



New Hampshire Department of Transportation  
7 Hazen Drive, P.O. Box 483  
Concord, NH 03302

# PROPOSED Disadvantaged Business Enterprise (DBE) Triennial Goal & Methodology Plan for FFY 2024-2026

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**For Federal Highway Administration (FHWA) Assisted Projects**

May 8, 2023  
Revised March 20, 2024

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## **OVERALL GOAL BACKGROUND (§ 26.45)**

Pursuant to the USDOT amendment effective March 5, 2010, the New Hampshire Department of Transportation (hereafter the Department or NHDOT) is required to submit to the Federal Highway Administration (FHWA) the Disadvantaged Business Enterprise (DBE) Goal and Methodology Plan at three-year intervals. The Department submitted its first plan to FHWA on August 1, 2011 and at three-year intervals thereafter.

The Department is allowed to make a mid-cycle adjustment to its DBE goal if circumstances that have a significant impact on the current stated goal are experienced. However, any mid-cycle adjustments do not take effect until approved by the FHWA.

## **GOAL**

The Department intends to expend **5.48%** of the amounts received under Titles I, III and V of the Transportation Equity Act for the 21st Century or any subsequently enacted Federal laws, with small business concerns owned and controlled by socially and economically disadvantaged individuals (DBEs). The Department plans to achieve the overall DBE goal through 3.71% race and gender-neutral (RN) and 1.77% race and gender-conscious (RC) means (see 49 CFR § 26.5 for definitions).

## **METHOD OF ATTAINMENT**

The Department calculates the overall goal using the criteria based in 49 CFR § 26.45. The determination is based on a level of DBE participation relative to all businesses ready, willing and able to participate on Federally-assisted contracts, and reflect a level of participation expected in the absence of discrimination. The overall goal setting procedure is based on the following:

1. Step 1: Establishing the base figure for the relative availability of DBEs and;
2. Step 2: Adjusting the base figure to reflect available data.

## **STEP 1: BASE FIGURE**

**Method Selected:** The Department uses an Alternative Method.

**Description of Data Used:** The data used in this calculation was obtained from two sources:

1. The primary source is the Department's bidders list. This includes all bidders, successful and unsuccessful, prime and subcontractors, DBEs and non-DBEs which were seeking work on state and municipal FHWA-assisted transportation related construction contracts in the local market area during the period of January 1, 2020 through December 31, 2022.
2. The secondary data source includes all ready, willing, and able firms, DBE and non-DBE, accepted by the NHDOT Prequalification Administrator and eligible to participate in environmental, engineering and other FHWA-assisted consulting agreements in the local market area during the period of January 1, 2020 through December 31, 2022. The data collected resulted in a list of prime and subcontractors, DBE and non-DBE, which directly participated in, attempted to participate in, or were ready, willing, and able to participate in FHWA-assisted highway construction projects and environmental, engineering, and other FHWA-assisted consulting contracts.

The Department is the sole DBE certifying agency for the State of New Hampshire. The Department's Office of Access, Opportunity and Compliance (OAOC) is responsible for reviewing prime and subcontractors prior to approval for project work. The OAOC continuously reviews contractor information submitted during the bidding and approval process on all projects in an effort to identify minority and women-owned non-DBE firms for recruitment and possible DBE certification.

The Department works closely with many stakeholders and women and minority organizations such as the New Hampshire Procurement Technical Assistance Program (NHPTAC), the Small Business Administration (SBA), the Association of General Contractors (AGC), and the National Association for Women in Construction (NAWC), to identify and recruit minority and women-owned firms for potential participation in the DBE Program.

In addition to these ongoing practices, the OAOC reviews the ownership and control data from all primes and subcontractors submitting bids or quotes during calendar years 2020-2022 to ascertain if potential DBEs exist for inclusion in the numerator of the base figure calculation. The Department concluded no potential DBEs are present for inclusion in this report during the data collection period.

**Collection of the Data:** To determine the relative availability of construction contractors, information was collected from the bidders list. The Department maintains a bidders list in accordance with 49 CFR Part 26.11, which includes all DBE and non-DBE prime contractors that have submitted a bid or quote on any state or municipal FHWA-assisted transportation related construction project. The Department sends a notice to each contractor on an annual basis, identifying each project for which they submitted a bid or quote and requires the contractor to provide the names of any subcontractors or material suppliers (DBE and non-DBE), that may have submitted a bid or quote in support of their own proposal.

