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December 16, 2024

Ms. Theresa “Terry” Garcia Crews
Regional Administrator
United States Department of Transportation
Federal Transit Administration – Region III
1835 Market Street, Suite 1910
Philadelphia PA 19103
Email: FTACivilRightsSupport@dot.gov

RE: Federal Fiscal Years (FFYs) 2025-2027 Overall DBE Methodology for MDOT 1403
Maryland Department of Transportation (MDOT) Office of Planning, Programming, and
Project Delivery (OPPPD)

Dear Ms. Crews:

Pursuant to 49 C.F.R., Part 26, this letter serves to transmit the Maryland Department of Transportation (MDOT) Office of Planning, Programming, and Project Delivery (OPPPD) Disadvantaged Business Enterprise (DBE) Overall Goal Methodology for FFYs 2025-2027. The methodology has been modified to adjust the baseline availability figure to approximate the amount of DBE availability that would be expected in a race-neutral market. The Developing Base Figure Worksheet, Table Step 1B has been updated for Column D for the number of DBE firms available; however, Column E remains the same as our previous submission in 2022. We are currently updating our Disparity Study and will have new DBE data for our next submission. As such, MDOT hereby requests approval of the following DEB participation goals which include the following race conscious and race neutral components:

Race-conscious	Race-neutral	Total
6.3%	22.1 %	28.4%

Ms. Theresa "Terry" Garcia Crews
Page Two

Please contact Ms. Michelle D. Martin, Director, Office of Planning, MDOT OPPPD at mmartin@mdot.maryland.gov or 410-865-1285 or Kim Y. Johnson, MDOT Chief Equity Officer, at kjohnson22@mdot.maryland.gov or 410-865-1175 if you have any questions.

Sincerely,



Michelle D. Martin
Director, Office of Planning, OPPPD, MDOT

Kim Y. Johnson

Kim Y. Johnson
Chief Equity Officer, MDOT

cc: Ms. Kim Y. Johnson, Chief Equity Officer, MDOT
Ms. Michelle D. Martin, Director, Office of Planning, OPPPD, MDOT

Ms. Theresa “Terry” Garcia Crews
Page Three

bcc: Mr. Geoff Anderson, Chief, Office of Planning, Programming, and Project Delivery
(OPPPD), Maryland Department of Transportation (MDOT)
Mr. Tony Bridges, Assistant Secretary for Transportation Equity and Engagement,
MDOT
Mr. Joe McAndrew, Assistant Secretary for Project Development and Delivery, MDOT

**MARYLAND DEPARTMENT OF
TRANSPORTATION**

**Offices of Planning, Programming and
Project Delivery &
Disadvantaged Business Enterprise**

**Overall Goal Methodology
Federal Fiscal Years 2025 through 2027**

December 2024

The Maryland Department of Transportation (MDOT) – Office of Planning, Programming and Project Delivery (“MDOT-Planning”) determined the Disadvantaged Business Enterprise (“DBE”) participation goals for Federal Fiscal Years (“FFY”) 2025, 2026, and 2027 in accordance with the procedures specified in 49 C.F.R. §26.45 for the MDOT Transportation Secretary's Office (TSO). Separate goals are also determined for each of MDOT’s United States Department of Transportation (“USDOT”) assisted transportation modal agencies: the Maryland Transit Administration (“MTA”), State Highway Administration (“SHA”) and the Maryland Aviation Administration (“MAA”). MDOT-Planning DBE Goals are presented below in Table 1.

Table 1. FFYs 2025-2027 DBE Participation Goals

Race-conscious	Race-neutral	Total
6.3%	22.1 %	28.4%

STEP 1: DETERMINE BASELINE AVAILABILITY

The methods described herein conform to both 49 C.F.R. §26.45(c)(3) and USDOT’s guidance entitled “Tips for Goal-Setting in the DBE Program” (hereinafter Tips). This Methodology is also consistent with a supplemental training presentation on goal-setting that is posted on FTA’s website at <https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/dbe-training>.

