



GOVERNMENT OF PUERTO RICO
Puerto Rico Highway and Transportation Authority

**DBE GOAL METHODOLOGY REPORT (Amended)
Federal Fiscal Year 2020-2022**

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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 the report submission to the Federal Transit Administration (FTA) to describe the methodology used to establish the transit DBE goal for its federally assisted contracts, pursuant to 49 Code of Federal Regulations, Part 26 (49 CFR Part 26).

Any FTA recipient receiving funds that exceeds more than \$250,000 in a Federal Fiscal Year for federally assisted contracts, or who will award prime contracts, must establish an overall DBE goal that reflects the DBE participation in DOT-assisted contracts. The FTA recently shifted its requirement from an annual calculation of the DBE goal to a calculation every three years. After reviewing the calculating process, we clarify that the overall goal for FY 2020-2022 is **49.50%** using the methodology described in 49 CFR Part 26.

Methodology

The procedure for the establishment of the PRHTA-FTA goals, requires that it begins with a base figure founded on demonstrable evidence of the relative availability of DBE's ready and willing, related to businesses also ready, willing and able to participate in USDOT-assisted contracts. The participation of these firms must reflect the expected level of DBE involvement, absent of the effect of discrimination. The PRHTA chose the bidders list as the methodology to calculate its overall DBE annual goal that determined the relative availability of DBEs and firms that were ready, willing, and able to participate in USDOT-assisted contracts.

The market area analyzed for the report includes the Puerto Rico mainland, and the adjacent islands of Vieques and Culebra (which are part of Puerto Rico). Even if geographically the islands are separated from each other, there are no real boundaries that would impede availability of contracting for willing, ready, and able DBE firms to participate in federal funded projects, as maritime transportation is adequate.

The analysis included firms which expressed an interest in participating in contracting opportunities created by USDOT financial assistance programs, or that had marketed, solicited and /or received contract or subcontract awards, and purchases orders with a total value below or above \$250,000. In the calculation performed, all contracting and sub-contracting opportunities were included, as well as the ones related with the Tren Urbano System and the ATI Bus Services. The participation of DBEs was verified with the DBE Directory, in order to confirm certification and qualification, based on the type of work in the projects, and to reassess the overall base figure of the relative availability of ready, willing and able DBEs within the PRHTA market.

Step One: Calculating Base Figure

The analysis performed included firms which expressed an interest in participating in contracting opportunities created by DOT financial assistance programs, or that had marketed, solicited and /or received contract or subcontract awards and purchases orders with a total value below or above \$250,000; therefore, every contractual opportunity was taken into consideration. The availability of DBEs was calculated based on information supplied by the bidders list on prime contractors, subcontractors, suppliers, and consultants from October 2014 to 2018.

Contracting opportunities were equally available for all the sub-recipients (municipalities), nevertheless, for the period covered by FY 2014 to 2018, the municipalities were not able to match federally funded projects based on the economic crisis of the Island, therefore, no numbers of participation were reported (that could be informed by sub-recipients) by the Federal Coordination Office. As for 2018, after the passing of hurricane Maria in 2017, the state has been receiving disaster funds and emerged contracting opportunities are helping those municipalities (sub-recipients) who previously were not able to take advantage for lack of funds.

The information provided hereinafter was reported by the PRHTA Federal Coordination Office, Alternate Concepts, Inc. (ACI) and the Tren Urbano Office (TU) consisting of reports on the participation of PO's, services, bids/quotes for projects contracts by the DBE and non-DBE firms. All information presented concerning DBE and non-DBE firms willing, able and ready to participate in DOT federal assisted projects was thoroughly analyzed and compared to the information at hand in the bidders list, DBE Directory, the PRHTA's (Puerto Rico Highway and Transportation Authority) market and information provided by Federal Coordination Office, the Tren Urbano, Contractors, Sub-Contractors, and sub-recipients (municipalities). We must inform that although the Statewide Transportation Improvement Program (STIP) for FFY 2017-2020 has been programmed, approved, and obligated for projects in Sections 5307, 5311, 5339 and 5310, only two (2) contracts have been awarded.