The response rate for this inquiry is 94.56% and therefore considered reliable. The information is compiled using a spreadsheet to ensure that double counting is eliminated. This information is used for the purpose of establishing the portion of the base figure derived from FHWA-assisted construction contracts. The formula is detailed in below:

Table 1: Contractors and consultants who submitted bids or quotes: 2020-2022

	2020	2021	2022	
Prime contractors that submitted bids or quotes	52	46	49	
Subcontractors that submitted bids or quotes	148	207	188	TOTAL
<b>TOTAL</b>	200	253	237	<b>690</b>
Total available consultants				<b>168</b>
				<b>858</b>

Table 2: DBEs contractors and consultants that submitted bids or quotes: 2020-2022

	2020	2021	2022	TOTAL
DBEs that submitted bids or quotes	14	15	8	<b>37</b>
Identified Potential DBEs				<b>24</b>

**Relevant Geographic Market Area (GMA):** The Department considers the State of New Hampshire boundaries to be the GMA. Prime and subcontractors have demonstrated their ability to travel throughout state boundaries to perform transportation related work. New Hampshire based prime and subcontractors account for 76.22% of all contracting dollars spent in New Hampshire.

Table 3: GMA	Dollars to In-State Contractors	Total Dollars	Representative State Percentage
Geographic Distribution of Participating primes 2020-2022	\$180,445,433	\$236,737,866	76.22%

### **Base Figure Calculation**

DBE contractors, consultants & potential DBEs (61)/Available construction contractors & consultants (858)  
 $61/858 = 7.11\%$

**The numerator in the base figure calculation includes 37 certified DBEs that submitted bids or quotes as well as 24 potential DBEs (small for-profit businesses that are either women and/or minority owned) that submitted bids or quotes during that time period.**

The Department considered different type of contracts anticipated in the upcoming three-year period against the relative availability of DBEs, projected funding and relevant geographic market area (GMA). The Department anticipates contracts and funding will be similar to those in 2020-2022 and will be taking place in the same Geographic Market Area (GMA).

### **OTHER CONSIDERATIONS WHEN CALCULATING THE BASE FIGURE:**

- A. **Ensuring DBE goal percentage reflects “apples to apples” calculations:** The DBE goal calculation was derived using the same transportation related items of work in both the numerator and denominator, included all DBE and non-DBE prime contractors, subcontractors, and consultants that submitted a bid or quote or were approved as a subcontractor or material supplier and, regardless of whether or not they were actually awarded the contract or subcontract.
- B. **The use of weighting:** The Department does not currently have data to support the use of weighting but will take the necessary steps over the next three (3) years to explore this.
- C. **Effects of decertification:** During calendar years 2020-2022, the Department **lost 2 DBE firms** that were actively working and/or bidding on NHDOT projects. One of the two firms were sold and was no longer minority and/or woman owned and the other firm was decertified due to changes in regulation affecting Native American owner who also could not substantiate his social and economic disadvantage claim as an individual. These firms were excluded from the numerator (but not the denominator) as per Tips for Goals and Methodology Plan (49 CFR Part 26).
- D. **Changes in the amount of federal-aid:** No adjustments to the DBE goal were made based on changes in the amount of Federal-aid received.

### **STEP 2: ADJUSTMENT TO BASE FIGURE**

Once the base figure is determined, the Department is required to examine all of the evidence available to determine what adjustment, if any, is necessary. Step 2 requires the Department to incorporate any available evidence that will improve the accuracy of the Step 1 base line goal calculations in order to determine the level of DBE participation that would occur absent the effects of discrimination. The following factors were considered in making the decision to adjust the overall DBE goal:

**Past participation:** The volume of work that DBEs have performed in recent years can be useful to increase the accuracy of the DBE goal. Past participation is particularly useful if the contracting opportunities that are projected for the next three years are similar to those of the previous goal period. The Department analyzed the projected contracting opportunities in resources such as the State Transportation Improvement Plan and determined that the projected opportunities are effectively similar to those in the prior three years and that therefore, adjusting the base figure using past participation was logical. FHWA suggests that the previous five years be used to determine the historical median for past participation. This requires the Department to evaluate DBE participation on federal-aided contracts during FFY2018-2022.

