

PUERTO RICO
**HIGHWAYS &
TRANSPORTATION**
AUTHORITY



DBE Goal Methodology
Federal Fiscal Year – 2024-2026

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Overall Goal:

The Puerto Rico Highway and Transportation Authority (PRHTA-DTPW) has prepared this submission to the Federal Highway Authority (FHWA) describing the methodology used to establish the Disadvantaged Business Enterprise (DBE) goal for its federally assisted contracts for Federal Fiscal Years 2024 - 2026. The overall goal projected for the three-year period has been established at 30.08% using the methodology described in 49 CFR Part 26.45.

Methodology

Consistent with the regulations, PRHTA has based the DBE goal 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 within its market area. For PRHTA, the primary market is defined as the geographic area in which all DBE contractors, subcontractors, and non-DBE contractors and subcontractors inquire, show interest in, and perform work on highway and bridge construction projects, namely on the main island of Puerto Rico and the adjacent islands of Vieques and Culebra. There are no boundaries established for firms to perform work and all parts of the islands are accessible to firms. Any willing and able firm may participate in FHWA-assisted contracts, providing they comply with applicable state and federal regulations.

The distribution of FHWA-assisted 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, programmed over the upcoming five years.

A. Step One – Calculation of Base Figure – Section 26.45(c)

The regulations require that the goal setting process begin with determining a base figure for the relative availability of DBEs. The regulations do not prescribe a particular methodology or approach, rather they provide a non-exhaustive list of examples, any one or combination of which may be used to establish the base figure. The PRHTA has chosen the bidders' list to calculate its overall DBE annual goal and determine the relative availability of DBEs.

1. Method Selected – PRHTA established its base figure following the method described at 49 CFR 26.45(c)(2), using the bidders list available from FFYs 2020 - 2022, provided by the PRHTA Contracts Administration Office. The bidders list included firms that expressed an interest in bidding, submitted a bid, marketed themselves as available to bid, solicited their use for bids, received contract or subcontract awards, or received purchase orders in which the total value exceeded small purchase thresholds. The bidders' list was supported by copies of contracts, firm information for DBE and non-DBE firms, pre-bid meeting records, project contract award reports and information pertaining to DBE participation on FHWA-assisted projects. PRHTA reviewed the list for accuracy and completeness, concluding that there was a total of **1905** firms that submitted bids or quotes as either a prime or subcontractor during the 3-year period. PRHTA then purged the list removing instances where firms were counted more than once, resulting in **214** ready, willing, and able firms. Of those, **47** were ready, willing, and able DBE firms that pursued or obtain contracting or subcontracting opportunities during the period.

Step One Result – PRHTA divided the number of DBE bidders (47) by the number of all businesses relative to the overall bid tabulation (214) to derive a base figure of 19.09% for overall goal DBE participation, as represented by the following:

$$\frac{\text{Ready, willing, and able DBES}}{\text{Ready, willing, and able All Firms}} = \frac{47}{214} = 21.96\%$$

Step One Base Goal Calculation = 21.96%

2. Weighting – Currently, while PRHTA can align typical FHWA-funded work items with firm NAICS codes, it lacks the means to accurately report total FHWA expenditures by work categories or line items. Therefore, it cannot conduct weighting beyond a basic breakdown of eligible dollars projected for construction (87%) and that for consultant services (13%). According to the PRHTA Contracts Administration Office, Construction Area, and Board of Bids, of the total 214 firms in the PRHTA bidders’ list, there are 42 ready, willing and available for work in consultant services, 5 DBEs and 37 non-DBEs. There are 172 ready willing and able firms for construction work, 42 DBEs and 130 non-DBEs.

$$\begin{array}{l} \frac{\text{Ready, willing, and able DBE Consultant Firms}}{\text{Ready, willing, and able All Consultant Firms}} = \frac{5}{42} = .12 \times .13 = .016 \text{ or } 1.6\% \\ \frac{\text{Ready, willing, and able DBES Construction Firms}}{\text{Ready, willing, and able All Construction Firms}} = \frac{42}{172} = .244 \times .87 = .212 \text{ or } 21.2\% \end{array} \left. \begin{array}{l} + \\ + \end{array} \right\} 22.8\%$$

Weighted Step One Goal Calculation = 22.8%

B. Step Two – Adjustments – Section 26.45(d)

Upon establishing a base figure, 49 CFR 26 requires the examination of all available evidence to determine what adjustment, if any, is needed to establish the overall goal. PRHTA is unaware of any employment data, disparity studies, or related information that would necessitate consideration for Step Two goal adjustment. Moreover, Puerto Rico’s economic situation continues basically stagnant. Puerto Rico is still operating under the PROMESA Act for debt restructuring, with no foreseeable increase in FHWA funds that would open opportunities for DBEs. PRHTA’s budget projections for the next three years are expected to be substantially the same, approximately \$149 million. No major projects nor major changes are anticipated in the FHWA-assisted program.