The following table describes the participation of companies during the period from 2014 to 2018. It is amended with the revision of the lists and reports of participation during those years. Taking into consideration that 2016 is considered an outlier year, only information of qualified companies such as DBE were reported and not the total participation, so the percentage shown is extremely high.

These funding categories (Table 1) were used to establish the possible procurement opportunities for the determination of the goal setting process. This amount was based on the PRHTA cost reimbursement for sub-recipients related to DBEs contracting or procurements opportunities.

Table 1: Funding Categories with Opportunities for Years 2014-2018

FTA FUNDING SECTIONS:	FFY2014 - FFY2018
5307: Urbanized Area (San Juan Area - SJUA)	\$814,652.00
5310: Elderly and Persons with Disabilities (SJUA)	310,708.00
5337: High Intensity Fixed Guideway of Good Repair (SJUA)	21,000,000.00
5339: Bus and Bus Facilities Program (SJUA)	868,490.00
5307: Aguadilla Urbanized Area (AUA)	2,042,560.00
5310: Elderly and Persons with Disabilities (AUA)	458,184.00
5307: Urbanized Area (under 200,000)	421,800.00
5310: Enhanced Mobility of Seniors and person with Disability (UZA) Urbanized Area under 200,000 Population	659,816.00
5311: Non-Urbanized Area	609,684.00
TOTAL	\$27,185,894.00

These funds were grouped into 14 procurable opportunities (Table 2) and, compared against the NAICS Code and the relative availability of DBEs by each procurement category. The data available was obtained from our DBE Directory, used at the time of collecting the information to determine the DBE goal. The Directory includes all in-state and out of state DBE certified firms.

Table 2: Procurements Opportunities, NAICS and Availability of Ready Willing and Able Firms (DBEs and Non-DBEs) for Years 2014 - 2018

	Procurements Opportunities	NAICS	DBE FIRMS	All Firms
1	Highway, Street & Bridge Construction (i.e., road & parking lots construction; paving, resurfacing, curbs, potholes, stripping, etc.)	237310	3	39
2	Electrical Contractors and Other Wiring Installation Contractors	238210	2	21
3	Metal Window and Door Manufacturing	332321	40	40
4	Automobile and Other Motor Vehicle Merchant Wholesalers	423110	1	1
5	Electrical Apparatus and Equipment, Wiring Supplies, and Related Equipment Merchant Wholesalers	423610	26	26
6	Plumbing and Heating Equipment and Supplies (Hydronics) Merchant Wholesalers	423720	1	13
7	Industrial Machinery and Equipment Merchant Wholesalers	423830	13	14
8	Support Activities for Rail Transportation	488210	5	5
9	Freight Transportation Arrangement	488510	1	5
10	Engineering Services	541330	7	45
11	Computer Facilities Management Services	541513	18	18
12	Administrative Management and General Management Consulting Services	541611	9	29
13	Process, Physical Distribution, and Logistics Consulting Services	541614	1	4
14	Offices of Physicians (except Mental Health Specialists)	621111	2	3
	Total		129	263

As shown in Table 2, 263 firms that were ready, willing, and able to perform work in the identified areas, were grouped by NAICS in the above categories (denominator). Of these, 129 were DBE firms ready, willing, and able to perform work in the identified areas and also grouped by NAICS (numerator). In the formula below, you will find that the percentage was calculated by dividing the number of DBEs ready, willing, and able (numerator), by the number of all firms (DBEs and non-DBEs - denominator) that were ready, willing, and able, to perform work in the identified areas during the period of FFY 2014 to 2018. This results in a base figure of 49% for our overall goal.