YEAR	DBE GOAL	DBE GOAL ATTAINMENT
2022	4.82%	2.55%
2021	4.82%	3.84%
2020	5.70%	3.53%
2019	5.70%	5.96%
2018	5.70%	7.25%
Median		3.84

To adjust the base figure using past participation, the Department adds the median participation from the relevant five-year period to the base figure and divides that sum by two. Accordingly, after adjusting the base figure due to the similarity of federal-aid procurement opportunities during the previous three years, the Department’s adjusted DBE goal is 5.48%.

$$\text{Median } 3.84\% + \text{Base Figure } 7.11\% = 10.95\%$$

$$10.95\% / 2 = 5.48\%$$

**OTHER CONSIDERATIONS FOR STEP 2 GOAL ADJUSTMENTS**

1. **Evidence from a disparity study:** The Department has not commissioned or conducted a disparity study. The Department contacted a variety of community stakeholders to determine if any relevant disparity studies have been conducted in the local market area in the past three years. No relevant disparity studies or similar analyses have been found that may provide information relative to discrimination in the local market area by the Department or similar contracting agencies.
2. **Local market area firm characteristics:** The Department is always in search of new transportation related potential DBE firms with characteristics that would benefit the transportation field and increase the offerings of DBE related firms. At this time, there is no evidence that an adjustment of this type is necessary.
3. **Other relevant data:** There has been no other data that suggests additional Step Two adjustments are warranted. The Department has no record of suits involving discrimination of minority or women owned businesses in the past three years. Current DBEs have not expressed any concern with the availability of work and awarding of subcontracts.

**ESTIMATED RACE AND GENDER-NEUTRAL & RACE AND GENDER-CONSCIOUS PARTICIPATION**

The Department has established a statewide DBE goal of 5.48%. The Department intends to attain this goal through race and gender-neutral and race and gender-conscious DBE participation.

**RACE AND GENDER-NEUTRAL MEANS**

The NHDOT continues to work with prime contractors to assist their efforts to facilitate race and gender-neutral DBE participation. Race and gender-neutral participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, is awarded a subcontract on a prime contract that does not carry a DBE contract goal, or even if there is a DBE contract goal, wins a subcontract from a prime contractor that did not consider its DBE status in making the award (e.g., a prime contractor that uses a strict low bid system to award subcontracts).

Race and gender-neutral means include, but are not limited to, the following:

1. Carrying out information and communication Programs on contracting procedures and specific contract opportunities, such as ensuring the inclusion of DBEs, and other small businesses, on mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors;
2. Providing a copy of the Invitation for Bids, when requested to the Department’s certified DBEs for each bid letting;
3. Providing introductions to help DBEs, and other small businesses with access to prime contractors in an effort to develop working relationships;
4. Ensuring distribution of the Department’s DBE Directory, through print and electronic means, to potential prime contractors and subcontractors;
5. Providing technical assistance and other services.

Each time the Department submits its overall goal for review and approval by the USDOT, the Department also submits the portion of the overall goal that is expected to be attained through race and gender-conscious means and the basis for that position.

The Department evaluates the percent of DBE participation on a monthly basis. If it is determined the 5.48% overall DBE goal will not be achieved, the Department will 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.

**RACE and Gender-CONSCIOUS (RC) MEANS**

The Department has analyzed the data below that reflects the DBE RN attainment or shortfall, utilized the overall DBE goal figure and has calculated the anticipated DBE RC needs, which will be applied, as needed, going forward to remedy any shortfall on federally assisted projects in the coming reporting period.

YEAR	DBE GOAL	DBE RN ATTAINMENT
2022	4.82%	2.23%
2021	4.82%	3.71%
2020	5.70%	3.44%
2019	5.70%	5.0%
2018	5.70%	7.25%
Median		3.71

After analysis, the Department has determined that the DBE RN goal for FFY 24-26 will be 3.71%. This figure was obtained by utilizing the prescribed formula for determining the median of the RN participation attainment, for the preceding five years. Utilizing the 3.71% figure, and the base figure of 7.11%, the Department establishes the race and gender-conscious goal to be 1.77%.

The Department will evaluate all contracts with federal-aid highway funding for DBE participation and placement of race and gender-conscious goals if the Department fails to attain the overall State DBE goal through race and gender-neutral means.

The following provisions apply to the use of race and gender-conscious contract goals:

1. The Department will use contract goals only on those federally assisted projects that have subcontracting possibilities.
2. The goal for a specific contract may be higher or lower than that percentage level of the overall goal, depending on such factors as the type of work involved, the location of the work, and the availability of DBEs for the work of the particular contract. However, over the period covered by NHDOT's overall

goal, the Department will set contract goals so that they will cumulatively result in meeting any portion of NHDOT's overall goal not obtainable through the use of race and gender-neutral means.

3. Contract goals will provide for participation by all certified DBEs and not be subdivided into group-specific contract goals.

To ensure that the Department's DBE Program continues to be narrowly tailored to overcome the effects of discrimination, use of contract goals will be adjusted as follows:

1. If the Department concludes that it can meet its overall goal through race and gender-neutral means, contracting goals will not be used.
2. If, during the course of any year in which the Department uses contract goals, and/or determines that the overall goal will be exceeded, the Department will reduce or eliminate the use of contract goals to the extent necessary to ensure that the overall use of contract goals does not result in exceeding the overall goal.

