

Autonomous Municipality of Caguas
Transportation System

DBE PROGRAM
2024-2026



DEPARTAMENTO DE MOVILIDAD CIUDADANA

DBE Program – 49 CFR Part 26
December 29, 2023

Disadvantage Business Enterprise Program

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- A. DBE Goal Determination
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Program Objectives (§26.1)

The Autonomous Municipality of Caguas Citizens Mobility Department (MAC) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. MAC has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, MAC has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of MAC to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy to:

1. Ensure nondiscrimination in the award and administration of DOT assisted contracts.
2. Create a level playing field on which DBEs can compete fairly for DOT assisted contracts.
3. Ensure that the DBE Program is narrowly tailored in accordance with applicable law.
4. Ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs.
5. Help remove barriers to the participation as DBEs in DOT assisted contracts; and
6. Assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

DISADVANTAGE BUSINESS ENTERPRISE PROGRAM

The Autonomous Municipality of Caguas Citizens Mobility Department (MAC) is committed to the policy of U.S. Department of transportation (USDOT) which provides guidelines that this agency will utilize to ensure a level playing field and foster equal opportunity for Disadvantaged Business Enterprises (DBEs). Our endorsement of this policy is in keeping with our objectives to be responsive to citizens' needs and to ensure equality of opportunity and compliance with Title 49, Code of Federal Regulation (CFR), Part 26.

To ensure compliance with this policy, all MAC Program Managers will monitor and evaluate the award of contracts for compliance with 49 CFR Part 26. Program Managers will also report to MAC's DBE Liaison Officer on the progress made towards accomplishing MAC's stated goals. I expect all levels of management to fully support both the letter and spirit of this program. To this end, managerial, supervisory, and other personnel charged with implementation of elements of this program may expect their performance evaluation to reflect, in part, the effectiveness of their response to this program.

I am therefore, charging MAC's DBE Liaison Officer Ada Belén Caballero, with the responsibility to implement MAC's revised Disadvantaged Business Enterprise (DBE) program and to make appropriate recommendations to me, where needed, to strengthen the program.

William Miranda Torres
Mayor
Autonomous Municipality of Caguas

Definitions of Terms (§26.5)

Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

Affiliation has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

- (1) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:
 - (a) One concern controls or has the power to control the other; or
 - (b) A third party or parties controls or has power to control both; or
 - (c) An identity of interest between or among parties exists such that affiliation may find.
- (2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships.

Alaska Native means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

Alaska Native Corporation (ANC) means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska

in accordance with the Alaska Native if their father or mother is regarded as an Alaskan Native.

Compliance means that all activity has been correctly implemented.

Contract means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them.

Contractor means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

Department or DOT means the U.S. Department of Transportation, including, but not limited to: the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), the Federal Aviation Administration (FAA) and the Federal Railroad Administration.

Disadvantaged Business Enterprise or DBE means a for-profit small business concern

- (1) That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
- (ii) Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

DOT-assisted contract means any contract between a recipient and a contractor (at any tier) funded in whole or in part with DOT financial assistance, including letter of credit or loan guaranteed, except a contract solely for the purchase of land.

Good faith efforts mean efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objectives, can reasonably be expected to fulfill the program requirement.

Immediate family member means father, mother, husband, wife, son, daughter, brother, sister, grandmother, grandfather, grandson, granddaughter, mother-in-law, or father-in-law.

Indian tribe means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of “tribally-owned concern” in this section.

Joint venture means an association of DBE firm and one or more other firms to carry out a single, for profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

Native Hawaiian means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

Native Hawaiian Organization means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

Noncompliance means any activity that has not been correctly implemented.

Operating Administration or Administrator means any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), Federal Transit Administration (FTA) or Federal Railroad Administration. The “Administrator” of an operating administration includes his or her designees.

Personal net worth means the net value of the assets of an individual remaining after total liabilities are deducted. An individual’s personal net worth does not include: The individual’s ownership interest in an applicant or participating DBE firm or the individual’s equity in his or her primary place of residence. An individual’s personal net worth includes only his or her own share of assets held jointly or as community property with the individual’s spouse. Primary industry classification means the four-digit Standard Industrial Classification (SIC) code designation which best describe the primary business of a firm. The SIC code designations are described in the Standard Industry Classification Manual. As the North American Industrial Classification System (NAICS) replaces the SIC system, references to SIC codes and the SIC Manual are deemed to refer to the NAICS manual and applicable codes. The SIC Manual and the NAICS Manual are available through the National Technical Information Services (NTIS) of the U.S. Department of Commerce (Springfield, VA, 22261). NTIS also makes materials available through its web site (www.ntis.gov/naics).

Primary Recipient means a recipient of DOT financial assistance and passes some or all of it on to another recipient.

Principal place of business means location where the individuals who manage the firm’s day-to-day operations spend most working hours and where top management’s business records are kept. If the offices from which management is directed and where the business records are kept in the different locations, the recipient will determine the principal place of business for DBE program purposes.

