



U.S. Virgin Islands Department of Public Works Disadvantaged Business Enterprise (DBE) Triennial Goal for FHWA-assisted Contracts Federal Fiscal Years 2022-2024

INTRODUCTION

The Virgin Islands Department of Public Works (DPW) is a recipient of federal financial assistance from the Federal Highway Administration (FHWA), a modal agency under the U.S. Department of Transportation (USDOT). Pursuant to Title 49 Code of Federal Regulations (CFR) Part 26, DPW operates a Disadvantaged Business Enterprise (DBE) program for which it triennially sets an overall DBE goal. Using the following methodology, DPW proposes an overall DBE goal of 25.94% for the Federal Fiscal Year (FFY) period of 2022-2024 (October 1, 2021 – September 30, 2024). DPW calculates achieving 10.44% of the goal through race neutral means and 15.50% by establishing contract goals.

Therefore, in accordance with 49 CFR § 26.45(a)(1), VIDPW will established an overall goal based on the availability of ready, willing and able DBEs relative to the availability of all ready, willing and able firms within the Virgin Islands who are interested in VIDPW's highway projects. VIDPW proposed an overall goal for federal fiscal years 2021-2024 is **25.94%** which it expects to meet **10.44%** through race neutral means and **15.50%** through race conscious means.

OVERVIEW OF THE GOAL SETTING PROCESS

The regulations at 26.45 prescribe how DPW calculates the proposed goal. In addition, DPW adheres to USDOT guidance in its [*Tips for Goal Setting in the Disadvantaged Business Enterprise \(DBE\) Program*](#), as well as key US Supreme Court decisions that frame constitutional requirements for minority business contracting programs.

The triennial goal must reflect the level of DBE participation expected absent the effect of discrimination. In the first step of calculating the goal, DPW establishes a base figure for the relative availability of DBEs and non-DBEs in the relevant market area; describing the evidence with which the availability was calculated.

In the second step, DPW considers adjustments to the base figure, attempting to reach the most precise goal possible by using past achievements and any other evidence that may impact the market or business availability. Another aspect of step two is to identify what portion of the overall goal can be achieved through race and gender-neutral means (race neutral) and that which will require contract goals (race conscious).

The final step describes how DPW shared the proposed goal with all interested parties, and summarizes questions or comments received from the public, as well as DPW's response and any resulting changes to the proposed goal.

METHODOLOGY

DBE goals are based on demonstrable evidence of the availability of ready, willing and able *DBEs* relative to *all* road and bridge firms ready, willing and able to participate on USDOT-assisted contracts in the relevant market area. While DPW collects as a matter of responsiveness a bidders list from all firms submitting proposals for FHWA-assisted projects, successful and unsuccessful, it does not currently have the means to use this list for goal setting. Therefore, after examining all available options, DPW determined that the following sources provided the most accurate and reliable information: The USVI DBE Directory; Internal discussions with the DPW Office of Highway Engineering (OHE); the VI Department of Licensing & Consumer Affairs business database; the DPW goals for FFY 2018, 2019 2020; and the DPW Uniform Reports for 2017, 2018, 2019, 2020 and 2021 (to date).

STEP ONE –Base Figure Calculations Relative Availability of DBE Firms (§ 26.45(c))

Determination of the Geographic Market Area

Consistent with USDOT regulations and guidance for setting a narrowly tailored goal, DPW must define its geographic market area. US Virgin Islands is situated in the eastern Caribbean and shares no borders with the mainland US. Contract awards suggest that the entirety of contract dollars go to firms domiciled or with presence in Virgin Islands. Therefore, DPW defines its relevant market area as collected islands of US Virgin Islands.

Determination of Step One Base Line Figure

To establish the DBE goal, DPW reviewed its DBE directory, identifying certified firms ready, willing and able to perform road and bridge work items. It then filtered business information provided by the Department of Licensing & Consumer Affairs to identify all businesses licensed in USVI to perform work items on road and bridge projects. The following table shows the results of DPW’s research and the relevant availability of firms in the primary DPW road and bridge contracting categories.

