



GOBIERNO DE PUERTO RICO

Departamento de Transportación y Obras Públicas  
Autoridad Metropolitana de Autobuses

October 18, 2019

Mrs. Doretha Foster,  
Regional Civil Rights Officer  
Federal Transit Administration  
230 Peachtree Street  
NW Suite 1400  
Atlanta, GA 30303

Dear Mrs. Foster:

Enclosed please find the Metropolitan Bus Authority Yearly overall amended goal for the Disadvantaged Business Enterprise Program. The overall projected estimates of contract work to be awarded to DBE's for fiscal years 2018, 2019 and 2020 are as follows:

	<u>DBE</u>
Metropolitan Bus Authority	5.88%

Enclosed is the methodology used to keep our overall goal for FY 2018, 2019 and 2020. Do not hesitate to contact us for any additional information about the Disadvantaged Business Enterprise Program.

Cordially yours,

**Mr. Alexies Y. Rosario**  
**Acting DBE LIASON OFFICER**

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## **Overall Goal for Puerto Rico Metropolitan Bus Authority (PRMBA) FFY - 2018, 2019 and 2020**

The Puerto Rico Metropolitan Bus Authority (PRMBA) (Grantee ID # 1884) Disadvantaged Business Enterprise (DBE) Program, prepared the report submission to the Federal Transit Authority (FTA) to describe the methodology used to establish the transit DBE goal, as mandated by regulation 49 CFR Part 26, for its federally assisted contracts. The FTA requires that any recipient of more than \$250,000 annually in FTA funds must establish a DBE goal that includes those related to PRMBA services (Fixed Route, Paratransit and Professional Services) for the development of our overall goal for Contracts and Federal Fiscal Year. The FTA recently shifted its requirement from an annual calculation of the DBE goal to a calculation every three years. After reviewing the calculating process, we clarify that the overall goal is 5.88%, using the methodology described in 49 CFR Part 26.

### **Methodology**

The process for the establishment of the PRMBA – FTA goals, required that it began with a base figure grounded on demonstrable evidence of the relative availability of DBE's ready and willing, related to businesses also ready, willing and able to participate in USDOT-assisted contracts. The participation of these firms must reflect the expected level of DBE involvement, absent of the effect of discrimination. The PRMBA has chosen the bidders list as methodology to calculate its overall DBE annual goal that determines the relative availability of DBEs and firms that were ready, willing and able to participate in USDOT-assisted contracts.

The market area analyzed for the report includes the Puerto Rico Metropolitan Areas and the adjacent Municipalities, which conform Bayamon, Carolina, Cataño, Guaynabo, Loiza, Toa Baja and San Juan. No real boundaries exist that would impede availability of contracting for willing, ready and able DBE firms to participate in federal funded projects, as ground, air and maritime transportation is adequate in the Island.

The analysis includes firms that had expressed an interest in participating in contracting service opportunities created by USDOT financial assistance programs, or that had marketed, solicited and /or received contract or subcontract awards and purchases orders with a total value above \$250,000. In the calculation performed, all contracting opportunities have been included, as well as the ones related to Purchase Orders (PO's) Services. The participation of DBEs is verified with the DBE Directory, in order to confirm certification and qualification, based on the type of work in contracting opportunities. Also reviewed, are the records for the FFY 2015-2017 PO's, procurements and all services in order to reassess the overall base figure of the relative availability of ready, willing and able DBEs within the PRMBA market.

### **Step One: Calculating Base Figure**

The Metropolitan Bus Authority (MBA) has selected the bidders' list methodology to calculate its overall DBE annual goal. An analysis of the MBA's federally assisted contracts records for FFY 2015, 2016 and 2017 was made. This analysis includes firms that have expressed an interest in participating, marketed, solicited and/or received contract awards/purchase orders, utilized in establishing the MBA's Overall Annual DBE participation goal of 5.88%. Records for the MBA projects and/or procurements during federal fiscal year 2015, 2016 and 2017 were compiled and analyzed in order to reassess the overall base figure of the relative availability of ready, willing and able DBEs within the MBA market.

