices.

3. Availability after Initial Adjustment. Column (c) of Figure 4 presents availability estimates for MBEs and WBEs by industry after initially adjusting for statistically significant disparities in business ownership rates. The study team calculated those estimates by dividing the current availability in column (a) by the disparity index for business ownership in column (b) and then multiplying by 100.
4. Availability after Scaling to 100%. Column (d) of Figure 4 shows adjusted availability estimates that were re-scaled so that the sum of the availability estimates equals 100% for each industry. The study team re-scaled the adjusted availability estimates by taking each group’s adjusted availability estimate in column (c) and dividing it by the sum of availability estimates shown under “Total firms” in column (c) — and multiplying by 100. For example, the re-scaled availability estimate for Native Americans shown for construction was calculated in the following way: $(1.16 \div 101.68\%) \times 100 = 1.14\%$.
5. Components of Overall DBE Goal with Upward Adjustment. Column (e) of Figure 4 shows the components of the total base figure attributed to the adjusted MBE and WBE availability for construction and engineering. The study team calculated each component by taking the total availability estimate shown in column (d) for construction and engineering— and multiplying it by the proportion of total FAA-funded contract dollars in each industry (i.e., 99.7% for construction and 0.3% for engineering). For example, the study team used the 6.18% shown for MBE/WBE availability for construction firms in column (d) and multiplied it by 99.7% for a result of 6.16%. A similar weighting of MBE/WBE availability for engineering/other subindustries produced a value of 0.03%.

The values in column (e) were then summed to equal the overall base figure adjusted for barriers in business ownership, which is 6.19% as shown in the bottom of column (e).

Finally, Keen Independent calculated the difference between the “but for” MBE/WBE availability (6.19%) and the current DBE availability (4.61%) to calculate the potential upward adjustment. This difference, and potential upward adjustment, is 1.58 percentage points $(6.19\% - 4.61\% = 1.58\%)$.

3. Any Disparities in the Ability of DBEs to Get Financing, Bonding and Insurance. Analysis of access to financing and bonding in the 2020 Disparity Study revealed quantitative and qualitative evidence of disadvantages for minorities, women and MBE/WBEs.

- Any barriers to obtaining financing and bonding might affect opportunities for minorities and women to successfully form and operate construction and engineering businesses in the Arizona marketplace.
- Any barriers that MBE/WBEs face in obtaining financing and bonding would also place those businesses at a disadvantage in obtaining ADOT and local agency construction and engineering prime contracts.

Note that financing and bonding are closely linked, as discussed in Chapter 4 and Appendix J of the 2020 Disparity Study.

There was also evidence in the 2020 Disparity Study that some firms cannot bid on certain public sector projects because they cannot afford the levels of insurance required by the agency. This barrier appears to affect small businesses, which might disproportionately impact minority- and women-owned firms. Additionally, MBEs and WBEs were somewhat more likely to report that insurance requirements on contracts were a barrier to bidding.

The information about financing, bonding and insurance supports an upward step 2 adjustment in ADOT's overall annual goal for DBE participation in FAA-funded contracts.

4. Other Factors. The Federal DBE Program suggests that federal aid recipients also examine "other factors" when determining whether to make any step 2 adjustments to their base figure.¹¹

Among the "other factors" ADOT examined was the information in the 2020 Disparity Study about the comparative success of MBE/WBEs and majority-owned businesses in the Arizona marketplace. There was quantitative evidence that certain groups of MBE/WBEs are less successful than majority-owned firms, and face greater barriers in the marketplace, even after considering neutral factors. There was also qualitative evidence of barriers to the success of minority- and women-owned businesses. Some of this qualitative information suggests that discrimination on the basis of race, ethnicity and gender affected minority- and women-owned firms in the Arizona transportation contracting industry.

There is no straightforward way to project the number of MBE/WBEs available for ADOT work but for the effects of these other factors.

¹¹ 49 CFR Section 26.45.

Summary of Approaches for Making Step 2 Adjustments. Quantification of potential downward or upward step 2 adjustments is summarized below.