Formula:
$$\frac{\text{Ready, willing and able DBEs (129)}}{\text{(Numerator)}}$$

Base figure =
$$\frac{\text{All firms ready, willing and able (263)}}{\text{(Denominator)}} = 49\%$$

Step Two: Adjustment of the Base Figure

For the analysis performed to determine adjustment to the base figure with past participation/performance, information was required and obtained from files of contracts awarded 2014-2018, the bidders list, information offered by the Federal Coordination Office related to awarded contracts on federal assisted projects of the said years, the DBE Directory, and information from Alternate Concepts, Inc. (ACI) and the Tren Urbano Office on the participation of DBEs and non-DBEs

that bid or quoted on project contracts. The distribution of federal-aided project put up to bid was in accordance with the bid plans specified in the State Transportation Improvement Program (STIP) which outlines projects for the next five years in the local market and is included as an attachment with this report. As reported by the PRHTA Planning Office, only two (2) contract had been awarded. (STIP included as Appendix A)

The FTA requires that the previous three years be used to determine past participation. In this case, the years FFY 2015, FFY 2017 and FFY 2018 are used since the year FFY 2016 was outlier because the data was not considered to be appropriate for this goal setting. So, we replace the data from FFY 2016 with year FFY 2015 participation. Therefore, the table below demonstrates the adjustment made to the base figure to obtain our goal:

Table 3: Analysis of overall goal past participation Fiscal Years 2014-2018*:

FFY	Base Figure Projected	Percentage Achieved
2015	31%	31%
2017	50%	50%
2018	50%	50%

* FY 2016 was eliminated from the calculation of informed available and willing firms on FTA projects, as it was outlier year (5%).

In establishing the median to obtain the adjusted goal (based on actual goals attained), during the mentioned fiscal years, we arranged our past participation values in order from low to high: 31%, 50%, 50%, resulting a median of fifty (50%) percent.

Median: 50%

Base Figure: 49%

$(49 + 50) = 99 / 2 = 49.5\%$ DBE Goal

For FFYs 2014-2018 (Please note that FY 2016 was considered as an outlier year and the data was appropriated for the purpose of the goal setting) DBE FTA contractors performed a past median participation (50%) of the federal-aid contracting work through race-neutral means. The average was obtained by adding together the Step One Base Line Goal percentage (49%) and the median participation percentage (50%) divided by 2 to obtain an adjustment of (49.5%) for the Step One Base Figure past participation. No evidence of discrimination, but rather, evidence of good faith efforts by the contractors was detected.

In accordance with 49 CFR Part 26, we examined the evidence to determine if tailoring of the adjustment was needed, but we must point out, through the calculation performed, then as well as to this date, that there was no need to narrowly tailor the goal in order to obtain an adjusted goal. Considering the information obtained and analyzed, a significant part of the percentage, was due to the participation of the Tren Urbano DBE vendors, suppliers and contractors, that were awarded contract (one major contract), which greatly contributed to the annual goal setting, through race neutral means. As a result of all available evidence considered, the percentage established as the overall goal for the FFY 2020-2022, is 49.5%, which is a reasonable and attainable goal, based on the projections of FTA projects.

Disparity Studies:

No disparity studies were found to demonstrate any existence whatsoever, of past discrimination that would be relevant to the goal setting process in our market, in Puerto Rico.

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

Based on the achievements of the last three Federal Fiscal Years, the overall goal achieved of 58%, has been through race/gender-neutral means due basically, to the fact of Puerto Rico's unique situation, being mainly Hispanic (as per the US 2010 Census, 98.9% of the population is Hispanic). Based on this information, verified with information obtained from our DBE Directory files, almost all firms participating in the bidding, contracting processes of the PRHTA, are considered minority business enterprises. The PRHTA will continue its policy of 100% race/gender-neutral methodology in the attainment of its overall goal, at present of 49.5% for FFY 2020-2022. Race/gender-neutral contracting and subcontracting opportunities for the participation of DBEs, has accomplished the expectancy in the achievement of the overall annual goal, so we will continue using it unless our overall goal is not met.

