

VIRGINIA DBE OVERALL GOAL SETTING METHODOLOGY 2015 - 2017

Revised 5/26/2016

Title 49 Subtitle A Part 26 Subpart C §26.45 of the Code of Federal Regulations (CFR) requires Department of Transportation (DOT) Financial Assistance Program recipients to set overall goals for participation by disadvantaged business enterprises (DBEs), based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses who are ready, willing and able to participate on DOT-assisted contracts. This process begins with the determination of a base figure for the relative availability of DBEs and then, based on evidence, a determination of whether the base figure requires adjustments to arrive at the overall goal. The Virginia Department of Transportation's (VDOT's) goal setting methodology is in compliance with these requirements. In establishing the overall goal the public participation process is located in Attachment A.

In accordance with the instructions given in 49 CFR §26.45 regarding public participation in the goal-setting process, VDOT issued a public notice announcing VDOT's overall DBE goal and informed the public that the proposed goal and its rationale were available for inspection and comment during normal business hours at VDOT's principal office for 30 days following the date of the notice and that VDOT and the Federal Highway Administration (FHWA) would accept comments regarding the goal for 45 days from the date of the notice. The notice included addresses to which comments could be sent and was published in general circulation media and available minority-focused media. Notices were also sent to several persons and organizations which are directly or indirectly associated with the DBE program in Virginia. A public meeting was conducted on July 30, 2014, which was attended by several interested parties. VDOT received comments which were addressed, but did not result in any adjustments or modifications to VDOT's proposed overall DBE goal. The DBE goal was submitted to the FHWA on September 9, 2014.

Due to the October 2, 2014, amendment of 49 CFR §26.45, VDOT was requested by the FHWA to revise its DBE goal-setting methodology for federal fiscal years (FFY) 2015 - 2017. VDOT has re-examined its processes in calculating the relative availability of DBEs in its market area and has revised its overall DBE goal based upon the revised guidelines and current available data. All calculations and assumptions are included with this revision of VDOT's DBE goal-setting methodology.

Step One - Base Figure Calculations

Methodology and Data Sources

The calculations to determine the base figure are made in order to measure the relative availability of DBE firms or firms that could be certified as DBE firms to perform the types of prime and subcontract work that VDOT contracts. The methodology used determines the percentage of DBE firms that are ready, willing and able to respond to solicitations for the types of work that VDOT will be performing during the 2015 – 2017 FFY.

VDOT considered the methods recommended in the amended 49 CFR 26.45 (c) in the establishment of a base figure: the use of the DBE Directory, U.S. Census Bureau Data, Bidders Lists, Disparity Studies the Goal of Another DOT Recipient, and Alternative Methods. VDOT determined that the appropriate methodology was to use the DBE Vendor Directory of the Virginia Unified Certification Program and the U.S. Census Bureau's Economic Census Data to determine the base figure. The information utilized from the U.S. Census Bureau's Economic Census Data consisted of data for firms from Virginia, Maryland, and North Carolina, NAICS codes, and race.

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Determination of the Local Market Area

In reviewing VDOT data in Table I, Median Percentage of Dollars Expended by VDOT for DBE participation in FFYs 2012 – 2014, it was determined that expenditures with DBE firms were made in four major categories of work: construction, professional services, suppliers, and transportation of materials. Expenditures for construction work represented 64.99% of all payments to DBE firms; therefore, indicating that construction is the primary industry to determine the market area.

Table I
Median Percentage of Dollars Expended by VDOT for DBE Participation by Category
(Weighted Work Type Categories)
FFYs 2012-2014

FFY	Construction		Professional Services		Supplier		Transportation		Total All Years	
	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent	Dollars	Percent
2012	118,690,327	60.48	16,616,819	8.47	36,206,873	18.45	24,116,401	12.29	196,247,322	100.00
2013	112,601,858	66.32	20,757,659	12.23	22,796,594	13.43	13,634,934	8.03	169,791,045	100.00
2014	112,778,567	64.99	16,752,886	9.65	24,709,776	14.24	19,288,635	11.12	173,529,863	100.00
Median		64.99		9.65		14.24		11.12		100.00

The total number of construction businesses (including prime contractors and subcontractors) currently approved to perform work with VDOT is 891, of which 559 firms or 62.74% are located in Virginia, 64 firms or 7.18% are located in Maryland, and 49 or 5.50% are located in North Carolina. Therefore, VDOT concludes that its local market area is the Commonwealth of Virginia, Maryland, and North Carolina due to the contracting dollars expended for construction work and the location of the construction firms.

