

The Vermont Agency of Transportation Overall DBE Three Year Goal Methodology On FHWA-Assisted Projects

Introduction and Overview of Goal Setting Process:

The Vermont Agency of Transportation (VTrans) has availed itself of a variety of techniques to comply with the goal setting provisions for participation by disadvantaged business enterprises (DBEs) in its FHWA-assisted contracting program, as required by Section 26.45 of the DBE Regulations.

VTrans has solicited ideas and suggestions for developing and implementing overall goals by inviting input from the women, minority, and general contracting community. In keeping with our past process, we have utilized a collaborative and inclusive approach to formulating a goal setting methodology, which has included a series of open meetings as well as scheduled, direct, and interactive exchanges with industry and community groups, and prime and DBE contractors and consultants.

Information concerning the purpose and elements of the DBE Program were widely disseminated in writing, and through a series of presentations and public meetings involving a diverse range of individuals and organizations, including our currently certified DBEs, our non-DBE contractors and consultants, the Associated General Contractors - Vermont Chapter, the American Council of Engineering Consultants, the Vermont Commission on Women, the U.S. Small Business Administration, the Vermont Public Transportation Association, the Vermont Procurement Technical Assistance Center, the Vermont Agency of Commerce and Community Development, the Vermont Women's Business Center, the Vermont Small Business Development Centers, the Vermont Partnership for Fairness and Diversity, the Vermont Community Action Agencies, the Vermont Department of Labor, the Micro Business Development Program, the Women's Small Business Program, Vermont Works for Women (formerly Northern New England Tradeswomen), the Vermont Refugee Resettlement Program, Vermont Chambers of Commerce, Vermont Regional Planning Commissions, the Vermont League of Cities and Towns, the University of Vermont Transportation Research Center, regional planning commissions, transit providers and various towns and municipalities.

Feedback from these individuals and organizations included information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the scope and effectiveness of VTrans' efforts to establish a level playing field for the participation of DBEs.

The final goal for our FHWA-assisted contracting program was established through an ongoing dialogue with all our stakeholders and represents an informed consent by stakeholder groups.

To comply with the goal setting provisions of the DBE regulations, VTrans has employed the two step process outlined in Section 26.45, by first creating a baseline figure reflecting the relative availability of "ready, willing and able DBEs" in our marketplace, and then examining all relevant evidence, including past DBE participation, to determine what adjustments, if any, are needed to arrive at our overall goal.

While VTrans has affirmed its commitment to meeting the maximum feasible portion of our overall goal using race-neutral means, we have also provided the requisite projection of a breakout of participation derived from both race-neutral and race-conscious measures, as specified in Section 26.51. In addition to summarizing our current race-neutral program components, we have identified a variety of new strategies, the implementation of which will serve as additional program performance measures.

Amount of Goal:

Federal Highway Administration (FHWA) Goal:

In FY 2016 - FY 2018, VTrans intends to expend 6.46% of the Federal financial assistance received from FHWA with small business concerns owned and controlled by socially and economically disadvantaged individuals (DBEs). It is the intent of VTrans that this expenditure is obtained through a race and gender neutral program.

Goal Methodology:

Goal Methodology: Federal Highway Administration (FHWA) Goal:

Pursuant to the 2010 USDOT rule amendments to 49 CFR Section 26.45, VTrans’ overall annual goal of 6.46% on FHWA funded contracts is effective for a period of three years: FY 2016 – FY 2018. The following describes the goal methodology used to determine this three year goal:

Step 1: Base Figure for the Relative Availability of DBEs:

As specified in Section 26.45(c) of the DBE Regulations, the method used to calculate the relative availability of DBEs (“base figure”) for Step 1 of the goal setting process is a percentage figure calculated by dividing a number representing available DBEs by a number representing all available firms. VTrans employed the bidder’s list method (Example #2) for calculating a base figure. This method allowed us to measure availability by the number of firms (DBE and non-DBE) that have directly participated in or attempted to participate in our DOT-assisted contracting program over the past three years. We obtained our data and calculated the relative availability percentage in the following manner:

- Our bidder’s list survey identified all prime contractors (construction and consultants) that bid or attempted to bid on DOT-assisted contracts over the past three years (calendar years 2012, 2013, and 2014), a total of 178 prime contractors and consultants. Prime contractor and consultant bidders identified all subcontractors who provided a quote on any DOT-assisted contracts over the past three years (calendar years 2012, 2013, and 2014).
- Based on the number of known prime bidders (178) and the number of additional subcontractors identified who bid or quoted (473), and their status as DBEs or non-DBEs, we have been able to calculate the relative availability percentage as follows:

