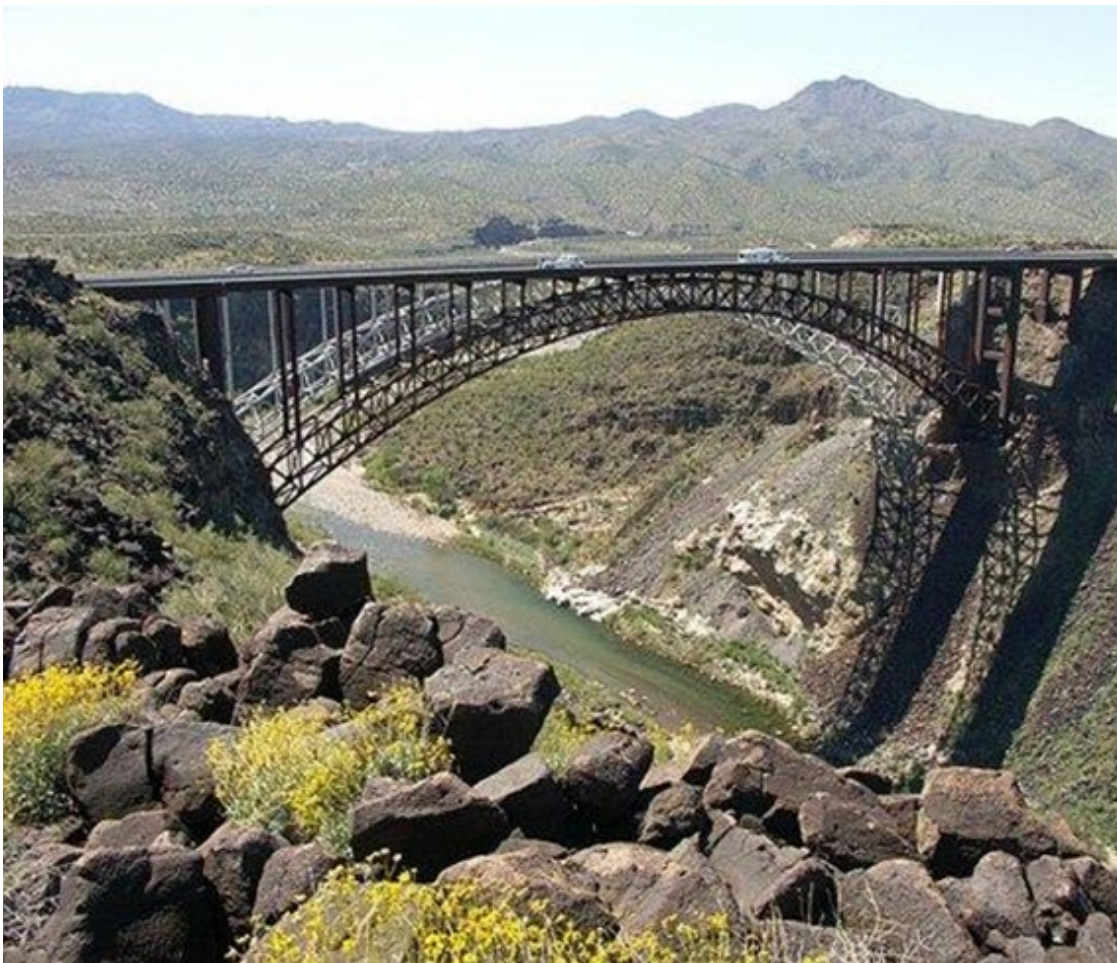


Arizona Department of Transportation 2022 Availability Study Draft Results



Presented by:

David Keen, Principal
Blanca Monter, Senior Consultant

Keen Independent Research LLC

100 Fillmore St., 5th Floor
Denver CO 80206

701 N. 1st St., 2nd Floor
Phoenix AZ 85004

303-385-8515
303-522-7298 (mobile)

dkeen@keenindependent.com
www.keenindependent.com

November 2022

Joined by:

Jan Gordley
Gordley Design Group, Inc.