A race/gender-conscious DBE participation will remain at zero percent (0%) unless otherwise determined, if or when, race/gender-neutral means result ineffective in achieving our percentage (%) overall annual goal. Prime contractors will continue being encouraged through our contract's DBE clauses, to subcontract portions of work to DBE firms as a result of their good faith efforts. Said implementation of a race/gender-conscious measure, would only be used if necessary to overcome any effect of discrimination in which case, we would 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); prior informing USDOT District.

Contract Goals:

Under CFR Part 26, the principal race/gender-conscious measure is available for recipients setting individual contract goals. Based on regulations, the PRHTA does not or will not institute a race/gender-conscious quota program for USDOT assisted contracts unless necessary, as the majority of the population in the Island fall under the established definition for Hispanics. Nonetheless, procedures to implement other corrective actions that would deem appropriate would be established if needed, to remediate instances of discrimination, as permitted.

One of these instances would be if the PRHTA has reason to believe that it would not be able to meet its overall annual goal and determines that it needs to establish specific contract goals on DOT's federally assisted contracts that may require or have subcontracting possibilities, within the applicable goal setting period. In such a case, the cumulative result of setting contract goals would help meet part of our overall goal that we were not able to meet through the race/gender-neutral means. Also, size of contract goals would be adapted to the special circumstances of each contract (i.e., type and location of work, availability of DBEs to perform any job).

That said, we must reiterate on the fact that the annual goal shall be a performance standard for measuring progress toward the achievement of the anticipated level of DBE participation. The PRHTA examined all information and evidence available in its jurisdiction and determined that no further adjustment was needed.

Public Participation:

In this amendment we must indicate that although in the three (3) years prior to the submittal of the overall annual goal, eighteen (18) meetings were held to inform general public of the availability of FTA federal funds in Puerto Rico and the process established for the participation of these, information concerning the setting of the overall annual goal was not deeply discussed. General information concerning the availability of federal funds through Sections 5303, 5309, 5310, and 5311, was provided through power point presentations, brochures, among other informative materials in which the overall goal was mentioned, but not discussed. A total of six hundred twenty-six (626) attendees were reported as participating throughout the meetings within that three (3) year period. Two (2) technical sessions with the MPO were informed, in which the participation reached a total of one hundred and eighty-six (186) assistants. At the moment of this report, we received information that three (3) MPO meetings were programmed and celebrated during the months of March 2019 to February 2020. A total of three hundred and thirty (330) people were reported as having attended to said meetings, broken down as follows: March 2019 – 127 persons; December 2019 – 89 persons and February 2020 – 114 persons in two (2) days. (MPO meetings from 2016-2018, March 2019 to February 2020, attendance lists are included as Appendix B)

The PRHTA participated of some promotional activities, like the Small Business Administration's Matchmaking events at the Puerto Rico Engineers and Surveyors College, where various Federal Procurement Offices also assisted. These activities are designed with the thought to offer the potential for small businesses as well as DBE's and general public, the possibility to meet with representatives for federal and local state entities for contracting opportunities. The PRHTA DBE Program personnel also participated in workshops with SMDBC-DOT in Puerto Rico, to promote the program and explain the certification process, the public policy concerning the overall goal, and to encourage contractors to be certified. Also, workshops and support to various municipalities like Caguas, Ponce, San Lorenzo, Toa Baja, and Carolina, that requested information on the DBE Program, as well as assistance with the implementation process and procedures to be followed in Step I and II of the overall goal reports, among other reports, were provided. (Activity promotions, assistance list, pictures, and other information, are included as Appendix C)

Public notices for the DBE Goal for FY 2020-2022 were posted on the PRHTA Official Website, as well as in its Facebook and Twitter social media pages; it was equally announced to related government entities, and DBEs, from which we received unrelated comments. (Copy of comments is included in Appendix D.) This amended goal has also been published through the PRHTA Official Website on August 10, 2020. (Public Notice included in Appendix E)