NAICS Code	NAICS Description	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability
237310	Highway Street & Bridge Construction	32	176	0.1818
238140	Masonry Contractors	9	75	0.1200
238210	Electrical Contractors	9	24	0.3750
238220	Plumbing Contractors	3	15	0.2000
238250	Carpentry Contractors	2	100	0.0200
238320	Painting Contractors	21	104	0.2019
238910	Site Preparations	17	55	0.3091
238990	All Other Specialty Trade Contractors	20	25	0.8000
324121	Asphalt Paving Mix/Manufacture	4	18	0.2222
423390	Brick, Stone and Related Materials	2	17	0.1176

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444190	Other Building Contractors	12	25	0.4800
483211	Inland Water Transport	2	13	0.1538
484110	General Freight Trucking	34	87	0.3908
532412	Heavy Equipment Rental	26	19	1.3684
541310	Architectural Services	4	21	0.1905
541330	Engineering Services	4	97	0.0412
541618	Other Management Consulting Services	5	106	0.0472
561621	Security Services	3	26	0.1154
561720	Janitorial Services	7	71	0.0986
561730	Landscaping Services	10	15	0.6667
562111	Solid Waste Collection	5	30	0.1667
562112	Hazardous Waste Treatment Disposal	3	6	0.5000
541611	Legal Services	1	13	0.0769
Combined Totals		235	1138	0.2065

The relative availability of DBEs is calculated by dividing all firms by DBE firms:

$$\frac{\text{Ready, Willing, Able DBE Firms}}{\text{All Ready, Willing Able Firms}} \rightarrow \frac{235}{1138} = .2065 = 20.65\% \text{ Relative Availability}$$




Weighting

Though not a requirement, USDOT recommends the use of weighting when possible as a means of improving the accuracy of the base figure. OHE estimated the percentages of contract dollars likely to be spent in the major road and bridge categories over the next three years, multiplying the relative availability by these projected expenditures. The table below shows relative availability and weighting

NAICS Code	Project	Weight	x	Availability	Weighted Base Figure
237310	Highway Street & Bridge Const.	0.35000	x	0.18182	0.0636
238140	Masonry Contractors	0.05000	x	0.12000	0.0060
238210	Electrical Contractors	0.03000	x	0.37500	0.0113
238220	Plumbing Contractors	0.00070	x	0.20000	0.0001
238250	Carpentry Contractors	0.00300	x	0.02000	0.0001
238320	Painting Contractors	0.00030	x	0.20192	0.0001
238910	Site Preparations	0.04000	x	0.30909	0.0124
238990	Other Specialty Trade Contractors	0.01788	x	0.80000	0.0143
324121	Asphalt Paving/Block Manufacture	0.40303	x	0.22222	0.0896
444190	Other Building Contractors	0.00070	x	0.48000	0.0003
484110	General Freight Trucking	0.00030	x	0.15385	0.0000

483211	Inland Water Transport	0.01000	x	0.15380	0.0015
532412	Heavy Equipment Rental	0.01000	x	1.36842	0.0137
541310	Architectural Services	0.00250	x	0.19048	0.0005
541330	Engineering Services	0.05000	x	0.04124	0.0021
541618	Other Mngmnt Consulting Services	0.02000	x	0.04717	0.0009
561621	Security Services	0.00030	x	0.11538	0.0000
561720	Janitorial Services	0.00030	x	0.09859	0.0000
561730	Landscaping Services	0.00070	x	0.66667	0.0005
562111	Solid Waste Collection	0.00500	x	0.16667	0.0008
562112	Hazardous Waste Disposal	0.00500	x	0.50000	0.0025
541611	Legal Services	0.00030	x	0.07692	0.0000
				Total	0.2203
				Expressed as a % (*100)	22.03%

The weighted base figure is calculated by multiplying projected expenditures by the relative availability of DBEs:

Projected Expenditures by Primary Road/Bridge Categories  **Relative Availability .2065**  **.2203**  **22.03%**
Weighted Base Figure