Keith Wiener
Holland & Knight

**KEEN
INDEPENDENT
RESEARCH**

Title VI: Nondiscrimination

Title VI of the Civil Rights Act of 1964 is the main legal authority for the Arizona Department of Transportation's external nondiscrimination programs. ADOT's Title VI Program includes the American's with Disabilities Act (ADA) and other nondiscrimination statutes that prohibit discrimination on the basis of race, color, national origin, age, sex, or disability in programs or activities receiving federal financial assistance. Once an agency accepts federal funds, all of its programs and activities are covered, regardless of their funding source. Related statutes and presidential executive orders under the umbrella of Title VI address environmental justice (EJ) in minority and low-income populations and services to those individuals with limited English proficiency (LEP), women and the disabled.

Persons who require a reasonable accommodation based on language or disability should contact Blanca Monter at

ADOTAvailabilityStudy2022@keenindependent.com

Topics

- Federal DBE Program
- Summary proposed goals
- Information collected from ADOT
- Definition of market area
- Overview of DBE goal process
- Availability analysis
- FHWA proposed goal and projections
- FAA proposed goal and projections
- FTA proposed goal and projections
- Key dates

Federal DBE Program (49 CFR 26)

- ADOT as USDOT funds recipient must implement the Federal DBE program
- Federal requirements for overall DBE goal (49 CFR Part 26)
 - Determine base figure
 - Consider step 2 adjustments
 - Project portion of goal to be met through neutral means
 - Ensure that program operation is narrowly tailored

Availability results — Summary proposed goals

Funding	Current overall goal	New proposed DBE goals		
		Total	Race-neutral	Race-conscious
FHWA	12.89 %	12.55 %	4.90 %	7.65 %
FAA	10.69	9.72	9.72	0.00
FTA	14.51	9.85	9.85	0.00

Overview of DBE goal process

- 2022 availability study draft results used same methodology as in 2020, 2017 and 2014/2015
- Ninth Circuit Court of Appeals-approved methodology (e.g., *AGC, San Diego v. Caltrans*)
- Followed base figure process required in 49 CFR Part 26 (same as previous studies for ADOT)
- Followed step 2 adjustment process specified in regulations and guidance (same process)
- New availability survey for 2022 (updates 2019 survey using same process)
- Reviewed which MBE/WBEs that are not DBE-certified are “potential DBEs” (same process)
- Dollar-weighted availability results for individual contracts to determine base figure (same process)

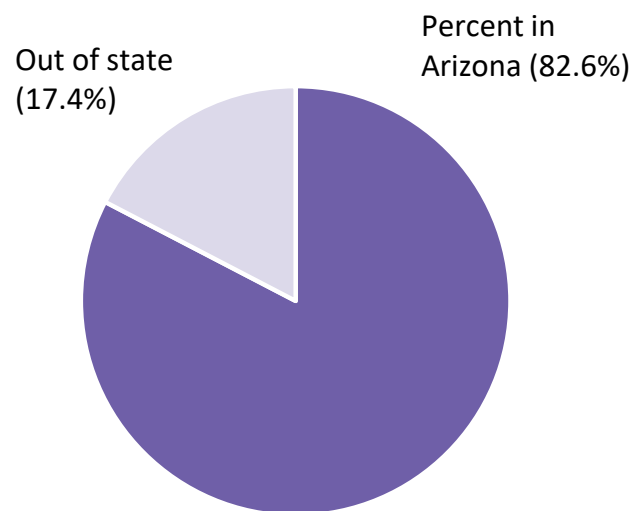
Information collected from ADOT

- ADOT and subrecipient contracts from Oct. 1, 2018–Sept. 30, 2021 (FHWA-, FAA-, FTA-funded)
 - Awards, including funding source, amount, location, type of work
 - Information about prime contractors
 - Information about subcontractors
- Lists of firms interested in ADOT work
- DBE certification data, including firms graduating or denied certification