1. Current Capacity of DBEs to Perform Work, as Measured by the Volume of Work DBEs have Performed in Recent Years. For recent years, the median DBE participation on FAA-funded contracts was 0.00% (explained earlier in this report).

2. Information Related to Employment, Self-Employment, Education, Training and Unions. The study team was not able to quantify all of the information regarding barriers to entry for MBE/WBEs. Quantification of the business ownership factor indicates an upward step 2 adjustment of 1.58 percentage points to reflect the “but-for” analyses of business ownership rates presented in Figure 4. If ADOT made this adjustment, the overall DBE goal for FAA-funded contracts would be 6.19% ($4.61\% + 1.58\% = 6.19\%$).

3. Any Disparities in the Ability of DBEs to Secure Financing, Bonding and Insurance. Analysis of financing, bonding and insurance indicates that an upward adjustment is appropriate. However, impact of these factors on availability could not be quantified in the 2022 Availability Study or the 2020 Disparity Study.

4. Other Factors. Impact of the barriers to success of MBE/WBEs in Arizona could not be quantified in the 2022 Availability Study. However, evidence supports an upward adjustment.

Summary. ADOT chose not to make a step 2 adjustment based on the information from the 2020 Disparity Study and 2022 Availability Study. As certain factors might be considered to support a downward adjustment and certain factors might be considered to support an upward adjustment, ADOT chose not to make a downward or upward adjustment and to use the base figure as its proposed overall DBE goal for FAA-funded contracts for FFYs 2025 through 2027. The base figure appears reasonable without adjustment, considering, for example, that an overall goal of 4.61% is higher than ADOT’s DBE participation for FAA-funded contracts in recent years.

Race-/Gender-Neutral and Race-/Gender-Conscious Split — 49 CFR Section 26.51(c)

To comply with the Federal DBE Program, ADOT must meet the maximum feasible portion of its overall DBE goal using race- and gender-neutral measures.¹² Race- and gender-neutral measures are initiatives that encourage the participation of all businesses, or all small businesses, and are not specifically limited to MBE/WBEs or DBEs. ADOT has considered whether it can meet its overall DBE goal solely through neutral means or whether race- and gender-conscious measures — such as DBE contract goals — are also needed. As part of doing so, ADOT has projected the portion of its overall DBE goals that it expects to meet (a) through race- and gender-neutral means, and (b) through race- and gender-conscious programs (if any). For each of the three most recent fiscal years ADOT has operated an entirely race-neutral DBE program for its FAA-funded contracts.

USDOT offers guidance concerning how transportation agencies should project the portions of their overall DBE goals that will be met through race- and gender-neutral, and race- and gender-conscious measures, including the following:

- USDOT Questions and Answers about 49 CFR Part 26 addresses factors for federal aid recipients to consider when projecting the portion of their overall DBE goals that they will meet through race- and gender-neutral means.¹³
- USDOT “Tips for Goal-Setting” also suggests factors for federal aid recipients to consider when making such projections.¹⁴

¹² 49 CFR Section 26.51.

¹³ See <https://www.transportation.gov/sites/dot.gov/files/2020-01/docr-20180425-001part26qa.pdf>

¹⁴ 49 CFR Section 26.51.

Based on 49 CFR Part 26 and the resources above, ADOT considered the following questions:

1. Is there evidence of discrimination within the local transportation contracting marketplace for any racial, ethnic or gender groups?
2. What has been the agency's past experience in meeting its overall DBE goal?
3. What has DBE participation been when ADOT has not applied DBE contract goals (or other race-conscious remedies)?¹⁵
4. What is the extent and effectiveness of race- and gender-neutral measures that ADOT currently has in place and will put in place for the upcoming fiscal years?

The balance of this section is organized around each of those general areas of questions.

1. Is There Evidence of Discrimination Within the Local Transportation Contracting Marketplace for Any Racial, Ethnic or Gender Groups? The 2020 Disparity Study provides results of the local marketplace research (summarized in Chapter 4) and analyses of MBE/WBE utilization and availability (see Chapters 5 and 6 of that report). This information is also summarized below.