To ensure that prime contractors demonstrate good faith efforts necessary to fulfill contract goals (race and gender-conscious measures) assigned to Federally-assisted projects, they will be required to incorporate the following measures pursuant to the bidding process:

1. **Providing Assistance.** The prime contractor may help DBEs and small businesses in the areas of interpreting plans, preparing proposals, providing advice to obtain bonding and insurance, etc. Any assistance requested or provided shall be documented.
2. **Discussions with Small Businesses.** The prime contractor shall respond to all requests from DBEs and small businesses that are submitting quotes including, but not limited to: quantities, expected overtime, project scheduling, pit information, method of measurement, payment schedule, items of work included in the quote.
3. **Accepting and Evaluating All Bids Offered.** Prime contractors, DBEs and small businesses shall accept and evaluate all bids offered, regardless of work elements intended to be subcontracted. DBEs and small businesses should not be limited to smaller subcontracts because a larger amount of work is intended to be subcontracted to a larger business.
4. **Specific DBE Goal Reporting Requirements.** For race and gender-conscious projects with a specific DBE goal, the prime contractor submitting the apparent low bid must submit a DBE Commitment Form within three (3) business days of bid award. The DBE Commitment Form must indicate the total dollar value of DBE commitments. This form is provided by the OIOC and includes the following; name and address of each DBE to be used, items numbers and descriptions of the work to be completed by each DBE, the estimated dollar value of each participating DBE and the total DBE commitment in dollars and expressed as a percentage of the total contract. Additionally, the prime contractor must submit a Letter of Intent for each DBE listed on the DBE Commitment form. The letter of intent confirms the information submitted on the DBE commitment form and is signed by both the prime contractor and each DBE firm.
5. **Show of Good Faith Efforts (GFE).** Prime contractors will be required to complete the GFE Form that shall be completed in order to substantiate the efforts taken to utilize DBE companies on federally assisted projects when subcontracting opportunities are available.



## **PUBLIC PARTICIPATION**

The Department works cooperatively to promote DBE Program participation with transportation related contractors and associations, women and minority groups, and appropriate state and local agencies. The intent of these ongoing conversations is to inform, educate and involve contractors, minority and women's groups and other concerned interests in the DBE Program. This open dialogue has resulted in the successful implementation of a race and gender-neutral DBE Program goal and an environment where DBE's can fairly compete for work on transportation related projects.

The Department has published a notice announcing the proposed overall goal to the official department website and social media, shared the proposed plan with stakeholders by email, as well as a notice about upcoming public outreach meeting to discuss the triennial DBE goal and methodology and obtain information relevant to the goal setting process.

The plan and the notice were sent to a diverse range of individuals and organizations, including currently certified DBEs, DBE and non-DBE prime and subcontractors, consultants, the NH Association of General Contractors, NH Procurement Technical Assistance Program, NH Small Business Administration, NH Small Business Development Center, NH Chapter of NAACP in Portsmouth, Manchester and Nashua, NH Chapter of the National Association of Women in Construction, NH Regional Planning Commissions and various towns and municipalities.

A notice announcing the proposed DBE goal was posted on the NHDOT website on May 26, 2023. The notice also stated the proposed DBE goal and methodology plan would be available to the public for review and comment for a 30-day period beginning May 26, 2023 and ending June 26, 2023, at the Department's Office at 7 Hazen Drive, Concord, NH 03302. See Appendix A for a copy of the public notice as well as the location on the website.

## **PUBLIC MEETING/COMMENTS**

On June 9, 2023, a public hearing was held, inviting interested parties to review and comment on the proposed DBE goal. The meeting offered both in-person and virtual attendance and public comment was available until June 26, 2023. Of the 10 that attended, attendees and presenters, 70% attended virtually. Fifty percent were NHDOT staff and the remaining attendees were consultants and contractors, including one DBE. While no questions or comments were raised at the time of the meeting, one written comment was received from one of the attendees at the presentation, within the remaining the open comment period. See Appendix B for public meeting attendance, comments and NHDOT remarks.

## **GOAL MONITORING**

The Department will continue to monitor DBE participation by requesting monthly reports of payments made from prime and subcontractors to DBEs to gauge participation on active federally assisted projects. If the rate of participation indicates that the Department will not attain or exceed its race and gender-neutral DBE goal at any time during the 3-year cycle, the Department will increase proactive efforts to increase DBE participation. If additional efforts at DBE involvement are unsuccessful, the Department may implement specific project goals as a race and gender-conscious measure to reach its overall statewide goal.

