

# NEW HAMPSHIRE DEPARTMENT OF TRANSPORTATION

## Disadvantaged Business Enterprise Goal & Methodology for FFY 2021-2023

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For FHWA-Assisted Projects

Virtual Public Meeting Presentation on July 31, 2020  
Presented by: Office of Federal Compliance

# Housekeeping Items

- This meeting is recorded. The recording will be made available at request and may be posted on the OFC website a couple of weeks from today.
- If you have questions, please either type them in the chat box or ask them at the end of the presentation. Before asking a question, please state your name.
- Mute your microphone when you aren't speaking.
- Introduce yourself (your name and the name of the agency you represent).

# Agenda

- Background
- Disadvantaged Business Enterprise
- Administrative Requirements
- Methodology
- Proposed DBE Goal & Methodology
- Summary
- Questions

# Disadvantaged Business Enterprise (DBEs)

- Socially and economically disadvantaged individuals (i.e. Black, Hispanic, Native Americans, Asian-Pacific Islanders, Subcontinent Asians, or women regardless of race, and other individuals who can provide evidence of social and economic discrimination).
- The business must be owned, at least 51%, by one or more individuals who are considered members of a socially and economically disadvantaged group.
- The disadvantaged owner(s) must control the company's management and daily operations.
- A disadvantaged owner(s) personal net worth cannot exceed \$1,320,000 (excluding ownership interest in the firm and the equity in his/her primary residence).
- The company must meet the Small Business Administration's Size Standard requirements and must not exceed \$23.98 million in gross annual receipts for DBEs (\$52.47 million for ACDBEs).
- DBE Directory <https://www.nh.gov/dot/org/administration/ofc/dbe.htm>

# Background

- All recipients receiving federal funds for planning and development exceeding \$250K are required to have a DBE Program.
- The DBE Program was created to:
  - ✓ Ensure nondiscrimination in the award and administration of federally assisted contracts.
  - ✓ Create a level playing field on which DBEs can compete for federally assisted contracts.
  - ✓ Help remove barriers that affect participation of DBEs in federally assisted contracts; and
  - ✓ Assist the development of firms that can compete successfully in the marketplace outside the DBE Program.
- 49 CFR Part 26

# Administrative Requirements

- DBE Goal & Methodology Plan: Every 3 years.
- Overall Goal: % of a recipient's federal-aid funds
  - ✓ Race Neutral and
  - ✓ Race Conscious Means

Year	DBE Attainment	Overall DBE Goal
2009	7.94%	5%
2010	4.57%	4%
2011	6.39%	4%
2012	8.62%	7.74%
2013	5.95%	7.74%
2014	8.32%	7.74%
2015	8.25%	5.63%
2016	7.95%	5.63%
2017	6.39%	5.70%
2018	7.25%	5.70%
2019	5.96%	5.70%

# Administrative Requirements, Cont.

- Methodology: 2 – Step Process:
  - ✓ Step 1: Calculation of the base figure
  - ✓ Step 2: Adjustment to the base figure
- Public Involvement

<https://www.nh.gov/dot/org/administration/ofc/dbe.htm>

## **Federal Highway Administration (FHWA) Goal**

In FFY 2021-2023, the New Hampshire Department of Transportation intends to expend 4.73 % 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 the NHDOT that this expenditure is obtained through a race and gender-neutral program.

› [Proposed NHDOT FHWA DBE Goal & Methodology Plan for FFY2021-2023](#) 

› [Public Meeting Information](#) 

# Methodology

- Methodology: Step 1
  - ✓ Bidder's List
  - ✓ Census Data + DBE Directory
  - ✓ Disparity Study
  - ✓ Use Goal of Other DOT Recipient
  - ✓ Alternative Method
- Base Figure represents the relative availability of DBEs in relevant geographic market area (GMA)

Number of Ready, Willing  
and Able DBEs

\_\_\_\_\_ = Base Figure %

Number of All Firms

Ready, Willing & Able

- (GMA): Geographic distribution of contractors and subcontractors working on Federally-assisted contracts and dollars spent in those areas