Calculation of the Percentage of Construction Firms with Virginia Addresses

$$\frac{559 \text{ approved construction firms with Virginia addresses}}{891 \text{ total firms approved for construction work with VDOT}} = 62.74 \% \text{ of all firms located in Virginia}$$

Calculation of the Percentage of Construction Firms with Maryland Addresses

$$\frac{64 \text{ approved construction firms with Maryland addresses}}{891 \text{ total firms approved for construction work with VDOT}} = 7.18 \% \text{ of all firms located in Maryland}$$

Calculation of the Percentage of Construction Firms with Virginia Addresses

$$\frac{49 \text{ approved construction firms with North Carolina addresses}}{891 \text{ total firms approved for construction work with VDOT}} = 5.50 \% \text{ of all firms located in North Carolina}$$

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Table II, State Weighting for the Construction Category of Work in VDOT's Market Area, represents the weighted proportion of work in the construction market area for Virginia (83.19%), Maryland (9.52%), and North Carolina (7.29%).

Table II
State Weighting for the Construction Category of Work in VDOT's Market Area

Number of Firms	Firm Location	% of Firms	State Weighting for Calculations
559	Virginia	62.74	83.19%
64	Maryland	7.18	9.52%
49	North Carolina	5.50	7.29%
672		75.42	100.00%

NAICS Codes Considerations and Weighted Calculations

In order to use the relevant industry and demographic data from the U.S. Census Bureau in the Step One Base Figure calculations, VDOT focused upon the primary NAICS codes used in its contract work. The primary NAICS codes/descriptions and the category of work types used for VDOT contracts are as follows:

Category	NAICS Code	NAICS Code Description
Construction	237310	Highway, Street and Bridge Construction
	561730	Landscaping Services
	238210	Electrical Contractors and Other Wiring Installation Contractors
	237110	Water and Sewer Line and Related Structures Construction
	238210	Site Preparation
Professional Services	541330	Engineering Services
	541370	Surveying and Mapping (except Geophysical) Services
Suppliers	423320	Brick, Stone and Related Construction Material Merchant Wholesalers
	423610	Electrical Apparatus and Equipment, Wiring Supplies and Related Equipment Merchant Wholesalers
	424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)
Materials Transportation	484220	Specialized Freight (except Used Goods) Trucking, Local

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The weighted work type categories indicated in Tables I, II, and III were used to calculate a weighted percentage for each work type category, with a resultant aggregate percentage of 15.97 for the Step One Base Figure calculation. Table III indicates the source of the data and the calculations utilized.

The percentages for the Step One Base Figure Calculation indicated in Table III are:

Construction	11.09%
Professional Services	2.29%
Suppliers	0.34%
Transportation of Materials	2.25%

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Step Two – Adjustment Calculations

In order to adjust VDOT’s Step One Base Figure to make it as precise as possible, all available evidence in VDOT’s jurisdiction was evaluated to determine whether any adjustments were necessary. Considerations included past participation, bidders’ lists, and disparity studies. It was concluded that past participation data would be utilized to accomplish the needed adjustment to the Base Figure calculation from Step One.

