

Vermont Agency of Transportation
Disadvantaged Business Enterprise (DBE) Triennial Goal &
Methodology for FFY 2025-2027
For Federal Highway Administration (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 communities. 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 electronically and through a series of presentations and public meetings involving a diverse range of individuals and organizations, including: certified DBEs, our non-DBE contractors and consultants, Associated General Contractors-Vermont Chapter, American Council of Engineering Consultants, Vermont Commission on Women, U.S. Small Business Administration, Vermont Public Transportation Association, Vermont APEX Accelerator, Vermont Agency of Commerce and Community Development, Vermont Women's Business Center, Vermont Small Business Development Centers, Vermont Partnership for Fairness and Diversity, Vermont Community Action Agencies, Vermont Department of Labor, Micro Business Development Program, Women's Small Business Program, Vermont Professionals of Color Network, Vermont Works for Women, U.S. Committee for Refugees and Immigrants (USCRI)-Vermont, Vermont Chambers of Commerce, Vermont Regional Planning Commissions, Vermont League of Cities and Towns, University of Vermont Transportation Research Center, transit providers, towns and municipalities.

VTrans is mindful of the supplemental guidance issued by the U.S. Department of Transportation, Office of the Secretary, via Charles E. James, Sr., the Director of the Departmental Office of Civil Rights (DOCR), originally on a Memorandum dated April 1, 2020, and subsequently extended by Memoranda dated July 27, 2020, November 25, 2020, and June 29, 2021, concerning DBE and ACDBE Program Requirements during COVID-19 Public Health Emergency. In particular, as it relates to the DBE Overall Goal Methodology Public Participation Requirements, the DOCR guidance provides as follows:

- 49 CFR 26.45(g)(1) requires recipient agencies, as part of their triennial overall goal setting process, to provide opportunities for publication, as well as consultation with stakeholder groups, prior to submitting the methodology to the relevant OA for review.
- This regulatory provision states that consultation with stakeholder groups must include a scheduled, direct, interactive exchange (e.g., an in-person meeting, video conference, teleconference) with as many interested stakeholders as possible. In light of the COVID-19 public health emergency, recipients may use alternative methods for carrying out required stakeholder consultation such as: 1. Instead of holding in-person meetings, recipients may use other options allowed under the rule, such as video conference or teleconferencing, by making use of technologies such as FaceTime, Skype, GoToMeeting, Zoom, and other similar telecommunication applications.

In accordance with this guidance, VTrans has engaged in multiple virtual meetings and events during the winter of 2023 and spring of 2024 to share information about the VTrans DBE Program and our proposed FFY 2025–2027 overall DBE goal with our DBEs and small businesses, as well as representatives from many of our program partners (listed above). VTrans Office of Civil Rights has provided information and invited feedback on certification and contracting opportunities at VTrans, including a detailed discussion of our DBE goal setting process and proposed DBE goal and methodology for FFY 2025–2027.

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, followed by an examination of 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.

VTrans Annual DBE Goal for FHWA-Funded Projects FFY 2025-2027

Pursuant to 49 CFR 26, VTrans has analyzed data and determined that, for Federal Fiscal Years (FFY) 2025-2027, the overall annual Disadvantaged Business Enterprise (DBE) attainment on FHWA-funded projects is 2.5%. VTrans will achieve this DBE goal through a 1.5% race and gender-neutral (RN) program and 1.0% through a race and gender-conscious (RC) program.

Goal Methodology: FHWA-Funded Projects

Pursuant to the 2010 USDOT rule amendments to 49 CFR Section 26.45, VTrans’ overall annual goal of 2.5% on FHWA funded contracts is effective for a period of three years: FFY 2025–FY 2027. The goal setting process begins with a base figure for the relative availability of DBEs to perform FHWA-funded work. The overall goal must be based on demonstrable evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate on FHWA assisted contracts.