# Methodology, Cont.

- Weighting by Work Type
- Methodology: Step 2
  - ✓ Examine all available evidence and determine what adjustments, if any, are necessary
  - ✓ Consider all other factors (i.e. information from disparity studies, lack of access to financing/bonding, statistical employment data, other data affecting likely DBE participation, etc.)
  - ✓ It is not necessary to make a Step Two adjustment

# Proposed DBE Goal & Methodology

- Step 1: Bidders List (Response Rate: 83.43%)
  - ✓ ALL businesses, successful AND unsuccessful, including consultants, that have bid or quoted on prime or subcontracts
  - ✓ ALL DBE and non-DBE subcontractors, including consultants, that submitted bids or quotes to primes
  - ✓ The method in which this information is collected

Table 1: Contractors and consultants who submitted bids or quotes: 2017-2019

	2017	2018	2019	
Prime contractors that submitted bids or quotes	46	33	57	
Subcontractors that submitted bids or quotes	237	163	190	TOTAL
<b>TOTAL</b>	283	196	247	<b>726</b>
Total available consultants				<b>120</b>
				<b>846</b>

Table 2: DBEs that submitted bids or quotes: 2017-2019

	2017	2018	2019	TOTAL
DBEs that submitted bids or quotes	14	13	13	<b>40</b>

**Base Figure Calculation**

DBE contractors (40)/Available construction contractors & consultants (846)     $40/846 = 4.73\%$

# Proposed DBE Goal & Methodology, Cont.

- Other Considerations

- ✓ Use of the most refined data available
- ✓ Relevant Geographic Market Area (GMA):

	Dollars to In-State Contractors	Total Dollars	Representative State Percentage
Geographic Distribution of Participating primes 2017-2019	\$313,805,405.99	\$402,136,288.43	78.03%

- ✓ Ensuring DBE goal percentage reflects “apples to apples” calculations
- ✓ Effects of decertification: Loss of 4 DBEs
  - DBE Total: 2017-2019 Calendar Years: \$35,297,105.75 or 8.78%
  - Decertified/Graduated DBEs: \$21,779,386.38 or 62%

- Past participation
- Use of the DBE Directory
- The use of weighting
- Changes in the amount of federal-aid

# Proposed DBE Goal & Methodology, Cont.

- Step 2:
  - ✓ Past participation: During calendar years 2017-2019, NHDOT lost four DBE firms that were actively working and/or bidding on NHDOT projects and these firms were excluded as prime and/or sub-contractors from the DBE calculation for the years in which they lost their DBE certifications.
- Other Considerations:
  - ✓ Additional sources of information
  - ✓ Evidence from a disparity study
  - ✓ Local market area firm characteristics
  - ✓ Other relevant data

Based on this information, it would be inappropriate to use past participation to make an adjustment to the proposed DBE goal at this time.

# Proposed DBE Goal & Methodology, Cont.

- Public Involvement
  - ✓ Ongoing conversations with the purpose to inform, educate and involve contractors, minority and women's groups and other concerned interests in the DBE Program.
  - ✓ Notices: office, website, social media, e-mail sharing.
  - ✓ End of the comment period: September 1<sup>st</sup> (45-days)

# Summary

- 4.73% Goal
- Race and gender-neutral DBE participation. The NHDOT has successfully administered a primarily race and gender-neutral DBE Program, consistently exceeding DBE goals in previous years.
- If it is determined the 4.73 % overall DBE goal will not be achieved, NHDOT may place contract goals on future projects as a race and gender-conscious means of meeting any portion of the overall goal not achieved by use of race and gender-neutral means.
- Goal monitoring:
  - ✓ monthly reports of prompt payments

## Summary, Cont.

- If the rate of participation indicates that NHDOT will not attain or exceed its race and gender-neutral DBE goal at any time during the 3-year cycle, the NHDOT will increase proactive efforts to increase DBE participation.
- If additional efforts at DBE involvement are unsuccessful, the NHDOT may implement specific project goals as a race and gender-conscious measure to reach its overall statewide goal.

# Proposed DBE Goal & Methodology, Cont.

- Next Steps:
  - ✓ Public comments will be considered and final plan updated
  - ✓ Plan due to FHWA Division Office by 9/16 (extended)
  - ✓ FHWA may request that the proposed overall goal and methodology be adjusted if it the goal has not been correctly calculated or the methodology is inadequate.

# Questions?

Thank you for your participation

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