Marketplace Conditions. As discussed in Chapter 4 of the 2020 Disparity Study, Keen Independent examined conditions in the Arizona marketplace, including:

- Entry and advancement;
- Business ownership;
- Access to capital, bonding and insurance; and
- Success of businesses.

There was quantitative evidence of disparities in outcomes for minority- and women-owned firms in general and for certain MBE/WBE groups concerning the above issues. Qualitative information indicated some evidence that discrimination may have been a factor in these outcomes. Full results are presented in Chapter 4 and Appendices E through J of the 2020 Disparity Study.

Results of the Disparity Analysis for FAA-Funded Contracts. Chapter 6 of the 2020 Disparity Study report examines utilization and availability of minority- and women-owned firms in ADOT's FAA-funded contracts. About 27% of FAA-funded contract dollars went to minority- and women-owned firms combined. Most of the MBE/WBE utilization was firms not currently DBE-certified that appeared that they could become certified.

Overall MBE/WBE utilization was somewhat below the 33% that might be expected based on the availability analysis for these contracts. Utilization of white women-owned firms (19.3%) exceeded what might be expected from the availability analysis (9.6%), but utilization of MBEs (7.7%) was substantially below what might be expected based on availability for this work (23.0%). There were disparities for each MBE group. Except for African American-owned firms, these disparities were substantial.

Summary. ADOT reviewed the information about marketplace conditions presented in Chapter 4 and Appendices E through J, as well as other information it has, when considering the extent to which it can meet its overall DBE goal through neutral measures. The combined information from the marketplace analyses indicates evidence of unequal outcomes for minority- and women-owned firms. The disparity analysis for FAA-funded contracts shows relatively

¹⁵ USDOT guidance suggests evaluating (a) certain DBE participation as prime contractors if the DBE contract goals did not affect utilization, (b) DBE participation as prime contractors and subcontractors for agency contracts without DBE goals, and (c) overall utilization for other state, local or private contracting where contract goals are not used.

high overall utilization of minority- and women-owned firms (27%) but disparities between the utilization and availability of MBEs.

2. What has Been the Agency’s Past Experience in Meeting its Overall DBE Goal? Keen Independent analyzed ADOT’s Uniform Reports DBE Commitments/Awards and Payments to FAA for the most recent five completed fiscal years. There was no DBE participation indicated from either awards or payments. As a result, ADOT fell short of its overall DBE goal in FFYs 2019, 2020, 2021, 2022 and 2023 (see Figure 5).

Figure 5. ADOT Overall DBE Goal and Reported DBE Participation on FAA-Funded Contracts, FFY 2019 through FFY 2023

Federal fiscal year	DBE goal	DBE commitments/ awards	DBE payments	Difference from DBE goal	
				Awards	Payments
2019	8.05 %	0.00 %	0.00 %	-8.05 %	-8.05 %
2020	8.05	0.00	0.00	-8.05	-8.05
2021	10.69	0.00	0.00	-10.69	-10.69
2022	10.69	0.00	0.00	-10.69	-10.69
2023	10.69	0.00	0.00	-10.69	-10.69

Source: ADOT Uniform Reports of DBE Awards/Commitments and Payments.

3. What has DBE Participation Been When ADOT has Not Applied DBE Contract Goals (or Other Race-Conscious Remedies)? ADOT did not use DBE contract goals for its FAA-funded contracts in the fiscal years examined.

4. What is the Extent and Effectiveness of Race- and Gender-Neutral Measures that ADOT Currently has in Place and Will Put in Place for the Upcoming Fiscal Years? When determining the extent to which it could meet its overall DBE goal through the use of neutral measures, ADOT reviewed the race- and gender-neutral measures that it and other organizations currently have in place, and those it has planned or could consider for future implementation. Keen Independent’s analysis of neutral remedies in Chapter 7 of the 2020 Disparity Study indicates that ADOT has implemented an extensive set of neutral measures. At this time, it is difficult to quantify how much those initiatives can further increase race-neutral participation of DBEs in ADOT’s FAA-funded contracts.

Summary. ADOT proposes that it will attempt to achieve 100% of its overall DBE goal through neutral means.