As further described below, in Step 1 of the goal-setting process, MDOT-Planning determined the baseline availability in accordance with 49 C.F.R. § 26.45(c)(3) using data derived from the 2018 *Disadvantaged Business Enterprise Disparity Study* (NERA 2018 DBE Study), which examined USDOT-assisted transportation projects administered by the MTA, SHA, and MAA. The NERA 2018 DBE Study is a continuation of a statewide disparity study, *Business Disparities in the Maryland Market Area* (NERA 2017 Statewide Study), which addressed all areas of State contracting and is relevant to Step 2 of the federal goal-setting methodology. These are the most recent studies of State and USDOT-assisted contracting available for Maryland.¹

As part of the Step 1 analysis, MDOT-Planning collected and analyzed the dollars associated with projects performed by the Unified Planning Work Programs (“UPWPs”) of each of the Metropolitan Planning Organizations (MPOs) over the past 5 years to project the FTA-funded contracts the MPOs will let for FFYs 2025 through 2027. (Attachment 1 - NAICS Code 5 Year Budget Data). To determine the opportunities for DBE participation, MDOT excluded the activities or dollars used for in-house staff salaries and only the dollars for procurement activity were analyzed for the purposes of goal setting. Based on the descriptions of work, the procurement activity was assigned NAICS codes, and then the corresponding availability in Maryland’s marketplace was determined using the NERA 2018 DBE Study.²

¹ Both of Maryland’s Disparity Studies were performed by NERA Economic Consulting (“NERA”) and can be found at this weblink <https://www.mdot.maryland.gov/tso/pages/index.aspx?pageid=95>. Hard copies can also be provided upon request.

² MDOT’s Directory of Certified Firms was used to determine the number of firms certified in each NAICS Code projected to be used in FFYs 2022-2024.

Relevant Geographic Market - The NERA 2018 DBE Study was also used to determine the relevant geographic market area as the State of Maryland, the State of Delaware, the District of Columbia, and the Virginia and West Virginia portions of the Washington-Arlington-Alexandria, DC-VA-MD-WV Metropolitan Statistical Area. The study analyzed contract and subcontract data to determine the appropriate geographic radius around MDOT that accounts for approximately 75 percent of aggregate contract and subcontract spending.

MDOT then utilized FTA's Weighted Base Figure worksheet to calculate the Step 1 baseline availability. The decision to use FTA's Worksheet for the Baseline Availability Figure was made after careful consideration of the types of work expected to be performed by the MPOs for the next 3 years, the types of work previously performed by MPOs, and the types of work, as documented in the NERA 2018 Study, that were previously performed by MTA. Notably, MDOT-Planning determined that there were only 6 relevant NAICS Codes and the *services market data* was the most analogous to the type of work to be performed. Therefore, MDOT-Planning concluded that the projected procurement activities for the MPOs is only a small subset of the procurement activities covered by the NERA 2018 Study.

Utilizing FTA's Worksheet, MDOT-Planning calculated a baseline availability figure of 28.9%. (Attachment 2 – FTA Developing Base Figure Worksheet).

STEP 2: ADJUSTMENT METHODOLOGY FOR DBE GOALS

In Step 2 of the goal-setting process, MDOT considered, in accordance with 49 C.F.R. § 26.45(d), whether an adjustment of the baseline availability figure was needed to approximate the amount of DBE availability that would be expected in a race-neutral market. Pursuant to 49 C.F.R. §26.45(d), the relevant factors considered for Step 2 include:

- the current capacity of DBEs to perform work in MDOT's DBE Program, as measured by past performance,
- evidence from disparity studies conducted in this jurisdiction, and
- available evidence from related fields that affect the opportunities for DBEs to form, grow, and compete.

After careful consideration of all available evidence and the underlying legal principles, MDOT-Planning determined there was a need to adjust the Step 1 baseline availability figure to ensure that the overall aspirational goal would remedy discrimination, limit the burden on non-program participants, and reflect the anticipated contracting over the next three years.

Past Participation. As shown below in Table 2, the Step 1 baseline availability figure of 28.9% is higher than the median DBE participation level of 27.8% achieved between 2019 and 2023.

Despite ample statistical evidence that might support a goal of 28.9% or perhaps even higher, MDOT also seeks to ensure that the DBE program is very narrowly tailored so that it strictly limits the burden on non-program participants. Averaging MDOT's Step 1 figure of 28.9% with the median past participation of 27.8 percent results in 28.35%, or 28.4%.

Table 2. DBE Participation in Previous Years.

<i>Federal Fiscal Year</i>	<i>DBE Participation</i>
2019	22.6 %
2020	27.8 %
2021	38.5 %
2022	21.2 %
2023	30.5 %
FFY 19-23 Median Participation	27.8 %

Therefore, a Step 2 adjustment will be made, and the final FFY 2025 through 2027 overall DBE goal for MDOT-Planning is 28.4 %.

Estimate of Race-Neutral Participation. MDOT will meet the maximum feasible portion of its overall aspirational goal through these race-neutral measures. To estimate the portions of the goal to be met through race-neutral and race-conscious measures, MDOT-Planning’s past race-neutral DBE participation, shown in Table 3 was evaluated. MDOT-Planning’s median race-neutral utilization of DBEs between FFY 2019 and FFY 2023 was 22.1%. As such, MDOT-Planning is proposing a race neutral goal of 22.1% for FFY 2025 through 2027.

