

NHDOT FTA DBE Goal for FY 2017-2019

OVERALL GOAL (§ 26.45)

Pursuant to the USDOT amendment effective March 5, 2010, the New Hampshire Department of Transportation (NHDOT) will submit to the Federal Transit Administration (FTA) the DBE goal and methodology at three-year intervals. The first three-year submission was submitted to the FTA on September 20, 2010, and will be submitted by August 1, at three-year intervals thereafter. The Department may make a mid-cycle adjustment to its DBE goal if circumstances that have a significant impact on the current stated goal are experienced. Any mid-cycle adjustment will not take effect until approved by the FTA

GOAL

NHDOT, through its Bureau of Rail and Transit, intends to expend **1.65 %** of the amounts received from Federal financial assistance that is conducive to contracting on DOT-assisted contracts with small business concerns owned and controlled by socially and economically disadvantaged individuals (DBEs). It is the intent that this expenditure be obtained to the extent practicable, through a race and gender-neutral program (see 49 CFR § 26.5 for definitions).

The FTA programs with contracting opportunities identified for this methodology are contained primarily in section 5311. Sections 5309, 5337 and 5339 have limited contracting opportunities for construction, consulting and vehicle rehabilitation, and bus purchases are not reportable. Programs in sections 5303, 5304, 5305, 5310, 5312, 5322, 5324, 5326, and 5329 do not currently offer any contracting opportunities for DBEs. Section 5307 is direct recipient funding and not reportable.

The NHDOT shall make every effort to maximize DBE utilization on all contracts with FTA funding. If future projects are approved which contain additional construction or consulting related services, NHDOT shall ensure measures are put in place for DBEs to obtain a level of utilization appropriate to the type of work absent discrimination. NHDOT would consider a mid-cycle adjustment to the proposed DBE goal if circumstances indicated future FTA projects, once approved, presented significantly better contracting opportunities for DBEs.

METHOD OF ATTAINMENT

Method Selected: 26.45 (c)(1) Use of DBE Directories and Census Bureau Data

NHDOT will calculate the overall goal using the criteria based in 49 CFR § 26.45. The determination will be based on a level of DBE participation relative to all businesses ready, willing and able to participate on FTA- assisted contracts, and reflect a level NHDOT would expect in the absence of discrimination. The overall goal setting procedure is based on the following:

Step 1: Base Figure

Data Sources: The DBE goal was found by determining the number of businesses listed by the 2014 US Census Bureau in the County Business Pattern available for applicable contracting opportunities for Department sub-recipients and on rail and transit projects. The Department filtered the data to determine only firms in the following 9 North American Industry Classification System (NAICS) Sub sectors. For the purposes of this goal setting process, any subrecipient contracting opportunities without a corresponding, ready, willing and able New Hampshire certified DBE were not included in this calculation.

New Hampshire 2014 County Business Patterns Information

NAICS Code	DBE Firms	All Firms
• 323111 – Commercial printing	1	98
• 423420 – Office equipment	2	38
• 423430 – Computer equipment/software	5	77
• 441320 – Tire dealers	1	103
• 541613 – Marketing consulting services	4	122
• 541810 - Advertising agencies	1	49
• 561720 – Janitorial services	1	297
• 621511 – Drug Testing	1	31
• 811121 – Automotive Body, Paint, Interior Repair	1	182
Column totals	17	997

The Department identified 997 ready, willing and able firms in the above listed categories. This number will be used as the denominator. The numerator was found by determining the number of ready, willing and able NH DBE certified firm’s within the same NAICS Sub sectors. For the purposes of this goal setting methodology, 17 firms currently DBE certified in New Hampshire were identified and considered ready, willing and able to perform work in the areas identified.

Formula

$$\frac{\text{DBE (17)}}{\text{CBP (997)}} = 1.7\%$$

OTHER CONSIDERATIONS WHEN CALCULATING THE BASE FIGURE:

- A. Past participation: The use of past participation as a tool to establish the base figure is not appropriate because it may not be a reflection of the ready, willing and able DBE population that exists today.
- B. Use of the most refined data available: The NHDOT relies on the contractor data directly associated to the NAICS codes Sub sectors listed above. Any firm (DBE or non-DBE) not identified in these Sub sectors would be considered by their exclusion, as being not ready, willing and able to participate on FTA-assisted contracts and therefore, should not be included in the calculations for the DBE goal.
- C. Look to relevant data sources to supplement your DBE directory: The State of New Hampshire does not have a comparable MBE/WBE program for State contracting opportunities, therefore, no similar data source exists that would yield ready, willing and able minority or women owned businesses for comparison. The NHDOT does not track bids and quotes for all FTA related contracting opportunities, therefore, use of the available bidder's list data for NHDOT road construction projects would not be an accurate representation for use in the FTA goal setting process. The NHDOT has examined contracting opportunities typically available for FTA assisted contracts and compared them to currently certified DBEs to determine the most accurate representation of DBE firms for this goal setting analysis. Contracting opportunities without a comparable DBE firm within the directory were excluded from this calculation.
- D. Local market area: Due to the small geographic size of New Hampshire the fact that contracting dollars are distributed throughout New Hampshire, and the demonstrated ability of prime and subcontractors to travel throughout state boundaries to perform transportation related work, the entire state is regarded as one local market area.
- E. Ensuring DBE goal percentage reflects "apples to apples" calculations: The DBE goal calculation was derived using the same NAICS code categories in both the numerator and denominator, therefore, is considered an accurate comparison of both DBE and non DBE firms capable of those opportunities currently available in FTA contracting work.
- F. Weighting: The NHDOT reviewed past DBE participation on FTA-assisted projects and contracting opportunities for sub recipient operations to determine if one or more areas of work performed by DBEs should be considered for weighting. The NHDOT has determined that work performed by DBEs appears to be evenly distributed throughout the work items considered for the Step 1 base figure. No one item of work accounts for more than 20% of the total reported DBE participation. Additionally, the NHDOT cannot currently identify any areas of work on future FY 2017 – 2019 projects appropriate for DBE subcontracting that would indicate a higher concentration of work and be appropriate for an adjustment to the Step 1 base figure for weighting.