- ADOT has extensive neutral measures in place, and there are many small business assistance programs offered by other institutions throughout the state.
- The 2020 Disparity Study revealed that MBE/WBE utilization was approximately 27% for FAA-funded contracts, with much of that participation coming from minority- and women-owned firms that might be able to certify as DBEs. If ADOT were to continue to encourage more MBE/WBEs to become DBE-certified, it could be possible for ADOT to achieve a DBE goal in the range of 4.61% without the use of DBE contract goals.

Although the small number of FAA-funded contracts in any year may make it difficult for ADOT to achieve its overall DBE goal in each year of the FFY 2025 through FFY 2027 time period, it is possible that ADOT can meet this overall goal over the three-year period as a whole solely through neutral efforts.

Public Participation — 49 CFR Section 26.45(g)

As ADOT has done with its original version of its proposed overall DBE goal for FAA-funded contracts for FFYs 2025 through 2027, ADOT published its revised proposed Three-Year Overall DBE Goal & Methodology on the ADOT official website before submitting a final version of this document to FAA. The public comment period for the draft report and ADOT's originally proposed overall DBE goal of 9.72% was open from November 15 through December 30, 2022.

Originally Proposed Overall DBE Goal for FAA-funded Contracts. In 2022, ADOT conducted outreach to interested stakeholders and held public meetings to present and receive comments on the proposed FAA, FHWA and FTA DBE goals. Presenting FAA, FHWA and FTA DBE goals at the same time allowed ADOT to reach a wider group of trade associations and business representatives interested in the Disadvantaged Business Enterprise Program at ADOT. This strategy highlighted stakeholder attention on proposed goals for FAA-funded contracts in a way that would not have occurred if they were presented alone.

ADOT met with the ADOT DBE Task Force, Arizona Chapter of the Associated General Contractors, and the American Council of Engineering Companies of Arizona to inform those organizations and their members of study results and obtain comments about the draft 2022 Availability Study and proposed DBE goals, including goals proposed for FAA-funded contracts. These meetings were held as follows:

- ADOT DBE Joint Task Force from 9:00 to 10:30 a.m. on Tuesday, Nov. 15, 2022;
- AGC from 12:00 to 1:30 p.m. on Tuesday, Nov. 15, 2022;
- ACEC from 8:00 to 9:00 a.m. on Wednesday, Dec. 7, 2022; and
- ADOT DBE Small Business Conference from 1:15 to 2:00 p.m. on Wednesday, Dec. 7, 2022.

ADOT also held two virtual public meetings with business owners and others to discuss and obtain verbal comments about the 2022 Availability Study and proposed DBE goals:

- From 12:00 to 1:00 p.m. on Wednesday, Nov. 30, 2022; and
- From 5:00 to 6:00 p.m. on Thursday, Dec. 1, 2022.

Overall DBE Goal for FAA-funded Contracts After Revisions Based on FAA comments. In summer 2024, FAA provided ADOT a review of its proposed overall DBE goal for FAA-funded contracts. ADOT revised its DBE goal based on those comments from FAA. This Goal & Methodology document, which presents the revised goal of 4.61%, was made available to the public on ADOT's website in October 2024. ADOT held two virtual meetings to explain the revised goal, answer any questions and receive input:

- From 1:00 to 1:45 p.m. on Tuesday, October 29, 2024; and
- From 9:00 to 9:45 a.m. on Thursday, October 31, 2024.

There were 33 attendees in the virtual meetings, and three individuals provided comments on behalf of themselves or their organizations. ADOT reviewed this additional information before formally submitting its final proposed overall DBE goal to the FAA. A summary of the comments follows.

Attachment A — Input Received During October 2024 Public Meetings

After releasing the revised FAA DBE Goal methodology report, ADOT solicited comments on the revised proposed FAA DBE goal and other insights regarding operation of the DBE Program. Comments were received during the two October 2024 virtual public meetings.

Three individuals provided comments on behalf of themselves or their organizations. Keen Independent analyzes comments below.

Revision of the FAA DBE goal. Public meeting participants asked why ADOT revised the FAA DBE goal based on FAA comments. ADOT explained that the FAA had comments on how ADOT made a step 2 adjustment, which prompted ADOT to modify its approach to calculating the goal.