Table 3. Race Neutral DBE Utilization FFYs 2019-2023

<i>Federal Fiscal Year</i>	<i>Race Neutral DBE Participation</i>
2019	22.1 %
2020	24.1 %
2021	38.6 %
2022	17.1 %
2023	21.9 %
FFY 19-23 Median Race-Neutral Participation	22.1 %

The difference between the race-neutral percentage and the Step 2 availability is the race conscious component of the DBE goal. The breakdown of race-conscious and race-neutral DBE goals appears below in Table 4.

Table 4. FFY 2025-2027 Race-conscious and race neutral goals.

Race-conscious	Race-neutral	Total
6.3%	22.1 %	28.4%

PUBLIC PARTICIPATION

With respect to the public consultation requirements of 49 C.F.R. § 26.45(g)(1), MDOT conducted a 2024 electronic survey and public consultation meetings regarding the DBE program that gave interested parties an opportunity to provide feedback on several areas including:

- DBE/non-DBE availability in the local market;
- Effects of discrimination on opportunities for DBEs; and
- Suggestions regarding information that should be considered when setting overall goals.

The Survey. The MDOT Public Consultation Survey Regarding Disadvantaged Business Enterprise Goals for Federal Fiscal Years 2025-2027, was posted on the MDOT website and notice emailed to over 7,000 stakeholders. (Attachment 3 - Webpage Post of Survey). These stakeholders included local professional organizations, advocacy groups, and individual business owners expected to have information concerning the availability of disadvantaged and non-disadvantaged firms, the effects of discrimination on contracting opportunities, MDOT's efforts to address discrimination against DBEs, and any other factors that should be considered when establishing MDOT's DBE goal. Notice of the survey, along with its corresponding web link, was also posted on MDOT's Small & Minority Business website on May 8, 2024.

MDOT received 233 Survey responses from 32 non-DBE and 201 DBE certified firms. These respondents included firms that have reportedly been in business from as little as one (1) year to as much as fifty-two (52) years. The firms identified themselves as belonging to various procurement areas and industries including building construction, heavy construction, construction related services, trade or subcontractors, A&E services, commodities, information technology, maintenance services, and other miscellaneous services.

The Survey asked whether respondents had ever been treated less favorably due to race, ethnicity and/or gender while participating or attempting to participate in business dealings within the Maryland marketplace and if so, in which types of business dealings. Twenty-nine of the responding DBE certified firms indicated that they had experienced discrimination in the following contexts: (i) while working or attempting to work on public and private sector contracts as primes and subcontractors, (ii) while applying for commercial loans, surety bonds, or commercial/professional insurance, (iii) in obtaining price quotes from suppliers or subcontractors, (iv) with respect to receiving timely payment for work performed, (v) as part of their functioning on the work site, and/or (vi) in being required to perform inappropriate/extra work or meet quality/performance standards not required of others.

The Survey also asked the respondents to identify factors (from a list of ten) that negatively impacted their ability to do business in the Maryland marketplace. Based on the responses, every factor in the list had negatively impacted non-DBE and DBE firms. However, DBE firms reported negative impacts more frequently than non-DBE firms. In most instances, less than 7 non-DBE firms identified the factor as having a negative impact on the firm's ability to do business in the Maryland marketplace. With respect to the remaining factors, less than 11 non-DBE firms identified the factor as having a negative impact – obtaining working capital (10 firms), cost of bidding or proposing (7 firms), project size/project too large (7 firms), late notices of bid or proposal deadlines (7 firms), bonding requirements (6 firms), previous experience requirements (6 firms), insurance requirements (5 firms), price of supplies or materials (3 firms), prior dealings with a prime contractor's owners or management (3 firms), and project size/project too small (2 firms). In contrast, every factor in the list had negatively impacted at least fourteen (14) DBE respondents, with thirty (30) or more firms identifying the following eight factors – previous experience requirements (65 firms), project size/project too large (58 firms), late notices of bid or proposal deadlines (52 firms), obtaining working capital (48 firms), bonding requirements (37 firms), insurance requirements (36 firms), cost of bidding or proposing (33 firms), and prior dealings with a prime contractor's owners or management (32 firms).