After review of the alternatives listed in 49 CFR Part 26, VTrans has determined that the use of the DBE Directory and Census Bureau Data is the best approach for goal development. VTrans has gathered business information and DBE certification information for a Step One analysis. We target businesses with specific NAICS codes that correspond to our federally assisted projects for both construction contractors and professional services consultants. Our methodology is described below.

Goal Setting 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 calculated by dividing a number representing available DBEs by a number representing all available firms (Method 1). VTrans employed the use of our [DBE Directory](#) and Census Bureau data for calculating a base figure.

VTrans maintains detailed spending projections for all programs that are funded by FHWA for the period FFY 2025 – FFY 2027 in the [Statewide Transportation Improvement Program \(STIP\)](#). Itemized federal spending was categorized by North American Industry Classification System (NAICS) code, based on projected expenditures during this triennial period. The collection of NAICS codes, their descriptions, and projected federal spending is shown in [Table 1](#).

Table 1. Projected Spending by NAICS Code

NAICS Code	Description	Percent of Total Spending
236210	Industrial building construction	1.7%
236220	Commercial and institutional building construction	3.0%
237310	Highway, street, and bridge construction	70.7%
238990	All other specialty trade contractors	8.9%
541330	Engineering services	9.4%
541370	Surveying, mapping (exc. geophysical) services	0.7%
541620	Environmental consulting services	2.1%
541990	Other professional, scientific, and technical services, including planning	3.5%
	TOTAL	100.0%

We determined the number of ready, willing, and able DBEs in our market from our DBE registry for each of these NAICS codes. The [VTrans DBE Directory](#) supports searches by NAICS code, allowing for a simple tabulation of the number of available firms.

We then determined the appropriate market area for the analysis. In the past, the default market area has been the State of Vermont, but for each of these NAICS codes, Vermont firms represented only a small number of certified DBEs. [Table 2](#) shows the distribution of certified DBEs in Vermont and nearby states by relevant NAICS codes.

Table 2: Vermont-Certified DBE Firms by State

NAICS Code	Total DBE firms	VT	MA	NY	NH	PA	NJ	CT	Other
236210	1	1							
236220	11	1	2	2		2	2		2
237310	21	4	4	7		2	1		3
238990	10	3	1	1	2	1		1	1
541330	32	4	7	5	2	2		2	10
541370	5	2	1					1	1
541620	18	7	5	2	1		1		2
541990	20	2	5	3				1	9

To make the denominator of the availability calculation more consistent with the geography of the numerator (the DBE firms) a broader market area was defined which includes all of Vermont and New Hampshire, 7 counties in northern and western Massachusetts, 5 counties in northern and central Connecticut, and 13 counties in eastern New York (as far south at Dutchess County). This area is the same as was used in the development of the DBE goal for FTA and FAA-assisted contracts. This area excludes the most urbanized portions of Massachusetts and New York, which have many more businesses than other parts of those states, and which would have depressed the DBE goal. Of course, this area also excludes the home states of many of the firms in the DBE registry, with New Jersey, Maryland, Pennsylvania, and Florida particularly well represented there.

Finally, using the Census Bureau's County Business Pattern (CBP) database, we determined the number of establishments for the relevant area for each of the NAICS codes. The most recent available data from the Census is for 2022. [Table 3](#) shows the number of VTrans-certified DBE firms in each of these categories and the number of establishments in the defined market area.

Table 3: Relative Availability of DBE Firms by NAICS Code

NAICS Code	Description	VT DBE Firms	CBP Total for Market Area
236210	Industrial building construction	1	36
236220	Commercial and institutional building construction	11	957
237310	Highway, street, and bridge construction	21	324
238990	All other specialty trade contractors	10	1,212
541330	Engineering services	32	1,970
541370	Surveying, mapping (exc. geophysical) services	5	228
541620	Environmental consulting services	18	380
541990	Other professional, scientific, and technical services, including planning	20	334
TOTAL		118	5,441

The 118 ready, willing, and able DBE firms in the Vermont DBE Registry, divided by the 5,441 total firms from the County Business Patterns database in the defined market area yields an unweighted base figure of 2.17%.