1. Past participation – PRHTA was able to assess past participation of DBEs during FFY 2019-2022, using DBE commitment data from its FHWA semiannual reports. The PRHTA program obtained **29.87%** in FY 2019, **44.43%** in FY 2020, **44.89%** in 2021 and **30.27%** in FY 2022. The following table shows the summary of expenditures in FHWA-aid contracts awarded and the amounts going to DBEs.

FFY	DBE Goal	Total Dollars	Dollars to DBEs	DBE Participation
19	27.00%	\$245,323,997	\$73,295,136	29.87%
20	27.00%	\$ 91,481,072	\$40,651,473	44.43%
21	18.25%	\$106,603,155	\$47,857,885	44.89%
22	18.25%	\$177,109,835	\$53,611,186	30.27%

Consistent with USDOT guidance, PRHTA arranged the past participation values from low to high - 29.87%, 30.27%, 44.43%, and 44.89. As it was an even number of values, PRHTA averaged the two middle numbers (30.27% + 44.43% = 37.35%) to establish the median value, **37.35%**. The table below shows the calculation.

FFY	DBE Goal	Total Dollars	Dollars to DBEs	DBE Participation
19	27.00%	\$245,323,997	\$73,295,136	29.87%
22	18.25%	\$177,109,835	\$53,611,186	30.27%
20	27.00%	\$ 91,481,072	\$40,651,473	44.43%
21	18.25%	\$106,603,155	\$47,857,885	44.89%

To calculate the adjustment, PRHTA averaged the weighted Step One Figure with the Past Participation Median Value, establishing a DBE goal of 30.08%, representing an upward adjustment of 7.28%. The following depicts the calculation:

$$\begin{array}{r}
 \text{Weighted Step One Calculation} \\
 + \\
 \text{Past Participation Median Value} \\
 \hline
 2
 \end{array}
 \Rightarrow
 \begin{array}{r}
 22.8\% \\
 + \\
 37.35\% \\
 \hline
 2
 \end{array}
 =
 \frac{60.15\%}{2}
 = 30.08\%
 \therefore
 \begin{array}{r}
 22.80 \\
 - \\
 30.08 \\
 \hline
 7.28\% \uparrow
 \end{array}$$

PRHTA Triennial Goal for FFY 2024 – 2026 is 30.08%.

C. Race Neutral – Race Conscious Projection (26.45(f)(3))

The regulations require PRHTA to project the amount of the overall goal that it can reasonably expect to obtain through race neutral measures and that which it believes will require contract goals. In fact, for the past two federal fiscal years PRHTA has achieved and exceeded its overall goal. Therefore, consistent with 49 CFR 26.51(f)(1) and (f)(3), PRHTA projects it will achieve the 30.08% triennial goal through 100% race neutral means. PRHTA will cease setting contract DBE goals until or unless it is unable continue race neutral goal attainment.

FFY	DBE Goal	DBE Participation	% Over Goal
21	18.25%	44.89%	33.30% ↑
22	18.25%	30.27%	28.04% ↑

If at any point during the effective goal period PRHTA projects that is unable to achieve the goal through race/gender neutral measures, or if participation falls substantially below the overall goal, PRHTA will begin applying race conscious contract goals to meet its goal. To ensure that the DBE program is narrowly tailored, when contract goals are used, PRHTA will adjust them only to the extent needed to achieve the overall goal. Procedures to implement other corrective actions deemed appropriate to remediate instances of discrimination will also be used, as permitted by law.

D. Public Participation – 49 CFR Part 26.45(g)

The regulations at Section (g)(2) require a published notice announcing the proposed goal and its availability for review, allowing 30 days for inspection and submission of comments. On July 6, 2023, PRHTA posted the public notice for the FFY 2024-2026 goals on its official website. Additionally, it was posted on the social media platforms of Facebook and Twitter for further opportunities for comments.

PRHTA also issued an email announcement to Puerto Rico government agencies, the contractor and consultant industry associations, and every DBE in the Puerto Rico Directory. In every case, stakeholders were encouraged to submit questions and comments to PRHTA, either during business hours or via email to derechosciviles@act.pr.gov. In addition, all postings and mail-outs included the various means that the goal methodology could be viewed.

PRHTA also informed its goal methodology to the Minority Business Development Agency (MBDA), the Puerto Rico Chamber of Commerce, the PR Minority Supplier Development Council and the Small Business Administration, PR Division.

At this date no questions or comments have been received during the notice period, although the publication is still uploaded at the official PRHTA's webpage.