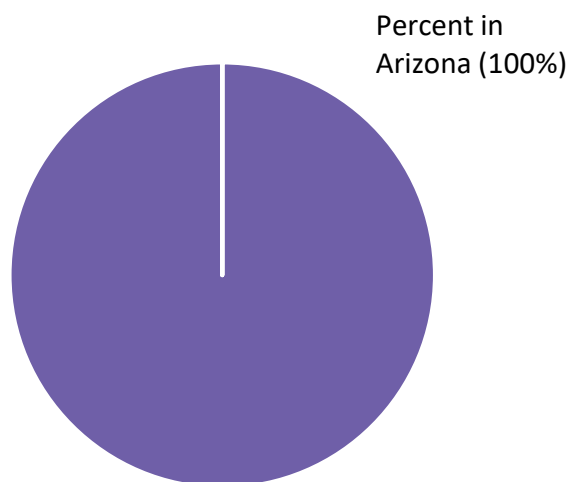


Definition of geographic market area: Arizona

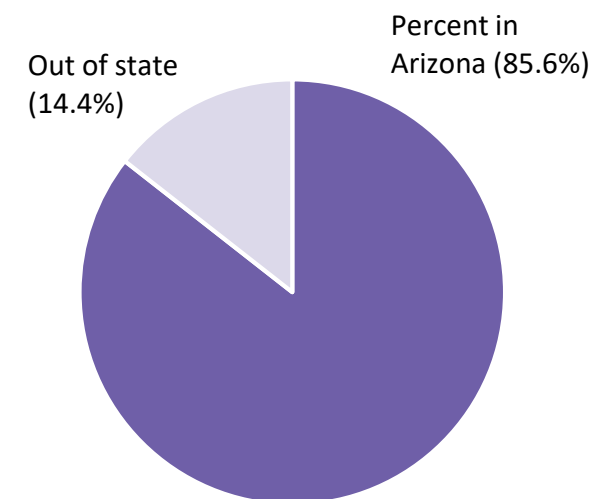