Past Participation Adjustment

The median of past participation for fiscal years 2008 – 2014 was determined to be 9.52%, as indicated in the following table:

**Table IV
Determining the Median Past Participation**

Fiscal Years	Federal Dollars	DBE Commitments	Percentage	Calculation of Median Value Percentage
2007 - 2008	622,919,308	50,974,163	8.18%	6.72%
2008 - 2009	514,722,164	52,002,635	10.10%	8.18%
2009 - 2010	807,409,324	66,752,846	8.27%	8.27%
2010 - 2011	1,255,758,733	146,968,001	11.70%	9.52%
2011 - 2012	978,347,107	103,572,492	10.59%	10.10%
2012 - 2013	1,018,504,942	68,445,496	6.72%	10.59%
2013 - 2014	1,190,133,805	113,273,589	9.52%	11.70%
Totals	\$6,387,795,383	\$601,989,222		9.52%

In order to utilize the median past participation figure of 9.52 percent, VDOT calculated the percentage of each of the four work categories making up the 9.52 percent, based upon Table I Median Percentage of Dollars Expended by VDOT for DBE Participation by Category (pg. 2):

Construction	64.99%	x	9.52	=	6.19%
Professional Services	9.65%	x	9.52	=	0.92%
Suppliers	14.24%	x	9.52	=	1.35%
Materials Transportation	11.12%	x	9.52	=	<u>1.06%</u>
					9.52%

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Step Two Adjustment Calculations

When averaged together, the Step One Base Figure Calculations of DBE firms ready, willing, and able to perform work for VDOT and past participation adjustments for each major category indicate an adjusted overall goal of **12.74** percent, calculated as follows:

	Total Weighted Calculations by Category (Table III)		Past Participation (Table IV)		<u>Adjusted Total</u>
Construction	(11.09%)	+	6.19%) / 2	=	8.64%
Professional Services	(2.29%)	+	0.92%) / 2	=	1.60%
Suppliers	(0.34%)	+	1.35%) / 2	=	0.85%
Materials Transportation	<u>(2.25%)</u>	+	<u>1.06%) / 2</u>	=	<u>1.65%</u>
	(15.97%)	+	9.52%) / 2	=	12.74%

CALCULATING THE RACE/GENDER-NEUTRAL AND RACE/GENDER-CONSCIOUS SPLIT

The race/gender-neutral and race/gender-conscious division of the overall goal is a vital component of the goal-setting process. VDOT intends to meet the maximum feasible portion of the overall goal by using a combination of race/gender-neutral and race/gender-conscious DBE participation. Following is the basis of VDOT’s projections of the level of achievement of race/gender-neutral and race/gender-conscious participation and the supporting data.

The percentages by which VDOT’s contractors exceeded the aggregate of the specific project goals for FFYs 2007 – 2014 goals with contract commitments along with the race/gender-conscious and race/gender-neutral values for each fiscal year are documented in Table V - VDOT Federal-Aid Contracts, FY 2007 – 2008 through FY 2013 – 2014.

The Virginia Overall DBE Goal for FFY 2015-2017 is 12.74 percent, consisting of 8.04 percent Race/gender-conscious and 4.70 percent race/gender-neutral DBE participation.

The calculations are as follows:

Virginia Overall DBE Goal for FFY 2015 – 2017		12.74%
Race/gender-neutral DBE goal	-	<u>4.70%</u>
Total race/gender conscious goal		8.04%

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Table V
VDOT FEDERAL-AID CONTRACTS
FY 2007 - 2008 THROUGH FY 2013 – 2014

FISCAL YEARS	TOTAL FHWA CONTRACT DOLLARS	DBE GOAL SET DOLLARS	DBE GOAL SET %	TOTAL COMMIT DOLLARS	TOTAL COMMIT %	R/C GOALS SET DOLLARS	R/C GOALS SET %	R/C COMMIT DOLLARS	R/C COMMIT %	R/N COMMIT DOLLARS	R/N COMMIT %
2007-2008	\$622,919,308	\$43,007,957	6.90%	\$50,974,163	8.18%	\$43,007,957	6.90%	\$43,007,957	6.90%	\$7,966,206	1.28%
2008-2009	\$514,722,164	\$27,801,154	5.40%	\$52,002,635	10.10%	\$27,801,154	5.40%	\$27,801,154	5.40%	\$24,201,481	4.70%
2009-2010	\$807,409,324	\$38,934,652	4.82%	\$66,752,846	8.27%	\$38,934,952	4.82%	\$38,934,652	4.82%	\$27,818,194	3.45%
2010-2011	\$1,255,758,733	\$82,107,808	6.54%	\$146,968,001	11.70%	\$82,107,808	6.54%	\$82,107,808	6.54%	\$64,860,193	5.17%
2011-2012	\$978,347,107	\$35,803,578	3.66%	\$103,572,492	10.59%	\$35,803,578	3.66%	\$35,803,578	3.66%	\$67,768,914	6.93%
2012-2013	\$1,018,504,942	\$37,192,840	3.65%	\$68,445,496	6.72%	\$37,192,840	3.65%	\$37,192,840	3.65%	\$31,252,656	3.07%
2013-2014	\$1,190,133,805	\$31,437,566	2.64%	\$113,273,589	9.52%	\$31,437,566	2.64%	\$31,437,566	2.64%	\$81,836,023	6.88%
TOTAL	\$6,387,795,383	\$296,285,555		\$601,989,222		\$296,285,555		\$296,285,555		\$305,703,667	
MEDIAN			4.82%		9.52%		4.82%		4.82%		4.70%

