



## U.S. Virgin Islands Department of Public Works Disadvantaged Business Enterprise (DBE) Triennial Goal for FHWA-assisted Contracts Federal Fiscal Years 2025-2027

### 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 32.10%** for the Federal Fiscal Year (FFY) period of 2025 – 2027 (October 1, 2024 – September 30, 2027). DPW calculates achieving 7.97% of the goal through race neutral means and 24.13% by establishing contract goals.

### 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\*](#).

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 and the VI Department of Licensing & Consumer Affairs business database.

***STEP 1 – 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. The entirety of DPW contract dollars go to firms domiciled or with a business presence in Virgin Islands. Therefore, DPW defines its relevant market area as collected islands of US Virgin Islands.

***DBE Firms***

To establish the Step 1 figure, DPW reviewed its DBE directory, identifying certified firms ready, willing and able to perform work items on FHWA-assisted consultant and construction projects. It then filtered business information provided by the Department of Licensing & Consumer Affairs (DLCA) to identify all businesses in USVI eligible to perform work items on FHWA-assisted DPW contracts. The following table provides the number of ready, willing and able DBE firms within the market area, broken down by the NAICS codes used by DPW on FHWA-assisted contracts.

**Table I – Number of DBE Firms by NAICS code for FHWA-Assisted Contracts**

Number of DBEs	NAICS Code	NAICS Description
32	237310	Highway Street & Bridge Construction
9	238140	Masonry Contractors
9	238210	Electrical Contractors
20	238990	All Other Specialty Trade Contractors
4	324121	Asphalt Paving Mix/Manufacture
34	484110	General Freight Trucking
26	532412	Heavy Equipment Rental
4	541330	Engineering Services
5	541618	Other Management Consulting Services
3	561621	Security Services
<b>146</b>	<b>Ready, Willing, Able DBE Firms for FHWA-Assisted Contracts</b>	

***Total Firms***

Table 2 represents the total number of businesses within the market area that are ready, willing and able to perform work on FHWA-assisted contracts within the NAICS codes used by DPW,

**Table 2 – Number of total firms from the government’s Department of Licensing Affairs (DLCA)**

Number of all firms available (including DBEs)	NAICS Code	NAICS Description
176	237310	Highway Street & Bridge Construction

75	238140	Masonry Contractors
24	238210	Electrical Contractors
25	238990	All Other Specialty Trade Contractors
18	324121	Asphalt Paving Mix/Manufacture
87	484110	General Freight Trucking
19	532412	Heavy Equipment Rental
97	541330	Engineering Services
106	541618	Other Management Consulting Services
26	561621	Security Services
<b>653</b>	<b>Combined Total of Ready, Willing, Able Firms for FHWA-assisted Contracts</b>	

The relative DBE availability is calculated by dividing the number of ready, willing and able DBEs by the total pool of ready, willing and able firms:

$$\frac{146 \text{ DBE Firms}}{653 \text{ Total Firms}} \times 100 \% = 22.36 \% \text{ DBE Availability}$$

**Step 1 Base Figure Weighting**

Section II(F) of the *USDOT Tips for Goal Setting in the DBE Program* recommends that whenever possible, weighting be used to improve the accuracy of the base figure of DBE availability. To do so, DPW identified the work categories for which it expects to expend FHWA-assisted contract dollars over the next three (3) years. It then multiplied the relative availability of firms by these projected expenditures, resulting in weighted based figure.

**Table 3** identifies the relative availability of DBE firms by the percentage of FHWA funding expected for reach work category.