DBE Primes that bid	13
<u>DBE Subs that quoted</u>	<u>28</u>

Total DBEs that bid or quoted	41
Total Primes that bid	178
<u>Total Subs that quoted</u>	<u>473</u>
Total Businesses that bid or quoted	651
Relative Availability of DBEs in the Marketplace (41 of 651)	6.3%

Step 2: Adjustment to Base Figure:

As specified in Section 26.45, once the relative availability of ready, willing and able DBEs in our marketplace has been determined, it is necessary to examine additional evidence and, if appropriate, make adjustments to the base figure, to ensure that our goal truly and accurately reflects the level of DBE participation we would expect absent the effects of discrimination. Accordingly, VTrans has gone beyond the formulaic measurement of current availability in Step 1, to consider and account for other evidence of conditions affecting DBEs, including past participation and trends, capacity limits, goals of other DOT recipients, and the impact of other specific factors requiring the narrow tailoring of the DBE program.

To arrive at the proposed overall goal of 6.46%, the Step 1 Base Figure of 6.3% was adjusted, based on the following data and criteria:

Capacity Limits:

- **Current capacity of DBEs to perform work in our FHWA-assisted contracting program, as measured by the volume of work DBEs have performed in recent years:** VTrans has analyzed data reflecting DBE participation and trends on FHWA-funded projects in recent years. For the past eight years, the median DBE goal attainment is 6.625%:

<u>Federal Fiscal Year</u>	<u>DBE Goal Attainment</u>
FY 2010	6.31%
FY 2005	6.60%
FY 2008	6.65%
FY 2009	7.12%
FY 2011	10.96%
FY 2012	8.61%
FY 2013	6.55%
<u>FY 2014</u>	<u>6.47%</u>
Eight Year Median:	6.625%

Using the approach approved by USDOT's General Counsel, we have averaged our 8 Year past Participation Median Figure of 6.625% with our Step One Base Figure of 6.3% to arrive at a proposed goal of 6.46%:

Eight Year Median Figure:	6.625%
Step One Base Figure:	6.3%
Average:	6.46%

Recent attainment levels support an upward adjustment to 6.46%, as do our DBE participation trends, particularly as measured by dollar volume. As FHWA funding has increased in recent years, due in part to ARRA and Irene recovery efforts, VTrans DBEs have demonstrated a significant growth in capacity, as evidenced by the strong and steady increase in the dollar volume of DBE participation. Since FY 2007, DBE participation, as measured by dollar volume, has doubled from \$8.6 million to an average of \$16.4 million annually.

<u>Federal Fiscal Year</u>	<u>DBE Participation By Dollar Volume</u>
FY 2007	\$8,663,920
FY 2008	\$9,958,637
FY 2009	\$12,360,219
FY 2010	\$15,600,972
FY 2011	\$16,239,544
FY 2012	\$20,032,195
FY 2013	\$15,248,839
FY 2014	\$15,014,918

Consistent with this trend, DBE participation for the first half of FY 2015 is \$13.19 million. The strength of recent DBE participation levels and trends supports the proposed Step 2 upward adjustment to 6.46%.

- **DBE capacity to compete as primes and subs:**
 - **DBE Primes:** The number of VTrans DBEs actively bidding and winning prime contracts has increased significantly in the past several years. For the first nine months of FY 2015, 3 DBEs have been awarded 7 prime construction contracts totaling in excess of \$11.2 million. During this same period, 3 DBEs have been awarded 6 consultant contracts totaling \$7.3 million. In addition to an increase in the number and size of prime DBE contracts, there has been a significant increase in the number of first time DBEs bidding and winning prime contracts. Much of this trend is attributable to increased enrollment and active participation in the Vermont Business Development Program (VBDP), which provides one-on-one business coaching, training and networking opportunities to certified DBEs. Fifty percent (50%) of the DBEs that have won VTrans prime contracts in FY 2015 are active participants in VBDP, and this trend is projected to continue as more certified DBEs enroll in the program.
 - **DBE Subs:** The capacity of DBE subs to compete on VTrans federally-funded projects has also increased significantly in the last several years. In response to increased contracting opportunities, VTrans DBEs have expanded their capacity, enhanced their bidding and estimating skills, and strengthened their working relationships with primes and suppliers. In FY 2014, DBEs secured \$9.7 million in construction sub-contracts on FHWA-funded projects, constituting almost 20% of the Agency's total. VTrans DBEs are proactively seeking work on VTrans projects, and are well equipped and positioned to perform.

