



GOVERNMENT OF PUERTO RICO
Puerto Rico Highway and Transportation Authority

**DBE Goal Methodology Report
Federal Fiscal Year – 2021-2023**

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Overall Goal

The Puerto Rico Highway and Transportation Authority-Department of Transportation and Public Works (PRHTA-DTPW) Disadvantaged Business Enterprise (DBE) Program has prepared this submission to the Federal Highway Authority (FHWA) to describe the methodology used to establish the Disadvantaged Business Enterprise (DBE) goal mandated by regulation 49 CFR Part 26 for its federally assisted contracts. The overall goal projected for the three-year period has been established at **18.25%** utilizing the methodology described in 49 CFR Part 26.

Methodology

In order to determine the goals for the PRHTA, it is required that the goal setting process begin with a base figure for the relative availability of DBEs. The goal is based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all business ready, willing and able to participate on USDOT-assisted contracts. The goal reflects the level of DBE participation expected absent the effect of discrimination. The PRHTA has chosen the bidder's list methodology to calculate its overall DBE annual goal and determine the relative availability of DBEs.

The market area of Puerto Rico consists of the main Island and two smaller adjacent municipal islands, Vieques and Culebra. Geographically speaking, there should be no boundaries for firms to perform work, as they can move easily from one part of the island to the other, as well as reaching the two municipal islands, when and if necessary.

The distribution of federally-aid construction projects that are put to bid is in accordance with the State Transportation Improvement Program (STIP), plan which outlines construction projects for the local market, within the next (or subsequent) five years in the local market. Any firm may participate in federally funded construction/transportation projects as long as they comply with state and federal regulations.

Step One: Calculation Of Base Figure

The following is a brief analysis of PRHTA's federally assisted contract bidders' list records for federal fiscal years 2016-2018. It includes firms that have expressed an interest in participating (pre-bid / bid meetings / have submitted bid and/or proposal on federal projects), or have marketed, solicited and/or received contract/subcontract / design contract awards and purchases orders in which the total value is above the small purchase threshold of \$25,000. Available records for the PRHTA projects and/or procurements during federal fiscal years 2016-2018 were also reviewed in order to reassess the overall base figure of the relative availability of ready, willing, and able DBEs within the PRHTA market. PRHTA-DOT projects derive most of their DBE participation through contracting/subcontracting and it is essential that all DBE and non-DBE firms that quote be included. PRHTA reviewed the bidders list for 2016-2018 provided by the Contract Administration Office. Within the aforementioned three (3) year period, 998 participants' quotes or bids were presented as either a prime or as a subcontractor on federally funded construction projects. We also took into consideration all participants that were

awarded contracts within Hurricanes Irma and Maria through the recovery emergency projects. From this amount, we purge the list not to double count firms and as a result, the total number of all participating firms soliciting and/or received award/purchase orders for assisted contracts and /or subcontracts came to a total amount of one hundred forty four (144) firms available, ready, willing and able that bid or offered quotations during that period. Of those, only twenty-four (24) are DBEs ready, willing, and able actively pursuing contracting/subcontracting opportunities during the past fiscal year.

We have divided the number of DBE bidders (24 ready, willing, and able) by the number of all business relative to our overall bid tabulation (144) to derive a base figure for the overall annual DBE Goal participation.

$$\text{Base figure} = \frac{\text{Ready, willing and able DBEs (24)}}{\text{All firm ready, willing, and able (144)}} \text{ (Denominator)}$$

The information for DBE firm participation in the numerator came from the DBE Directory of certified firms. When we divided the numerator by the denominator (as shown above) the base figure for our overall goal was 16.6 percent.

$$\frac{24 \text{ DBEs}}{144 \text{ TOTAL participating firms}} = \frac{24}{144} = 16.6\% \text{ Overall Annual DBE Participation}$$

The information provided (Contract Administration Office) was taken from contract copies in record files, bidders list consisting of information on DBE and non-DBE firms that bid/quote or participate on pre bid meetings, design project contract award reports and information pertaining to DBE participation on federally assisted projects. Due to Hurricanes Irma and María many of the firms became inoperative and the availability of DBE companies was very low; many, lost their equipment or it was damaged beyond immediate repair, and decided to close shop.

Step Two: Adjustment Of The Base Figure

In accordance with 49 CFR Part 26, step two of the calculation process should examine the evidence to determine if an adjustment is needed in the base figure to arrive at an overall goal. The evidence available to determine if an adjustment is needed, is the capacity of DBEs by the past volume of work performed during year 2016-2018.

Based upon past performance, PRHTA has analyzed data reflecting DBE participation on FHWA funded projects in recent years. Our past participation for DBEs has been 25% in 2016, 19.9% for 2017 and 18.3% for 2018. The median past participation is 19.9%, giving us a representation of the capacity of the DBEs to perform work in PRHTA contracting program. The table shown below is a summary of the expenditures in federally funded contracts awarded and expenditures in which DBE participation was counted.

Year Total FHWA Race-neutral DBE Utilization

FFY	DBE Goals	Total Expenditures	DBEs Expenditures	DBE % Participation
2018	27%	\$194,748,375	\$38,884,078.30	18.3%
2017	27%	45,997,079	8,443,618	19.9%
2016	22%	34, 228, 538	9,254,878	25%

We arrange our DBE participation values in order from low to high: 18.3%, 19.9%, and 25% and took the middle of the DBE percentage participation (19.9%) from FFY 2016/2017/2018 to obtain our median past participation percentage, finding that the adjusted figure is 27%. This average was obtained by adding together the Step One percentage (16.6%) and the median participation percentage (19.9%) divided by 2 to obtain an adjustment of 18.25% for the Step One Base Figure past participation. There has been no evidence of discrimination on the part of contractors, while there is evidence of continuing good faith effort. No further adjustment is needed concluding that this capacity is adequate.