There were no comments or disagreements with the proposed goal.

Proposed overall FAA DBE goal and FAA-funded contracts at the airport. Public meeting participants also asked what the overall proposed FAA DBE goal means for FAA-funded contracts at the airport. ADOT explained that ADOT will attempt to meet the proposed FAA DBE goal through race- and gender-neutral means. ADOT will not set race- and gender-conscious contract goals on individual contracts. It will encourage DBE participation through neutral measures such as encouraging prime contractors to voluntarily include DBE-certified firms in their projects at the airport.

Attachment B — ADOT Grand Canyon National Park Airport (GCN) Future Contract Opportunities

Between FFY 2025 and FFY 2027, ADOT anticipates undertaking 11 projects, ten of them with FAA participation. Analysis of anticipated FAA-funded projects suggests that 94% of FFY 2025 – FFY 2027 project dollars are related to NAICS 237310 Highway, street, and bridge construction. Figure A-1, on the next page, presents this analysis.

- The first two columns in Figure A-1 present the ADOT future projects per year.
- The third and fourth column shows the associated NAICS code and NAICS code description to that project.
- The fifth column presents how the NAICS code relates to the type of work used in the availability study (Keen Independent type of work).
- The next two columns show the total contract value for all projects (Expected total contract amount) and the total contract value for projects with FAA participation.
- The last column shows each project's share of share of total FAA-funded contract dollars.

For the 2022 ADOT Availability Study, Keen Independent identified three types of work that comprised 93% of FAA-funded contract dollars from FFY 2019–FY 2021: runway construction (48.4%), general road construction and widening (43.8%), and engineering (0.3%). Runway and general road construction fall under NAICS 237310 Highway, street, and bridge construction.

Figure B-1 shows that the types of work on these future projects are similar to the types of work Keen Independent reviewed in the 2022 ADOT Availability Study that formed the basis for the proposed overall DBE goal for FAA-funded contracts.

Figure B-1. ADOT FAA-Funded Future Contract Opportunities, FFY 2025– FFY 2027

Year	Project title	NAICS	NAICS description	Keen Independent type of work	Expected total contract amount	Expected total contract amount of projects with FAA participation	Percent of total contract dollars of projects with FAA participation
2025	Runway 3-21 Rehabilitation - Construction (BIL)	237310	Highway, street and bridge construction	Runway construction	\$ 2,446,997	\$ 2,446,997	5.15 %
2025	Runway 3-21 Rehabilitation - Construction (AIP Discretionary Fund)	237310	Highway, street and bridge construction	Runway construction	18,546,298	18,546,298	39.03
2025	Taxiway HotSpot 1 Reconstruction - Construction (BIL)	237310	Highway, street and bridge construction	Runway construction	2,225,000	2,225,000	4.68
2025	Runway 3-21 Shoulders - Construction (AIP Entitlement Funds)	237310	Highway, street and bridge construction	Runway construction	7,485,840	7,485,840	15.75
2025	Runway 3-21 Electrical Improvements - Construction (BIL)	238210	Electrical contractors and other wiring installation contractors	Electrical work including lighting and signals	2,959,500	2,959,500	6.23
2025	Runway 3-21 Blast Pads - Construction (BIL)	237310	Highway, street and bridge construction	Runway construction	1,659,140	1,659,140	3.49
2026	Airport Terminal Renovation	236220	Commercial and institutional building construction	Other construction	19,015,725	0	0.00
2026	Apron Reconstruction - Design (BIL)	541330	Engineering services	Engineering	475,000	475,000	1.00
2026	Taxiway P Reconstruction - Design (BIL)	541330	Engineering services	Engineering	800,000	800,000	1.68
2027	Taxiway Reconstruction - Phase 1 (AIP Discretionary Funds)	237310	Highway, street and bridge construction	Runway construction	5,815,219	5,815,219	12.24
2027	Taxiway Reconstruction - Phase 1 (AIP Entitlement Funds)	237310	Highway, street and bridge construction	Runway construction	5,107,471	5,107,471	10.75
Total					\$ 66,536,190	\$ 47,520,465	100.00 %