With respect to the impact of DBE contract goals, most respondents indicated that they do not solicit minority- or women-owned businesses if there is no DBE goal. This supports reports from the overwhelming majority of DBE firms that indicate that they do not receive requests for quotes on contracts where there is no goal. For example, only 39 DBE firms, or 19.4% of responding DBEs report being asked to participate on an MDOT contract that did NOT have a DBE goal. Additionally, 171 prime contractors responded that they have never solicited a minority- or woman- owned business to work as a subcontractor on a MDOT contract that did NOT have DBE goals.

The Public Outreach Sessions. On June 3 and 5, 2024, MDOT hosted four virtual *Public Consultation Sessions* using GoTo Webinar. Invitations for the sessions were posted on the MDOT website and emailed to over 7,000 DBE Program stakeholders consisting of minority and non-minority individuals, trade associations, and advocacy organizations identified as possessing potential insight in the DBE Program and goal.

Pursuant to 49 C.F.R. § 26.45(g)(ii), MDOT published a notice announcing the proposed overall goal before submitting to the Federal Transit Administration. The notice was posted on MDOT's official website (<https://www.mdot.maryland.gov/tso/pages/index.aspx?pageid=90>). If the proposed goal changes following review by FTA, the revised goal will also be posted on MDOT's website.

LIST OF ATTACHMENTS

Attachment 1 - NAICS Code 5 Year Budget Data

Attachment 2 – FTA Developing Base Figure Worksheet

Attachment 3 - Webpage Post of Survey

NAICS codes by MPO total budget

		Values						
NAICS CODE	NAICS CODE Description	Sum of BRTB TOTAL	Sum of CSMMPPO TOTAL	Sum of HEPMPPO TOTAL	Sum of TPB TOTAL	Sum of S/WMPPO TOTAL	Sum of WILMAPCO TOTAL	Sum of GRAND TOTAL
541320	Landscape Architectural Services	\$ -	\$ -	\$ 55,290	\$ -	\$ 25,000	\$ -	\$ 80,290
541330	Engineering Services	\$ 4,933,893	\$ 231,703	\$ 418,174	\$ 8,819,400	\$ 403,750	\$ 108,514	\$ 14,915,434
541340	Drafting Services	\$ -	\$ -	\$ 8,453	\$ -	\$ 35,000	\$ -	\$ 43,453
541511	Custom Computer Programming Services (Web Page Design Services)	\$ -	\$ -	\$ 7,200	\$ -	\$ -	\$ -	\$ 7,200
541820	Public Relations Agencies	\$ 225,310	\$ -	\$ -	\$ 270,000	\$ 12,500	\$ 1,152	\$ 508,962
541910	Marketing Research and Public Opinion Polling	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,510	\$ 1,510
541611	Management Consulting Services	\$ -	\$ 125,413	\$ 170,935	\$ 439,000	\$ 163,000	\$ 72,669	\$ 971,017
		\$ 5,159,203	\$ 357,115	\$ 660,052	\$ 9,528,400	\$ 639,250	\$ 183,846	\$ 16,527,866

***To determine the expected total 3 year spend for each NAICS Code, the average yearly spend for each NAICS was multiplied by three.**

Weighted Base Figure Worksheet Instructions

1. This worksheet automatically calculates a weighted base figure to use in DBE goal setting on the final page. This worksheet is intended to be used as a tool to help with developing the Step 1 base figure, as described in 49 CFR part 26.45(c). It is not a substitute for the regulations. Detailed instructions on the goal-setting process can be found online at eCFR.gov and the USDOT's Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program.
2. In order to fill out the tables on this worksheet, you will need the following information:
 - FTA-funded contracting opportunities for the upcoming 3 years. In the narrative description of the methodology, describe the projects, identify the prime- and sub-contracting opportunities and estimated amounts, and break them down into NAICS codes for entry into the table for Step 1 A.
 - Identify the number of DBEs available, and identify the number of all firms available to perform work. In your narrative, include a description of the data you used and how you determined it was the most relevant data available. Enter the numbers into the table for Step 1 B. You may rely on the State-wide DBE Directory and U.S. Census Bureau Business Pattern Data, use a bidder's list, or use other information available to you.
4. Don't forget - once you have calculated a base figure, you must examine all available evidence to determine if an adjustment to the base figure is needed before you arrive at your overall goal. Please refer to 49 CFR 26.45(d) and the Tips for Goal Setting for more information about making adjustments to your goal. Please include a description of all evidence considered and a description of any adjustments made in your narrative description. Any worksheets used to develop Step 2 adjustments should be included in your final goal submission to FTA.