The Department will continue to monitor attainment of the overall goal and the contract goals to determine whether the intent of project goals has been met and will decide whether the project goals need to be continued. In any year in which the Department meets part of the goal through race and gender-neutral means and the remainder through contract goals, the Department will maintain data separately on DBE payments in those contracts with and without contract goals, respectively. The Department will report this data to DOT as provided in 49 CFR § 26.11

## APPENDICES

### APPENDIX A –PUBLIC NOTICE



**New Hampshire Department of Transportation (NHDOT)  
PROPOSED Disadvantaged Business Enterprise (DBE) Goal and Methodology Plan  
for Federal Highway Administration (FHWA)  
Federal Fiscal Years 2024-2026**

The New Hampshire Department of Transportation (NHDOT) proposes a goal of 4.30% for Disadvantaged Business Enterprise (DBE) participation for projects assisted with Federal Highway Administration (FHWA) funds.

**NHDOT invites all interested parties to participate, review and comment on the proposed DBE goal during the hybrid public meeting which will be held on Friday, June 9, 2023 at 10:00 am.**

**Comments will be accepted until June 26, 2023 at 4:00 pm by:**

**E-mail at [Merideth.A.Wilson@dot.nh.gov](mailto:Merideth.A.Wilson@dot.nh.gov),  
Mail or in person at NHDOT External EEO Coordinator,  
7 Hazen Drive, P.O Box 483, Concord, NH 03302  
OR phone at (603) 271-8252; TDD: Relay NH: 1.800.735.2964**

A hard copy of the NHDOT's FHWA Goal and methodology will be available for viewing on the NHDOT website: <https://www.nh.gov/dot/org/administration/ofc/dbe.htm>

and at the following address during normal business working hours,  
8:00 AM to 4:00 PM, Monday - Friday:

NHDOT  
7 Hazen Drive,  
Concord, NH 03302

If you wish to attend the public meeting virtually, please send an email to [Merideth.A.Wilson@dot.nh.gov](mailto:Merideth.A.Wilson@dot.nh.gov) to register and obtain a link to the meeting.

NHDOT is an Equal Opportunity Employer. If you need this information in an alternative format, please contact the External EEO Coordinator at (603) 271-8252 or [Merideth.A.Wilson@dot.nh.gov](mailto:Merideth.A.Wilson@dot.nh.gov)  
TDD: Relay NH: 1.800.735.2964

Date of Notice: May 10, 2023.



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The New Hampshire Department of Transportation's Disadvantaged Business Enterprise (DBE) Program is a Federally mandated program headed by the US Department of Transportation. The purpose of this program is to ensure nondiscrimination in the award of Federally assisted contracts by creating a level playing field on which DBEs can compete fairly.

- [DBE Certification Information and DBE Application](#)
- [Disadvantaged Business Enterprise \(DBE\) Program Manual](#)
- [DBE Directory](#)

If you need this information in an alternative format, please contact the External EEO Coordinator at 603.271.6612 or Larisa.Djuvelek-Ruggiero@dot.nh.gov

**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](#)
- [DBE FHWA FFY21-23 Proposed Goal & Methodology Public Meeting Recording](#)

In FFY 2018-2020, the New Hampshire Department of Transportation intends to expend 5.7 % 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.

- [Approved FHWA DBE Goal and Methodology for FY 2018-2020](#)

## **APPENDIX B - PUBLIC MEETING ATTENDANCE AND COMMENTS**

### Attendees:

- 3 contractors (1 DBE)
- 1 Consultant
- 1 Membership Association
- 5 NHDOT employees (1 Commissioner)

### Question/Comment Received June 21, 2023:

Associated General Contractors of New Hampshire (AGC) submitted one (1) written comment regarding a concern over the State's ability to meet the DBE goal using the current methodology calculation. AGC submitted, for review, South Carolina's FFY 2021-2023 DBE Determination Methodology, which utilizes an alternative to the FHWA authorized method, to adjust the base figure. AGC suggested that NHDOT consider utilizing this formula, as it includes additional factors outside of the base figure calculation. AGC stated a belief that the additional factors would make the goal more realistic for NH. The factors they listed were the capacity to perform work, account for businesses that left the marketplace through graduation or no longer qualified, and calculate based on project type and opportunities instead of using just the number of contracts and dollar volume.

The Department reviewed AGC's request and South Carolina's FFY 2021-2023 DBE Determination Methodology Plan and found that the Department is already applying that methodology. Therefore, no changes to the proposed goals and methodology plan for FFY 2024-2026 were made based on AGC's comment.