FHWA-funding



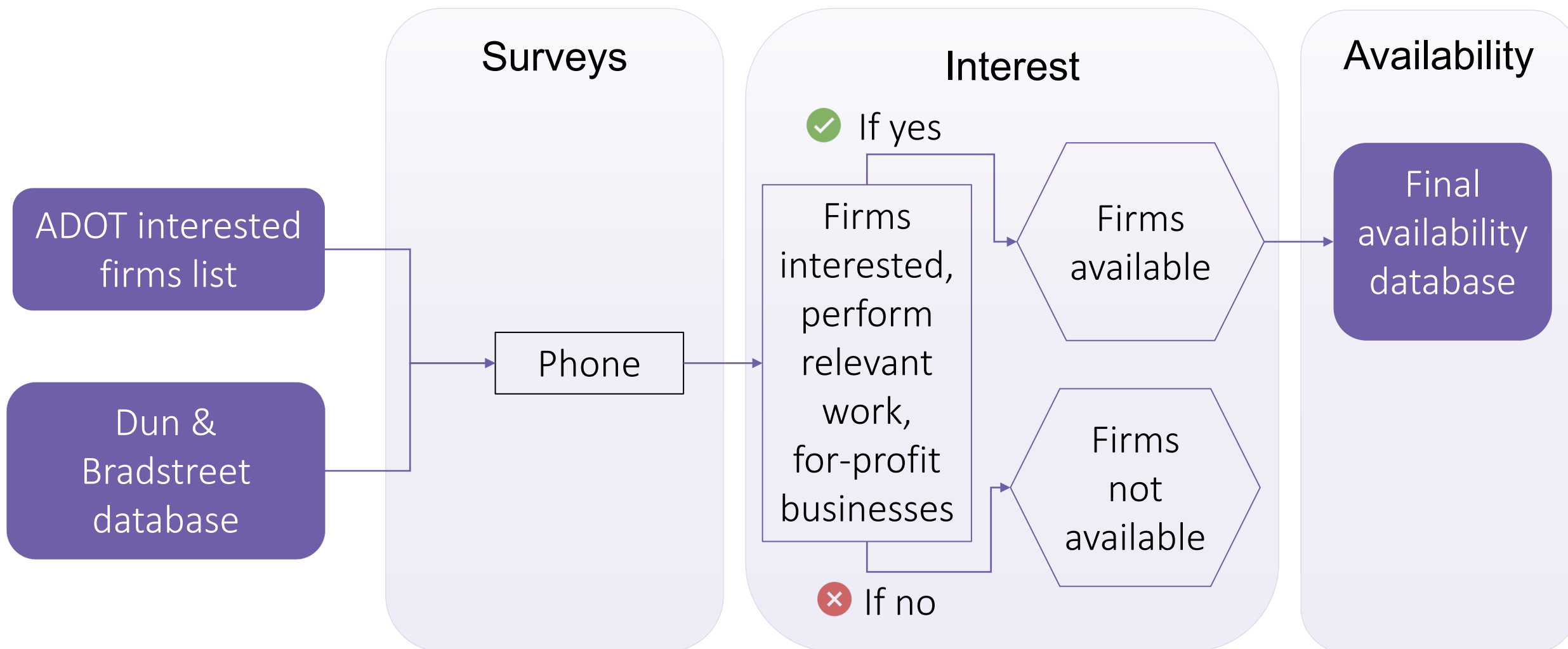
FAA-funding



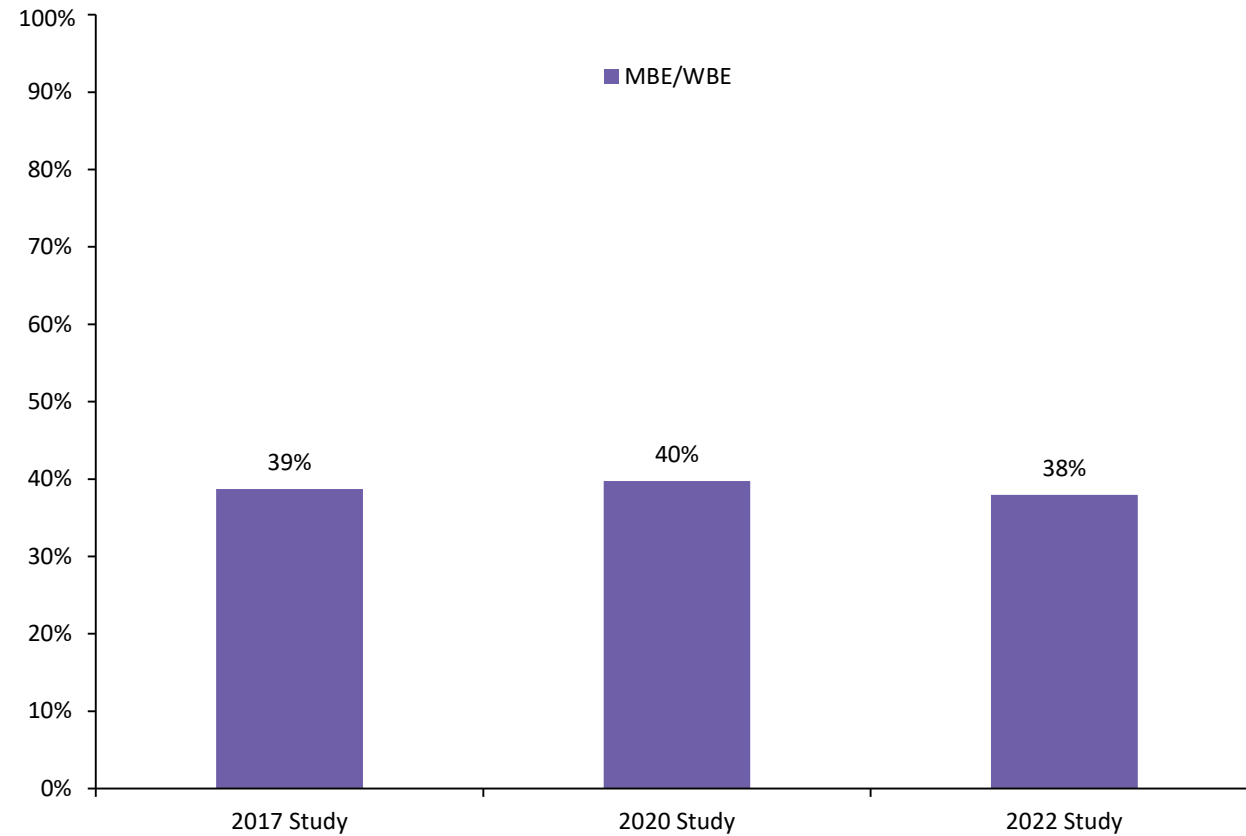