To better reflect the availability of DBE contractors with regard to potential spending, we recalculated the relative availability using a weighted approach, so that the NAICS codes with higher spending are weighted more heavily. The percentages of total spending represented by each of the NAICS categories (Table 1, Column 3) were multiplied by the percent availability of DBE contractors for each NAICS code. The results of this calculation are shown in [Table 4](#).

Table 4: Weighted Average of DBE Availability

NAICS Code	# DBEs Available to Perform Work	Number of All Firms Available	Percent Available		Weight	Weighted Availability
236210	1	36	2.8%	x	0.017	0.05%
236220	11	957	1.1%	x	0.03	0.03%
237310	21	324	6.5%	x	0.707	4.58%
238990	10	1,212	0.8%	x	0.089	0.07%
541330	32	1970	1.6%	x	0.094	0.15%
541370	5	228	2.2%	x	0.007	0.02%
541620	18	380	4.7%	x	0.021	0.10%
541990	20	334	6.0%	x	0.035	0.21%
					Step One Base Figure	5.21%

The weighted average DBE availability is the sum of the weighted availabilities in the last column, which comes out to 5.21%. This is the Step 1 Base Figure.

Goal Setting 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 is determined, it is necessary to examine additional evidence and, if appropriate, adjust 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. These include past participation trends and capacity limits, goals of other nearby DOT recipients, and the additional adjustment factors. These are discussed below.

To arrive at the proposed **overall goal of 2.5%**, the Step 1 Base Figure of **5.21%** was adjusted, based on the following data and criteria:

Past Participation Trends & Capacity Limits

VTrans has analyzed data reflecting DBE participation and trends on FHWA-funded projects in recent years. For the past three years, **the median DBE goal attainment is 5.54%**.

Table 5: DBE Goal Attainment FFY 2021-FFY 2023

Year	Percent DBE Goal Attainment
FFY 2021	9.12%
FFY 2022	5.54%
FFY 2023	2.80%
3-Year Median	5.54%

Using the approach approved by USDOT's General Counsel, we have averaged our 3-Year Past Participation Median Figure of 5.54% with our Step One Base Figure of 5.21% to arrive at a proposed goal of 5.38%:

Table 6: Three-Year DBE Median Figure

Three-Year Median Figure	5.54%
Step One Base Figure	5.21%
Average	5.38%

Adjustment Discussion

Although, at face value, this figure may seem reasonable, there has been a significant downward trend in DBE participation since FFY2023. For FFY2023, DBE attainment was at 2.8% and for the first half of FFY2024, only 0.6%. This unfortunate trend is due to several changes in the Vermont DBE landscape: the sale of a highly participatory DBE firm to a non-DBE owner and a DBE not participating in many VTrans contracts due to noncompetitive pricing.

In June of 2023, in an effort to boost DBE participation, VTrans began setting project-specific goals. Goals were set between 1-2.9% on nineteen projects. Even with this inducement, VTrans did not see an increase in DBE participation.

Adding to the difficulty of increasing DBE participation, FHWA capital funding was reallocated in FFY23 and FFY24 to recovery repairs due to two unprecedented flooding events that significantly impacted existing infrastructure. For this reason, VTrans has previously, and in the near future, allocated less funding for projects than originally anticipated in the State Transportation Improvement Program and Capital Program.

Having fewer DBEs available to work on VTrans projects, combined with decreased funding, forces VTrans to lower its expectations for DBE participation. **As such, we propose a Step 2 downward adjustment to 2.5%.**

Goals of Other DOT Recipients

As part of the goal setting process, Section 26.45 recognizes the relevance of other DOT recipients' goals and allows consideration of another DOT recipient's goal in a 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 our own goal setting process. For FFY 2024-2026, New Hampshire DOT has proposed an overall FHWA-funded project annual goal of 3.71% for race and gender-neutral program and 1.77% for their race conscious program (total DBE goal of 5.48%). For FFY 2025-2027, Maine DOT has proposed an overall annual goal of 1.97%. Maine DOT intends to achieve this level of DBE participation running a race and gender-neutral program.