NAICS Code(s)	NAICS Description(S)	Available DBEs	All Available Firms	Relative Availability of DBE Firms	Weighted by Budget Expense	% of Project (Weight) X % Relative Availability of DBE Firms
237310	Building Construction & Repairs	32	176	0.18181	0.1185	0.0215
238140	Masonry Contractors	9	75	0.12000	0.0923	0.0111
238210	Electrical Contractors	9	24	0.37500	0.0365	0.0137
238990	All Other Specialty Trade Contractors	20	25	0.80000	0.0231	0.0185
324121	Asphalt Paving Mix/Manufacture	4	18	0.22222	0.6154	0.1368
484110	General Freight Trucking	34	87	0.39080	0.0154	0.0060
532412	Heavy Equipment Rental	26	19	1.36842	0.0692	0.0947
541330	Engineering Services	4	97	0.04123	0.0231	0.0010
541618	Other Management Consulting Services	5	106	0.04717	0.0019	0.0001
561621	Security Services	3	26	0.11538	0.0046	0.0005
		<b>146</b>	<b>653</b>	<b>0.2236</b>	<b>10000</b>	<b>30.39</b>
					<b>Expressed as a % (*100)</b>	<b>30.39%</b>

By multiplying availability by each work line item, DPW calculated a weighted base figure of 30.39%

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

After the Step 1 DBE Base Goal has been developed, the regulations require that additional evidence in be considered to determine what adjustments, if any, are needed to the base figure to arrive at the overall goal.

VIDPW examined available evidence to determine what adjustment might be required to ensure a narrowly tailored goal. Since future contracting opportunities are projected to be similar as in recent past years, VIDPW analyzed participation from the past three (3) years to determine the feasibility of an adjustment to the base figure.

VIDPW reviewed its historical overall DBE achievement on FHWA-assisted projects for Fiscal Years 2020, 2021, 2022 and 2023. It selected four instead of three years, as DPW did not let any FHWA-assisted contracts in 2023, which was unusual. To identify the median of past participation, DPW identified the two middle numbers (26.74 & 40.88%) and averaged them (33.81). This resulted in a past participation of 33.81%, depicted below in **Table 4**.

Federal FY	DBE Goal	DBE Achievement by FFY	DBE Achievement Lowest to Highest
2020	25.75%	40.88%	0.00%
2021	25.75%	95.51%	26.74%
2022	25.94%	26.74%	40.88%
2023	25.94%	0.00%	96.51%

DPW then averaged the past participation with its weighted base figure (30.39) to reach an adjusted goal of 32.10%:

$$30.39 \text{ Base Figure} + 33.81 \text{ Past Participation} = 64.20 \div 2 = \boxed{32.10\% \text{ Adjusted Goal}}$$

VIDPW met with partners from the Economic Development Authority, the USVI Department of Labor, UVI Small Business Development Center and Puerto Rico Highway & Transportation Authority (PRHTA) to identify any existing disparity students or business growth/sustainability programs that might be used to further adjust the goal. VIDPW found no additional evidence within its or any nearby markets that might have an impact on goal setting.

***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. Further, recipients must use available evidence to estimate the amount of the goal that can be obtained race neutral versus that which will require contract goals.

To calculate the race neutral/race conscious split of its goal, DPW followed the same methodology as in Step 2, namely identifying the median amount of DBE participation attained above the goal. Because DPW used four years, the overage for the two middle figures was averaged to obtain the median amount attained over the goal (.80% in 2022 + 15.13% in 2020 ÷ 2 = 7.97%).

Federal FY	DBE Goal	DBE Achievement by FFY	Achievement Low to High	Overage
2020	25.75%	40.88%	0.00%	
2021	25.75%	96.51%	26.74%	.80%
2022	25.94%	26.74%	40.88%	15.13%
2023	25.94%	0.00%	96.51%	

The evidence shows that DPW can likely achieve 7.97% of its overall goal without the use of contract goals. This means that 24.13% will be subject to race conscious contract goals.

**7.97% Race Neutral projection + 24.13% Race Conscious projection = 32.10% Goal**

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.

DPW makes every effort to meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The race-neutral measures include 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 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.

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 32.10%, 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**

VIDPW published notice of the overall goal on **July 26, 2024** soliciting comments, questions and input for a period of thirty (30) days. During this period a “Feed Back Form” was provided to capture comments on the proposed overall DBE goal, the methodology used to develop the goal, as well as suggestions on how to improve opportunities for DBEs and other small businesses. A copy of the methodology was made available to all DBEs in the UCP directory as well as to the Prime Contractors and general businesses in Virgin Islands.

The comment period will expire on **August 25, 2024**.