FTA-funding



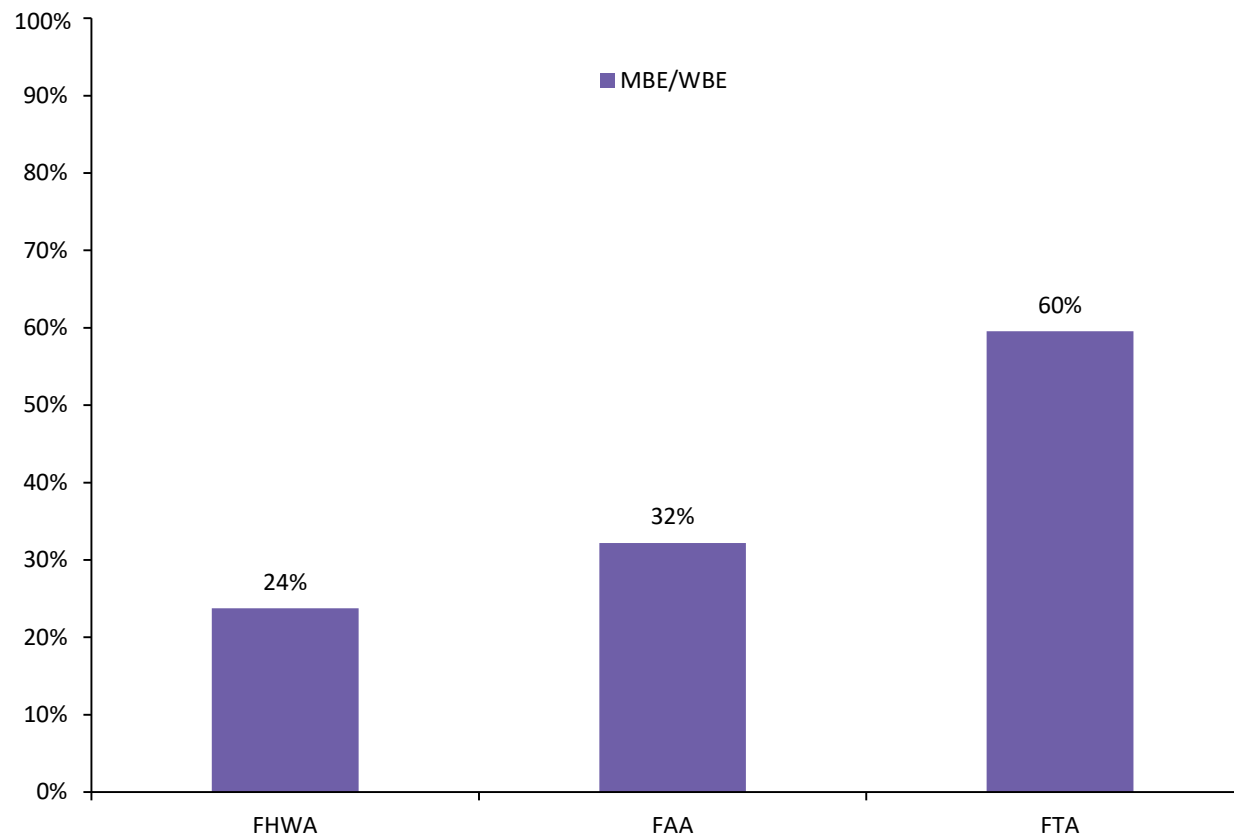
Availability analysis — data sources and process