Step 2: Adjustment of the DBE Base Figure (§ 26.45(d))

Upon establishing a base figure, the regulations require that DPW examine any additional evidence that might warrant an adjustment in establishing the overall goal. DPW is unaware of any disparity studies or other that could alter its calculations. However, DPW believes the past five years of DBE participation reflect volatility, both in available funding and external market influences. The hurricanes of 2017 caused a drop in participation, while during the pandemic, several DBEs obtained large contracts as the prime, pushing participation to historical highs. As these same DBEs may graduate from the program due to these larger contracts, DPW estimates that the median participation from the past five years establishes a reasonable and accurate foundation for goal adjustment.

Federal FY	DBE Goal	Total FHWA-assistance	Total to DBEs	DBE %
2017	19.00%	\$17,600,00	\$ 4,520,759	25.60%
2018	19.00%	\$43,100,000	\$ 10,357,958	24.03%
2019	25.75%	\$15,600,000	\$ 4,655,040	29.84%
2020	25.75%	\$17,600,000	\$ 13,256,320	75.32%
2021	25.75%	\$43,100,000	\$ 40,014,040	92.84%

The median or 'middle' DBE participation figure from the past five years of FHWA-assisted contracting is 29.84%. To adjust the goal, DPW averaged the weighted base figure arriving at an upward adjusted goal of 25.94%:

$$22.03\% \text{ Base } + 29.94\% \text{ Past Participation } \times 51.87\% = 25.94\% \text{ Adjusted Goal}$$

Race Conscious versus Race Neutral Projection (§ 26.45(f))

To ensure narrow tailoring, 26.51 (c) requires that USDOT recipients achieve the maximum portion of the overall DBE goal through race neutral methods. DPW makes every effort to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation, including the following:

- Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBEs, and other small business' participation
- Providing assistance in overcoming limitations such as inability to obtain bonding or financing (e.g., by simplifying the bonding process, reducing bonding requirements, and providing services to help DBEs and other small businesses obtain bonding and financing)
- Providing technical assistance and other services upon requested or identified need
- Implementing a supportive services program to develop and improve immediate and long-term business management, record-keeping, and financial and accounting capability for DBEs and other small businesses
- Ensuring that Prime contractors are aware of and know how to obtain the approved DBE listing from the Virgin Islands Department of Public Works.

As part of the goal methodology, the regulations direct DPW to project how much of its goal can likely be achieved through ordinary procurement methods without DBE goals on individual contracts. The regulations further state that, where DPW exceeds its overall goals for two consecutive years, it must proportionately reduce the use of contract goals.

DPW examined its goal achievement for the past three consecutive years, finding that it exceeded its overall goal of 25.75% by 4.09% in FY 2019, by 49.57% in FY 2020, and by 67.09% thus far in FY2021; an average of 40.25% overachievement. This suggested a reduction in the use of contract goals by that amount. Therefore, DPW projects that for FFY 2022 – 2024, DPW will meet its overall goal with the following split:

10.44% - Race Neutral/15.50% - Race Conscious

DPW will establish contract goals to meet any portion of the overall goal that it does not anticipate meeting by using race-neutral means. Contract goals are established on individual projects so that over the period to which the goal applies, it will cumulatively result in meeting any portion of the overall goal that is not projected to be met using race-neutral means. However, DPW will establish contract goals only on the FHWA-assisted contracts that have subcontracting opportunities.

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DPW will also monitor the performance of its DBE program and will make adjustments to its race neutral/race conscious measures if needed to ensure regulatory compliance. DPW will also separately track race neutral and race conscious measures to reflect actual DBE participation, demonstrate a running tally (26.37(c)) and reporting commitments/payments biannually (Appendix B to Part 26). Finally, if during any fiscal year VIDPW finds that its achievements fail to meet the established goal of 25.94%, it will determine the reason(s) and develop a specific action plan for achieving the goal in the following fiscal year. VIDPW will submit this plan to FHWA for its review and acceptance (26.47(c)).

PUBLIC OUTREACH & CONSULTATION