Step 1 A - Determine the weight of each type of work by NAICS Code:

All reasonably anticipated FTA-assisted contracting opportunities are identified as:

	NAICS Code	Description of Work	Amount of DOT funds on project:	% of total DOT funds (weight)
1)	541320	Landscape Architect. Services	\$80,290.00	0.0049
2)	541330	Engineering Services	\$14,915,434.00	0.9025
3)	541340	Drafting Services	\$43,453.00	0.0026
4)	541511	Custom Computer Programming	\$7,200.00	0.0004
5)	541820	Public Relations Agency	\$508,692.00	0.0308
6)	541611	Mgt Consultant Services	\$971,017.00	0.0588
7)				0.0000
8)				0.0000
9)				0.0000

10)			0.0000
Total FTA-Assisted Contract		\$16,526,086.00	1

Step 1 B - Determine the relative availability of DBE's by NAICS Code:

The numbers of DBEs and of all firms available to perform work on the identified contracting opportunities are:

	NAICS Code	Description of Work	2024 Number of DBEs available to perform this work	2021 Number of all firms available (including DBEs)	Relative Availability
1)	541320	Landscape Architect. Services	112	369	0.3035
2)	541330	Engineering Services	611	2277	0.2683
3)	541340	Drafting Services	162	277	0.5848
4)	541511	Custom Computer	1123	2189	0.5130
5)	541820	Public Relations Agency	175	525	0.3333
6)	541611	Mgt Consultant Services	2197	3889	0.5649
7)	0	0			
8)	0	0			
9)	0	0			
10)	0	0			
Combined Totals			4380	9526	0.4598
					<i>Overall availability of DBEs</i>

Step 1 C - (Weight) x (Availability) = Weighted Base Figure

	NAICS Code	Description of Work	Weight	x	Availability of DBEs	Weighted Base Figure
1)	541320	Landscape Architect. S	0.00486	x	0.30352	0.0015
2)	541330	Engineering Services	0.90254	x	0.26834	0.2422
3)	541340	Drafting Services	0.00263	x	0.58484	0.0015
4)	541511	Custom Computer Prog	0.00044	x	0.51302	0.0002
5)	541820	Public Relations Agenc	0.03078	x	0.33333	0.0103
6)	541611	Mgt Consultant Service	0.05876	x	0.56493	0.0332
7)	0	0	0.00000	x	0.00000	
8)	0	0	0.00000	x	0.00000	

Maryland Department Of Transportation
 1403 - TSO/Office of Planning

9)	0	0	0.00000	x	0.00000	
10)	0	0	0.00000	x	0.00000	
					Total	0.2889
					Expressed as a % (*100)	28.89%
					Rounded, Weighted Base Figure:	28.9%

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- COVID-19 Updates

Important Messages

****ATTENTION!! ONLINE DISADVANTAGED BUSINESS ENTERPRISE (DBE) SURVEY AND STAKEHOLDER PUBLIC LISTENING SESSIONS****

Pursuant to federal regulation 49 C.F.R. Part 23, the Maryland Department of Transportation (MDOT) is seeking comments on the Disadvantaged Business Enterprise (DBE) Program and goals for State Highway Administration (SHA) & Metropolitan Planning Organizations. In establishing DBE Program Overall goals, federal regulations require consultation with stakeholders, which include, without limitation, minority and women's business groups, community organizations, and other officials or organizations that may have information concerning the availability of disadvantaged businesses, the effects of discrimination on opportunities for small, minority and disadvantaged firms, and MDOT's and SHA's efforts to increase DBE participation. To comply with this requirement, we are seeking stakeholder input through a survey and public meetings called Listening Sessions. Your input is important and may be used to enhance operations of the DBE Program at MDOT and SHA. Please fill out the Survey and register to participate in one of our four Public Listening Sessions where you can provide "virtual" feedback. The online survey must be completed by June 28, 2024 and can be accessed here. The Public Listening Sessions are scheduled as follows:

- Subcontractors Only:**
June 3, 2024 from 10:00 a.m.-11:00 a.m. ([Register here](#))
June 3, 2024 from 1:00 p.m.-2:00 p.m. ([Register here](#))
- Prime Contractors Only:**
June 5, 2024 from 10:00 a.m.-11:00 a.m. ([Register here](#))
June 5, 2024 from 1:00 p.m.-2:00 p.m. ([Register here](#))

If you have any questions, please contact the Office of Small and Minority Business Policy at mdotmbeoutreach@mdot.maryland.gov or 410-865-1298.

Economic Assistance to Mid-Atlantic Small Businesses Affected by the Francis Scott Key Bridge Collapse

Mid-Atlantic small businesses affected by the Francis Scott Key Bridge collapse on March 26, 2024 may