Availability results — headcount results



Availability results — MBE/WBE dollar weighted availability



FHWA DBE goal — Base figure

Calculation of base figure from past contracts	Availability
Total MBE/WBE	23.75 %
Less firms that graduated from the DBE program or denied DBE certification in recent years or exceed revenue threshold or indicated that they were not interested in DBE certification or did not have an active account with the Arizona Corporation Commission	9.47
Subtotal	<u>14.28 %</u>
Plus white male-owned firms	<u>0</u>
Current and potential DBEs	14.28 %
Current DBEs only	7.21 %

FHWA DBE goal — Past DBE participation

Federal fiscal year	DBE goal	DBE commitments/ awards	DBE payments	Difference from DBE goal	
				Awards	Payments
2019	9.55 %	11.46 %	9.43 %	1.91 %	-0.12 %
2020	9.55	12.57	10.81	3.02	1.26
2021	12.89	15.67	12.58	2.78	-0.31

FHWA DBE goal — Adjustment

Step 2 adjustment component	Value	Explanation
Lower adjustment of overall DBE goal for current capacity		
Base figure	14.28 %	From base figure analysis
Evidence of current capacity	<u>10.81</u>	Past DBE participation
Difference	3.47 %	
	÷ <u>2</u>	Reduce by one-half
Adjustment	1.74 %	Downward adjustment for current capacity
Base figure	14.28 %	From base figure analysis
Adjustment for current	- <u>1.74</u>	Downward step 2 adjustment
Overall DBE goal	12.55 %	Lower range of DBE goal
Upward adjustment of overall DBE goal for business ownership		
Base figure	14.28 %	From base figure analysis
Adjustment for "but for"	+ <u>6.30</u>	"But for" step 2 adjustment for business
Overall DBE goal	20.58 %	Upward adjustment of DBE goal for business

FHWA DBE goal — Race neutral

Federal fiscal year	DBE commitments/award		
	Total	Race- conscious	Race- neutral
2019	11.46 %	8.11 %	3.35 %
2020	12.57	7.67	4.90
2021	15.67	10.32	5.35

FHWA DBE goal — Adjustments and race-neutral

Component of overall DBE goal	FFY 2021–FFY 2023	FFY 2024–FFY 2026		
		Downward adjustment - current capacity	Base figure	Upward adjustment - business ownership
Overall goal	12.89 %	12.55 %	14.28 %	20.58 %
Neutral projection	- <u>4.72</u>	- <u>4.90</u>	- <u>4.90</u>	- <u>4.90</u>
Race-conscious projection	8.17 %	7.65 %	9.38 %	15.68 %

FAA DBE goal setting

- FAA DBE goal used same methodology as for FHWA DBE goal
- Followed same process as previous studies for ADOT
- New availability survey for 2022 (updates 2019 survey)
- Reviewed which MBE/WBEs that are not DBE-certified are “potential DBEs”
- Dollar-weighted availability results for individual contracts to determine a base figure

FAA DBE goal — Base figure

Calculation of base figure from past contracts	Availability
Total MBE/WBE	32.20 %
Less firms that graduated from the DBE program or denied DBE certification in recent years or exceed revenue threshold or indicated that they were not interested in DBE certification or did not have an active account with the Arizona Corporation Commission	12.76
Subtotal	<u>19.44 %</u>
Plus white male-owned firms	<u>0</u>
Current and potential DBEs	19.44 %
Current DBEs only	4.61 %