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ATTACHMENT A

Public Participation in the DBE Overall Goal Setting Methodology

Public Notice VDOT Virginia Department of Transportation

The Virginia Department of Transportation has established an overall goal of 10.53% for the participation of Disadvantaged Business Enterprises (DBEs) in contracting opportunities during the Federal Fiscal Year beginning October 1, 2014 and ending September 30, 2017 pursuant to 49 CFR, Part 26.

You are invited to join representatives from the Construction industry, DBEs, and VDOT on Wednesday, July 30, 2014 at 10:00 a.m. in Conference Room 3 of the Old Highway Building, 1221 East Broad Street, Richmond, Virginia 23219 to discuss the methodology and the proposed overall DBE goal. If you cannot attend, please review the draft copy of the Virginia DBE Goal Setting Methodology for Fiscal Years 2015-2017 at http://www.vdot.virginia.gov/business/resources/Civil_Rights/VIRGINIA_DBE_GOAL-SETTING_METHODOLOGY_2015-2017draft.pdf.

Documentation regarding the development of this goal is also available for inspection Monday through Friday from 8:30 a.m. to 5:00 p.m., until August 19, 2014 at the following address:

G. Craig Wingfield
Virginia Department of Transportation
Civil Rights Division
1401 East Broad Street
Richmond, Virginia 23219
gc.wingfield@VDOT.Virginia.gov

Written comments regarding the goal will be received until September 3, 2014 at the address above.

VDOT ensures nondiscrimination and equal employment in all programs and activities in accordance with Title VI and Title VII of the Civil Rights Act of 1964. If you need more information or special assistance for persons with disabilities or limited English proficiency, contact VDOT's Civil Rights Division.

The Public Notice was published in the classified section as a legal classified advertisement in the July 20, 2014 editions of the following general circulation media and available minority-focused media:

- Washington Post
- Richmond Times-Dispatch
- Roanoke Times

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- Virginian-Pilot/Ledger Star
- Richmond Free Press

The following letter was also sent to organizations directly involved with the DBE program:

The Virginia Department of Transportation (VDOT) is preparing the Overall Disadvantaged Business Enterprise (DBE) goal for Fiscal Years 2015-2017. It can be located on VDOT's web site:

http://www.virginiadot.org/business/resources/CivilRights/VIRGINIA_DBE_GOAL_SETTING_METHODODOLOGY_2015-2017draft.pdf.

You are invited to join representatives from the Construction industry, DBEs, and VDOT on Wednesday, July 30, 2014 at 10:00 a.m. in Conference Room 3 of the Old Highway Building, 1221 East Broad Street, Richmond, Virginia 23219 to discuss the methodology and the proposed overall DBE goal. If you cannot attend, please review the draft copy of the Virginia DBE Goal Setting Methodology For Fiscal Years 2015-2017 and submit your written comments no later than September 3, 2014 to:

G. Craig Wingfield
Virginia Department of Transportation
Civil Rights Division
1401 East Broad Street
Richmond, Virginia 23219
gc.wingfield@VDOT.Virginia.gov
(804)786-4174

VDOT ensures nondiscrimination and equal employment in all programs and activities in accordance with Title VI and Title VII of the Civil Rights Act of 1964. If you need more information or special assistance for persons with disabilities or limited English proficiency, contact VDOT's Civil Rights Division.