- **Goals of Other DOT Recipients:** As part of the goal setting process, Section 26.45 recognizes the relevance of goals set by other DOT recipients, and authorizes the consideration and use of the goal of another DOT recipient in the same or substantially similar market. The highway construction industry is substantially uniform throughout the northern tier of New England, comprised of Vermont, New Hampshire, and Maine, and the three states share many of the same contractors and market conditions. Therefore, VTrans has considered the goals set by New Hampshire and Maine as relevant in its own goal setting process.

For FY 2015 - 2017, New Hampshire DOT has set an overall annual goal of 5.63% on FHWA-funded projects, and intends to achieve this level of DBE participation running a race and gender neutral program.

For FY 2016 - 2018, Maine DOT has proposed an overall annual goal of 3.0%, an upward adjustment from the Step 1 Base Figure of 2.5%. Maine DOT intends to achieve this level of DBE participation running a race and gender neutral program.

Based on all the additional data, evidence and criteria affecting DBE participation levels, as described above, VTrans has adjusted the Step 1 Base Figure of 6.3%, to arrive at the proposed overall goal of 6.46% for FY 2016 – FY 2018.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

VTrans will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. VTrans uses the following race-neutral means to increase DBE participation:

- Providing technical assistance and other services to DBEs, directly and via consultants, seminars, partnerships with technical assistance providers and academic institutions;
- Administering a business development program, the Vermont Business Development Program (VBDP), for certified DBEs that provides one-on-one business counseling and needs assessments, business and marketing plan development, and training and networking opportunities.
- Carrying out information and communications programs on contracting procedures and specific contract opportunities;
- Producing and distributing free How To Do Business with the Agency of Transportation Guide and other resource materials;
- Providing formal and informal training and presentations to DBEs and other contractors.

- Implementing a supportive services program to develop and improve immediate and long-term business management, record keeping, and financial and accounting capability for DBEs;
- Providing frequent updates to our DBEs on all bidding and subcontracting opportunities, including the weekly use of Constant Contact to provide information and links on all new Invitations to Bid and RFP's;
- Conducting periodic user surveys and needs assessments to better determine DBE needs (e.g., training, financing, etc.) and to obtain better contact info;
- Producing and distributing an electronic newsletter that showcases successful DBEs, introduces new DBEs, provides a calendar of events, and many web links to contracting and business development resources.
- Ensuring distribution of our DBE Directory, through print and electronic means, to the widest feasible universe of potential prime contractors, including mail distribution to all potential prime bidders, and widespread distribution at conferences, expos, and seminars;
- Developing and delivering small business training and networking opportunities, including the annual Government Contracting Conference, the annual Women's Economic Opportunity Conference, matchmaker events, etc.;
- Assisting DBEs to develop their capability to utilize emerging technology and conduct business through electronic media, and utilizing our website to disseminate information, including our Directory, bid opportunities, updated information on Part 26, and useful links;
- Providing services to help DBEs improve long-term development, increase opportunities to participate in a variety of different kinds of work, handle increasingly significant projects, successfully compete as prime contractors, and achieve eventual self-sufficiency;
- Providing assistance in overcoming limitations such as an inability to obtain bonding or financing, and identify and eliminate other barriers to contracting with the VT Agency of Transportation;
- Networking with local, state and federal agencies, non-profits, academic and business communities to obtain maximum partnering opportunities and resources, and develop comprehensive resource and referral network with technical assistance and service providers;
- Coordinating with other state DBE Liaison Officers, to ensure certification reciprocity and to maximize interstate contracting opportunities; and
- Assisting DBEs to establish prequalification status.

In addition to the above-described race-neutral means that VTrans already employs to increase DBE participation, we propose implementing and expanding our efforts in the following ways:

- Establishing a program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low. We propose working within our organization and with the transportation industry to identify new and/or emerging businesses, with a particular focus on areas which will be critical to the industry in the next decade. We will then actively pursue the creation of businesses that can perform and develop expertise in these emerging areas.
- Providing more one-on-one business counseling services to our DBEs;
- Ensuring that our prime contractors consider the use of DBEs in all possible work categories, by providing quick reference guides detailing the expertise and capacities of our DBEs;
- Providing frequent updates to our DBEs on all bidding and subcontracting opportunities; and
- Providing more effective outreach with minority businesses.

Breakout of Estimated Race-Neutral and Race-Conscious Participation: FHWA-Assisted Contracting Program:

On our FHWA-assisted contracts, VTrans estimates that we will meet our entire overall goal of 6.46% through race-neutral participation, and that we will not have to resort to race-conscious measures.

The recent level of DBE participation on FHWA- assisted contracts supports our estimated breakout. We will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation and we will track and report race-neutral and race-conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following:

- DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures.
- DBE participation through a subcontract on a prime contract that does not carry a DBE goal.
- DBE participation on a prime contract exceeding a contract goal.
- DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.