FAA DBE goal — Past DBE participation

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

FAA DBE goal — Adjustments and race-neutral

Component of overall DBE goal	FFY 2022– FFY 2024	FFY 2025–FFY 2027		
		Downward adjustment - current capacity	Base figure	Upward adjustment - business ownership
Overall goal	10.69 %	9.72 %	19.44 %	23.22 %
Neutral projection	- <u>10.69</u>	- <u>9.72</u>	- <u>19.44</u>	- <u>23.22</u>
Race-conscious projection	0.00 %	0.00 %	0.00 %	0.00 %

FTA DBE goal setting

- Followed base figure process based on past communications from FTA staff and USDOT FTA Recipient DBE Goal-Setting and Consultation Webinar - May 2018
- Followed same step 2 adjustment process as in regulations
- New availability survey for 2022 (updates 2019 survey)
- Reviewed which MBE/WBEs that are not DBE-certified are “potential DBEs”
- Dollar-weighted availability results

NAICS	NAICS description	Percent of FTA-funded contract dollars	Percentage of firms that are DBEs	Weighted availability
Capital (facilities, shelters, sidewalks)				
236220	Commercial and institutional building construction	0.28 %	4.17 %	0.01 %
238210	Electrical contractors and other wiring installation contractors	2.81	6.52	0.18
238120	Structural steel and precast concrete contractors	5.04	5.26	0.27
238910	Site preparation contractors	0.51	6.19	0.03
561730	Landscaping services	1.42	6.56	0.09
238110	Poured concrete foundation and structure contractors	2.21	11.63	0.26
484110	General freight trucking, local	2.79	3.50	0.10
562910	Remediation services	0.08	6.78	0.01
237310	Highway, street, and bridge construction	35.57	9.59	3.41
	Capital expenditures	50.70 %		4.36 %
Operations and maintenance				
424710	Petroleum bulk stations and terminals	16.39 %	11.11 %	1.82 %
485113	Bus and other motor vehicle transit systems	14.05	8.33	1.17
532112	Passenger car leasing	12.43	11.11	1.38
541690	Commercial and institutional building construction	3.57	25.00	0.89
541330	Electrical contractors and other wiring installation contractors	2.85	8.18	0.23
	Operations and maintenance	49.30 %		5.50 %
	Total	100.00 %		9.85 %

FTA DBE goal — Base figure

FTA DBE goal — Adjustments and race-neutral

Component of overall DBE goal	FFY 2025–FFY 2027				
	FFY 2022–FFY 2024	Base figure	Upward adjustment ("but for" analysis)	Upward adjustment (past participation)	Combined Step 2 adjustment
Overall goal	14.51 %	9.85 %	13.08 %	18.55 %	21.77 %
Neutral projection	- <u>14.51</u>	- <u>9.85</u>	- <u>13.08</u>	- <u>18.55</u>	- <u>21.77</u>
Race-conscious projection	0.00 %	0.00 %	0.00 %	0.00 %	0.00 %

Presentations and public comment period

- **October 19:** Draft report to ADOT for review and comments
- **November 15:** AGC and DBE Task Force presentations
- **November 30 and December 1:** Public meetings
- **December 7:** ACEC meeting and DBE Small Business Conference
- **December 30:** Close of comment period

Public comment period — How to provide input

2022 Availability Report and DBE goal documents available at:

- <https://azdot.gov/business/business-engagement-and-compliance/2022-dbe-availability-study>

How to provide comments

- **By email.** ADOTAvailabilityStudy2022@keenindependent.com
- **By mail.** ADOT Business Engagement and Compliance
1801 West Jefferson, Suite 101
Phoenix AZ 85004
- **By fax.** ADOT Business Engagement and Compliance
Fax: 602-712-8429