The findings for all transportation projects related and professional services firms revealed that there are a total of two (2) ready, willing and able DBEs out of a total of thirty four (34) firms (non-DBE or not certified) which have bid or quoted on DOT assisted contracts. Only DBEs that are currently certified with the PRMBA were counted as available DBEs. Therefore, the total number of DBE and all participating firms that have expressed an interest in participating, marketed, solicited and/or received contract awards/purchase orders above the small purchase threshold for FFY 2015, 2016 and 2017 on USDOT assisted contracts and subcontracts is thirty four (34). We have divided the number of DBE bidders by the number of all businesses relative to our overall bid tabulation of transportations-related and professional service firms to derive a base figure for the relative availability of Ready, Willing and Able DBEs of 5.88% Actual.

$$2 / 34 = 0.0588$$

$$(0.0588) \times (100) = 5.88\%$$

**Table 1 : NAICS Codes and Funding Table for Informed participation of available and willing firms, on FTA projects involving professional services, vendors/suppliers during FFY 2015, 2016 and 2017:**

<b>NAICS CODE</b>	<b>PROYECT TYPE</b>	<b>FUNDING</b>	<b>DBE</b>	<b>ALL FIRMS</b>
<b>22131</b>	Administrative Facilities Rehab and Renovation (San Francisco Building)	\$320,104	0	5
<b>23815</b>	Administrative Facilities Rehab and Renovation (San Francisco Building)	\$656,825	0	3
<b>23834</b>	Administrative Facilities Rehab and Renovation (San Francisco Building)	\$89,354	0	5
<b>335312</b>	Administrative Facilities Rehab and Renovation (San Francisco Building)	\$453,110	0	4
<b>23799</b>	Bus Terminal Rehab, Renovation and New Signage	\$133,000	0	1
<b>42383</b>	Maintenance Workshop Facilities Remodeling	\$2,738,355	0	7
<b>42361</b>	Maintenance Workshop Facilities Remodeling	\$94,000	1	5
<b>51821</b>	Hardware and Software Upgrades	\$3,990,720	0	2
<b>326212</b>	Tire Retreading	\$250,025	1	2
	<b>Total</b>	<b>\$8,725,493</b>	<b>2</b>	<b>34</b>

The information was provided by the PRMBA General Services Office and consisted of reports on the participation of bids/quotes for project contracts by DBE and non-DBE firms. All information presented of DBE and Non DBE firms willing, able and ready to participate in DOT federal assisted projects, was thorough fully analyzed and compared to the information at hand in the bidders list and the DBE Directory. Also all NAICS Codes were obtained through the United State Census Bureau Web Page.

**Step Two: Adjustment of the Base Figure**

For the analysis performed to determine adjustment to the base figure with past participation/performance, information was required and obtained from files of contracts awarded 2015-2017, the bidders list, and information offered by the PRMBA General Services Office related to awarded contracts on federal assisted projects of the said years, on the participation of DBEs and non-DBEs that bid or quote on project contracts. The federal financially assisted projects distributed were in accordance to the STIP (State Transportation Improvement Plan) approved at that moment, which outlines projects for the next five years in the local market.

In evaluating the performance of the PRMBA FTA DBE Program, an analysis of actual goals attained was made from fiscal year 2015 through 2017. DBE overall goal participation shown for the past three year FY 2015-2017 (Table 2), to determine past median participation

**Table 2:** Analysis of overall goal participation Fiscal Years 2015, 2016 and 2017

FFY	Base Figure Projected	Percentage Achieved
2015	6%	3.6%
2016	6%	1.4%
2017	6%	5.9%

When establishing the median to obtain the adjusted goal (based on actual goals attained), the past median was set as 3.6%.

In the analysis to determine the median in able to perform the adequate calculation towards obtaining our goal, considerations taken in Step 2 were comprised of information obtained through contract copies in filed records, information rendered by the PRMBA General Services Office which was verified considering the utilization of ready, willing and able firms in the DBE Directory. As no other relevant information was reported, the procedure to establish the goal with the past participation was completed without any other consideration.

For Federal Fiscal Years 2015, 2016 and 2017 DBE FTA contractors performed a past median participation of 3.6% of the federal-aid contracting work through race-neutral means. This average was obtained by adding together the Step One Base Line Goal percentage (5.88%) and the median participation percentage (3.6%) divided by 2 to obtain an adjustment of 4.74% for the Step One Base Figure past participation.  $((5.88 + 3.6) = 9.48 / 2 = 4.74\%$  Adjusted Goal past participation). There is no evidence of discrimination, but rather there is evidence of good faith efforts by the contractors.

In accordance with 49 CFR Part 26, we examined the evidence to determine if the adjustment was needed, but we must point out, through the calculation performed, then as well as to this date, that there was no need to narrowly tailor the goal in order to obtain an adjusted goal. Considering the information obtained and analyzed, a significant part of the percentage, was due to the participation of DBE vendors and suppliers that were awarded PO's and invoices, which greatly contributed to the annual goal setting, through race neutral means. As result of all available evidence considered, the percentage established as the overall goal for the FFY 2018-2020, is 5.88%, which is a reasonable and attainable goal, based on the projections of FTA projects at the moment.