Additional Adjustment Factors

VTrans considered several other potential Step 2 Base Figure adjustments before concluding this analysis:

- **Disparity Studies:** There has been no known disparity study performed in Vermont, New Hampshire, or Maine for any public agency or private sector company.
- **Statistical Disparities in the Ability of DBEs to Get the Financing, Bonding, and Insurance Required to Participate in the VTrans DBE Program:** VTrans has not collected and analyzed this data relative to FHWA-funded contracts. VTrans offers training, mentoring, and one-on-one business coaching to its DBEs through the VTrans Business Development Program (VBDP), and partners with the US Small Business Administration and other agencies to promote accessible financing, bonding, and insurance to all certified DBEs. This has not been identified as a barrier to contracting and procurement opportunities for DBEs in Vermont.
- **Data on Employment, Self-Employment, Education, Training and Union Apprenticeship Programs, to the Extent They Relate to the Opportunities for DBEs to Perform in the VTrans DBE Program:** VTrans has not collected and analyzed this data relative to FHWA-funded contracts. Through the VTrans VBDP, DBEs are assessed for training needs, and VTrans funds DBE training to remove barriers, build capacity, and enhance critical business skills.

The overall goal for the VTrans DBE program for FHWA-assisted contracts is established on a triennial basis. As described above, based on all the additional data, evidence, and criteria affecting DBE participation levels, VTrans has adjusted the Step 1 Base Figure of 5.21%, to arrive at the **proposed overall goal of 2.5% for FFY 2025– FFY 2027. The goal will be achieved through a 1.5% race and gender-neutral (RN) program and 1.0% through a race and gender-conscious (RC) program.**

Breakout of Estimated Race Neutral (RN) and Race Conscious (RC) Participation

VTrans will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. Since our race-conscious measures have only been instituted recently, we do not yet have results to accurately project the success of these measures. We will continue to set project-specific goals for appropriate projects, and we hope to see an increase in our DBE participation rate. As such, we propose to meet our overall goal with a **1.5% goal for the race and gender-neutral (RN) program and a 1.0% goal through a race and gender-conscious (RC) program.**

VTrans uses the following race-neutral means to promote DBE participation:

- Technical assistance and other services to DBEs, directly and via consultants, seminars, partnerships with technical assistance providers and academic institutions.
- 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.
- Information and communications programs for contracting procedures and specific contract opportunities, including electronic notification of all bidding and contracting opportunities.
- Formal and informal training and presentations to DBEs and other contractors.

A supportive services program to develop and improve immediate and long-term business management, record keeping, and financial/accounting capabilities for DBEs.

- Frequent updates to DBEs on all bidding and subcontracting opportunities.
- Prompt payment monitoring and enforcement for payments to all subcontractors, including DBEs.
- Periodic user surveys and needs assessments to better determine DBE needs (e.g., training, financing, etc.) and to obtain current contact information.
- Distribution of our DBE Directory, through electronic means, to the widest feasible universe of potential prime contractors, including electronic distribution to all potential prime bidders, and widespread distribution at conferences, expos, and seminars.
- Small business training and networking opportunities, including the annual Government Contracting Conference, the annual Women's Economic Opportunity Conference, APEX Matchmaker Events, etc.
- Development of DBE capability to utilize emerging technology and conduct business through electronic media, utilizing the VTrans website to disseminate information and the DBE Directory, bid opportunities, updated information on Part 26, and useful links.
- Help DBEs improve long-term success, increase opportunities to participate in a variety of different kinds of work, handle increasingly significant projects, and successfully compete as prime contractors.
- Eliminate barriers to contracting with the VT Agency of Transportation and other limitations such as an inability to obtain bonding or financing.
- Network with local, state, and federal agencies, nonprofit, academic and business communities to maximize partnering opportunities and develop a comprehensive resource and referral network with technical assistance and service providers.
- Coordinate with other state DBE Liaison Officers to ensure certification reciprocity and to maximize interstate contracting opportunities.
- Assisting DBEs to establish VTrans prequalification status.

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.