We appreciate your participation and comments.

Sincerely,

Shay Ponquinette
Assistant Division Administrator
Civil Rights Division

Enclosure: Draft of Overall Virginia DBE Goal Setting Methodology for Fiscal Years 2015-2017.

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The letter was sent to:

Central Va. Business & Construction Association
Ms. Carmen Taylor, President, NAACP-VA State Conference
Ms. My Lan Tran, Executive Director, Asian American Business Center
Mr. Mohamed Dumbuya, FHWA Virginia Civil Rights Program Manager
Mr. Kim Scheeler, President, Greater Richmond Chamber of Commerce
Mr. Prescott Sherrod, President, Transportation DBE Advisory Committee
Mr. Oliver Singleton, President, Metropolitan Business League
Mr. Daniel Clymore, President, Virginia Transportation Construction Alliance
Mr. Michel Zajur, President and CEO, Hispanic Chamber of Commerce
Mr. Kent Ruffin, Publisher, Soul of Virginia
Ms. Diane Dempsey, Chairman Virginia Minority Supplier Development Council
Mrs. Ida McPherson, Director, DMBE
Ms. Virginia Epperly, President, Women in Transportation-Central VA Chapter
Ms. Irene Rico, FHWA Virginia Division Administrator

The letter was also e-mailed to several stakeholders.

VDOT received comments which were addressed, but did not result in any adjustments or modifications to VDOT's proposed overall DBE goal.

In summary, the comments received included:

- “we believe that a number of influential factors of potentially significant impact are not being adequately considered through the current goal setting methodology used by the Department. The Department must consider the impact of the significant increase in transportation funding and the growing use of procurement methods such as Public Private Agreements.
 1. The effects of a financially larger program due to recent historic legislative funding of the transportation program is not considered by the methodology. The proposed methodology's use of prior annual participation to determine future availability erroneously assumes an increase in the pool of available DBE contractors comparable to the program's growth. It is unlikely that any portion of the industry, including those that qualify as DBEs, has increased in availability comparable to the significant increase in funding.
 2. Because a large portion of Virginia's transportation needs are in Northern Virginia and Hampton Roads, Mega-Projects are often concentrated in these areas. Historically many mega-projects have required participation goals of 40% of the total contract value imposing significant demands on the local contracting community. The current goal setting methodology does not take into consideration the effect of these large projects on the DBE contracting community further contributing to potential inaccuracies in the calculated goal.
 3. Virginia has added new players in the Northern Virginia and Hampton Roads areas with the establishment of the regional transportation authorities. These authorities have begun programming projects in the same areas that have other mega-projects underway adding additional burden on the existing pool of available contractors. The methodology employed to determine the annual goal does not take into consideration the effect of these large projects on the DBE contracting community further contributing to potential inaccuracies in the calculated goal.

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4. The DBE Goal Setting Methodology does not include a mechanism that accurately assesses the availability of ready, willing and able Disadvantaged Businesses. This assessment is key to determining an accurate statewide DBE goal. The absence of a mechanism that accurately determines the availability and potential for the DBE community calls into question the accuracy of the goal setting methodology.”

After reviewing the comments received, VDOT confirmed that changes in the methodology for establishing the overall DBE goal for FY 2015-2017 were not required. VDOT presently utilizes not only historic funding, but also proposed funding for the period, e.g., FY 2015-2017, which is not growing, but in fact decreasing. In addition, the pool of available DBEs shows an indication of growth. Also, DBE participation goals are never established at 40% of the total contract value, which, as alleged, would impose significant demands on the local contracting industry. The DBE goals are established realistically, also keeping in mind regional Mega-Projects and other factors in order to prevent such occurrences. The DBE Goal Setting Methodology includes a mechanism that accurately assesses the availability of ready, willing, and able Disadvantaged Businesses, which is the key to determining an accurate statewide DBE goal. VDOT requires all contractors to be prequalified in order to do highway construction work. By becoming prequalified, a contractor is recognized as being ready, willing, and able to perform work on VDOT contracts.