This year, the PRMBA continues with five (5) major projects: 1) Acquisition of buses for expansion of fleet, 2) Rehab and renovate of administrative facilities, 3) Bus Terminals rehab, renovation and new signage, 4) Remodeling of the maintenance workshop facility, and 5) Upgrade of the hardware and software of our Programing Area. These capital projects will hopefully increase the level of subcontracting opportunities for DBEs. Therefore, the PRMBA will establish an overall annual DBE goal of 5.88% participation for FFY 2018, 2019 and 2020. PRMBA's has reviewed its current capacity of DBEs to perform work on future MBA assisted contracts and measured by the volume of work DBEs have performed in recent years, as well as the declining numbers of certification applicants resulting from new rule changes and recent economical unexpected events will concluded that this percentage is adequate.

### **Race/Gender-Neutral and Race/Gender-Conscious Goal Split**

Based on the achievements of the last three Federal Fiscal Years, the overall goal achieved of 5.88%, has been through race/gender-neutral means due basically, to the fact of Puerto Rico's unique situation, being mainly Hispanic (as per the US 2010 Census, 98.9% of the population is Hispanic). Based on this information, verified with information obtained from our DBE Directory files, almost all bidders participating the bidding, contracting, PO's and invoices processes by the PRMBA, are considered minority business enterprises. The PRMBA will continue its policy of 100% race/gender-neutral methodology in the attainment of its overall goal, at present of 5.88% for FFY 2018, 2019 and 2020. Race/gender-neutral contracting and subcontracting opportunities for the participation of DBEs, has accomplished the expectancy in the achievement of the overall annual goal, so we will continue using it unless our overall goal is not met.

### **Contract Goals**

In meeting our overall goal of five point eighty eight (5.88%), we will attempt to obtain 100% DBE participation from race-neutral participation and 0% through race-conscious measures. However, if after implementing race neutral contracting measures the PRMBA determines that DBE utilization have fall substantially below the overall 5.88% goal, then the PRMBA shall implement race conscious measures to meet the overall goal including in its contracts/proposal, purchase orders/invoices, a defined and or established percentage participation for DBE firms. Since the principal race conscious tool available for recipients is setting individual contract goals, the PRMBA will adjust the estimated breakout of race-neutral participation as needed to reflect actual DBE participation in accordance with 49 CFR Part 26.51 (f).

Procedures to implement other corrective action deemed appropriate to remedial extreme instances of discrimination should be established, as permitted by law. If the PRMBA has reason to believe it will not meet its overall annual goal, contract specific goals may be established. For reporting purposes race-neutral DBE participation includes, but is not necessarily limited to the following:

- DBE participation through a prime contract that 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 any contract goals, if implemented;
- and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

That said, we must reiterate on the fact that the annual goal shall be a performance standard for measuring progress toward the achievement of the anticipated level of DBE participation.

### **Public Participation**

The PRMBA published the amended overall goal for FFY 2018, 2019 and 2020 through its website, social media and via email to the private entities. It is also available for inspection digitally in our website, as well as physically in our External Resources Office in PRMBA, for inspection and clarification.

The PRMBA in coordination with PRHTA will participate of some promotional activities, like the Small Business Administration's Matchmaking events at the Puerto Rico Engineers and Surveyors College in the future, where various Federal Procurement Offices may attend. These activities are designed with the thought to offer the prospect for small businesses as well as DBE's and general public, to meet with representatives for federal and local state contracting opportunities. The PRHTA and PRMBA DBE Program personnel will also participated of workshops with SMDBC-DOT in Puerto Rico, to promote the program and explain the certification process, the public policy concerning the overall goal, and encourage contractors to be certified.

As per the publication of our DBE amended overall goal for FFY 2018, 2019 and 2020, it was duly published in the Primera Hora local newspaper on June 18, 2018, in which we also offered the opportunity to comment by the USPS or in person in our physical offices. No comments were received that time. Since the goal has been amended and once it is final and uploaded in PRMBA web page comments will be received through digital or regular mail, as well as in person if they should choose that option.

At the moment, the PRMBA examined all information and evidence available in its jurisdiction and determined that no further adjustment was needed.

Our FFY 2018, 2019 and 2020 amended Overall DBE Goal can be found On-Line at this link:

<https://www.dtop.pr.gov/ama-dbe/>