DBEs expenditures data gives us a picture of the capacity of the DBEs to perform work. There is no guarantee that could assure that next year's DBE participation will be as effective as the performance of previous years (2016-2017). At present, the general economic situation after hurricanes Irma and María has left many companies without operational liquidity, and the access to capital and financial alternatives are being limited, particularly in the construction industry. Adding to this, the Island experienced earthquakes that burdened the economy, which along with the actual global health emergency, is jeopardizing a possible economic resurgence.

PRHTA budget volume for federal projects is expected to be the same for the next three years due to the economic situation. Nothing has change from previous years. According with the Contracts Administration office, the amount stipulated is approximately \$149 million dollars. There are no major projects in the immediate forecast of federally assisted projects in which we can reasonably expect a significant increase in the level of subcontracting opportunities for DBEs.

Mostly, the work to be projected within the three-year average (2021/2022/2023) is specialized work. The agency anticipates the types of work, size and locations of contracts to be similar to the contract awarded during FFY 2017-2019, (information provided by the Contract Administration Office) which included recovery projects such as highway safety projects, roadway widening and rehabilitation, bridge replacement, re-constructing highways, vehicle lanes, pavement road sign & marks, install and or repair median barriers and expressway pavements, guard rails, signing and signal, planning, enhancement and emergency projects. Our last year concern in achieving our overall goal because of economic situation due to Irma and Maria, is still present.

Race/ Gender-Neutral and Race/ Gender-Conscious Goal Split

In conformity with the percentage of DBE participation, the PRHTA projects that 18.25% overall goal for the coming three federal fiscal years is achievable through race gender-neutral and race conscious means. Since the population in Puerto Rico as defined by the regulation is Hispanic (98.9% as of 2000 census) - almost all bidders and participants bidding in the agency are considered minority business enterprises - and for that reason, after the review of the overall DBE participation, PRHTA has chosen 16% race gender-neutral and 2.25% race conscious as contracting methods to our DBE 18.25% goal for FFY 2021-2023. Race conscious participation for past years have been an average of 5.3%.

To meet the maximum feasible portion of the overall goal, the following race neutral mean may facilitate DBE participation such as:

- DBE directory available to all potential prime contractors via PRHTA website page.
- Provide DBE's and others, information on procurements and contracting schedules, if requested.
- Copy of bidding table available at a low price.
- Place monthly information of bid notices in the DTPW / Highway Authority website.
- Provide information on certification procedures, subcontracting, and bonding requirement, if needed.

Unless it is determined that race-neutral means is not effective in achieving the overall annual goal for the next three federal fiscal years (FFY 2021-2023) and the DBE utilization falls substantially below the overall goal, then 2.25% race-conscious measures will be applied in all contracts to meet the overall goal. To ensure that our DBE program will be narrowly tailored to overcome the effect of discrimination, if contract goals are used, we will adjust the estimated breakout of race gender-neutral and race gender-conscious participation as needed to reflect actual DBE participation in accordance with 49 CFR Part 26.51 (f). The PRHTA's review of the current capacity of DBEs to perform work on future DOT assisted contracts as measured by the volume of work DBEs have performed in recent years has concluded that this capacity is adequate. Procedures to implement other corrective actions deemed appropriate to remediate instances of discrimination shall be established, as permitted by law.

Contract Goals

Contract goal are established so that over the period to which the overall goals applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met using race neutral means.

Disparity Studies

No disparity studies were found in Puerto Rico showing existence of past discrimination, or relevant to our goal setting process in our market area.

Public Participation

On May 29, 2020 the PRHTA published the notice of the proposed overall goal on its official webpage (Appendix A) as well as in its social media pages (Appendix B), in which the public was informed of said overall goal for FFY 2021-2023. The public was also informed in the aforementioned announcement that due to the COVID-19 containment situation, an exact copy of the goal setting methodology report would only be available through the PRHTA's official webpage which can be accessed through the link <https://act.dtop.pr.gov/derechos-civiles>; instructions on how to retrieve the documents were included . The public was also advised that a forty-five (45) calendar day period from the date of the publication, was provided for the submittal of comments.

Two different DBE firms submitted comments (Appendix C), which has been analyzed and measures to alleviate their concerns has been discussed with the concerned work areas related to matters mentioned in said comments. The scheduling of meetings with representatives of these firms and PRHTA personnel related to the aforementioned work areas has been delayed due to the current global health situation. Said firms were dully contacted and once the actual island-wide partial lockdown, becomes more flexible, meetings to discuss proposed measures will be arranged.

As an outreach effort, every year (except yr. 2017 with hurricane María) PRHTA participated in the MBDC Med-Week Event held at the Condado Plaza Hilton and SBA Matchmaking Event held at the Colegio de Ingenieros y Agrimensores de PR (CIAPR). Our later participation was in the 2020 Vision Tour - *A Road Map for Small Business to Gain a Financing Edge* - hosted by the Puerto Rico Chamber of Commerce (PRCC) and the Southern Small Business Transportation Resources Center (SBTRC) held at San Juan and Ponce. We have also participated in conferences, matchmaking and on one-on-one meeting along with federal Agencies and multinational corporations designed for all small business concerns to meet with representatives for federal and state contracting opportunities.