Step 2: Adjustment to Base Figure

The Department assessed the impact of specific factors requiring narrow tailoring of the DBE Program. The following factors were considered in making the decision to adjust the overall DBE goal.

1. Current Capacity to Perform Work: This office has contacted all ready, willing and able DBE firms in an effort to determine if any active firm has reached the capacity to perform work and has found no evidence to support this.
2. Disparity Studies: The NHDOT is not aware of any disparity study performed in New Hampshire for any public agency or private sector company.
3. Past Participation: Initially, the NHDOT did not consider a Step 2 adjustment to the base figure. The rationale was that FY 2013, 2014 and 2015 FTA DBE participation included some opportunity for subcontractors related to highway construction, transportation consulting, design and engineering, while no similar projects had been identified and approved for FY 2017 – 2019. After careful consideration, it is reasonable to conclude future FTA-assisted projects receiving approval will include a variety of contracting opportunities similar to those performed in the past five years. Therefore, the NHDOT shall make the following Step 2 adjustment to the base figure for past participation.

Past participation:

FY 2009	1.3 %
FY 2010	2.9 %
FY 2011	1.1 %
FY 2012	1.2 %
FY 2013	1.6 %
FY 2014	3.6 %
FY 2015	4.3 %

Historical median is 1.6 %

Base figure	1.7 %
Median	<u>1.6 %</u>
Sum	3.3 % (divided by 2) = 1.65 % DBE Goal

4. Consultation and Input from Interested Parties: The NHDOT recognizes the importance of public participation in the DBE goal setting process as required by 49 CFR 26.45 (g)(1). The proposed DBE goal and methodology was posted on the official NHDOT website www.nh.gov/dot and the goal was made available for public inspection during normal business hours at the NHDOT main office located at 7 Hazen Drive, Concord, NH, 03302.

Additionally, notices detailing the proposed DBE goal providing a description of the goal setting process, the intent to create a level playing for the participation of DBEs on FTA assisted projects, and the importance of active participation by all parties

involved in the contracting process were sent to a large group consisting of businesses and individuals with an interest in contracting, diversity, and NHDOT business. The notice detailed the Departments commitment to diversity and its desire to discuss experiences and issues effecting minority and women owned businesses working or seeking work within the state of NH, regardless of the industry. The notice provided contact information and a request for direct face-to-face discussions if possible. Notices were sent to the following stakeholders:

- All currently certified DBE businesses in the NHDOT database
- All currently ready, willing and able prime and subcontractors contained in the NHDOT Office of Federal Compliance database.
- Association of General Contractors
- The NH Regional Planning Commissions
- Belknap Counties Community Action Program
- Berlin Regional Vocational Center
- Community Action Partnership-Strafford
- Concord Regional Vocational Center
- Lebanon/Hanover Regional Vocational Center
- New England Farm Workers Council
- New Hampshire Department of Education- Vocational Rehab.
- Office of Workforce Opportunity
- New Hampshire Employment Security
- NH Small Business Administration
- NH Chapter of NAACP in Portsmouth, Manchester and Nashua
- NH Chapter of the National Association of Women in Construction
- New Hampshire PTAP Program

Additionally, requests for comments were made by telephone to the largest stakeholders in an effort to increase opportunities for useful dialog.

Based on the discussions with stakeholders and the response to notices received, the NHDOT has determined no additional information was provided sufficient to enable the Department to make a step 2 adjustment.

Proposed FTA DBE Goal

The NHDOT, through its Bureau of Rail and Transit, has determined the overall DBE goal for FTA-funded contracting opportunities for Fiscal Years 2017-2019 to be **1.65%**. The NHDOT will obtain its goal through the administration of a race and gender-neutral program.

Should our contracting opportunities unexpectedly increase, decrease, or significantly change during the three year period such that the submitted goal is rendered obsolete, the NH DOT will appropriately amend both the goal and DBE contracting practices in order to ensure the goal and program as a whole is narrowly tailored and accurately reflects the actual contracting opportunities available during the specified time period.