Program means any undertaking on MAC's part to use DOT financial assistance, authorized by the laws to which this part applies.

Race-conscious measure or program is one that is focused specifically on assisting only DBEs, including women-owned DBEs.

Race-neutral measure or program is one that is, or can be, used to assist all small business. For the purpose of this part, race-neutral includes gender-neutrality.

Recipient is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

Secretary means the Secretary of Transportation his or her designee.

Set-aside means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms. Set asides are illegal per the Commonwealth of Puerto Rico procurement regulations.

Small business concern means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small Business Act and Small Business Administration regulations implementing it (13 CFR part 1231) that also does not exceed the cap on average gross receipts specified in §26.65(b)

Socially and economically disadvantaged individual means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

1. Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by-case basis.

2. Any individual in the following groups, members of which are rebuttable presumed to be socially and economically disadvantaged:
 - I. “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;
 - II. “Hispanics Americans,” which includes persons of Mexico, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - III. “Native Americans,” which includes persons who are American Indians, Eskimos, Aleuts, or Native Hawaiians;
 - IV. “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kapuhea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U. S. Trust Territories of the Pacific Islands (Republic of Palau), the Commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kirbati, Juvalu, Nauru, Federated States of Micronesia, or Hong Kong;
 - V. “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
 - VI. Women;
 - VII. Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

Tribally-owned concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

Nondiscrimination (§26.7)

The Autonomous Municipality of Caguas Citizens Mobility Department (MAC) will never exclude any person from participation in, deny any person the benefits of, or otherwise

discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 based on race, color, sex, or national origin. Moreover, in administering its DBE program, MAC will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular race, color, sex, or national origin.

DBE Program Updates (§26.21)

MAC will continue to carry out this program until all funds from DOT financial assistance have been expended. MAC will provide to DOT updates representing significant changes in the program.

Quotas (§26.43)

MAC does not use quotas in any way in the administration of this DBE program.

DBE Liaison officer (DBELO) (§26.45)

MAC has designated Mrs. Ada Belén Caballero as the DBE Liaison Officer. She may be contacted at the following: PO BOX 907, Caguas, PR 00726, (787) 653-8833, and e-mail abccaballero@caguas.gov.pr. In that capacity, she is responsible for implementing all aspects of the DBE program and ensuring that MAC complies with all provisions of 49 CFR Part 26. Mrs. Caballero has direct, independent access to William Miranda Torres, Mayor and First Representative concerning DBE program matters for MAC. Mrs. Caballero will devote a portion of her time to the program. An organization chart displaying the DBELO'S position in the organization is found in Attachment B to this program.

The DBELO is responsible for developing, implementing, and monitoring the DBE program, in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT
2. Reviews third party contracts for compliance with this program
3. Works with sub-grantees and staff to set overall annual goals
4. Analyzes sub-grantees goals development process
5. Advises the Mayor and Directors on DBE matters and Achievement
6. Plans and participates in DBE training seminars
7. Coordinates with Puerto Rico Transit Authority (PRHTA) on the uniform Certification Process in Puerto Rico.

Federal Financial Assistance Agreement Assurance (§26.13)

MAC has signed the following assurance, applicable to all DOT-assisted contracts and their administration. MAC will also include this language in financial assistance agreements with sub-recipients:

The Autonomous Municipality of Caguas Transportation Department (MAC) shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR part 26. The recipient shall take all necessary and reasonable steps under 49 CFR part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient's DBE Program, as required by 49 CFR part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to MAC of its failure to carry out its approved program MAC may impose sanctions as provided for under part 26 and may, in appropriate cases, refer the matter for enforcement under

18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

DBE Financial Institutions (§26.27)

It is the policy of MAC to investigate the full extent of services offered by financial Institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contract to make use of these institutions. MAC has made the following efforts to identify and use such institutions: To date we have identified the following institutions:

Caguas COOP – Caguas
Ave. Gautier Benítez, Carretera #1 Caguas, PR 00725
(787) 286-8500

Cooperativa de Ahorro y Crédito Oriental
Carretera #1 Km 33.8, Barrio Bairoa, Caguas, PR, 00725. Tel: (787) 961-2700

Directory (§26.25)

In support of MAC's DBE program, Puerto Rico Transit Authority (PRHTA) maintains a directory identifying all firms eligible to participate as DBEs. The directory lists the firm's name, address, phone number, date of most certification, and the type of work the firm has been certified to perform as a DBE. DMBE updates the directory as necessary. The Directory can be found at these three different web addresses which directs you to the updated Puerto Rico DBE Directory: <http://sashto.dtop.gov.pr/CivilRights/DBE.html/> or <http://act.dtop.pr.gov/Oficinas/DerechosCiviles/EmpresasenDesventajaSocialyEconomic> a click on DBE Directory or <http://act.dtop.pr.gov/>

Required Contract Clauses (§§26.13, 26.29)

Contract Assurance

We will ensure that the following clause is placed in every DOT-assisted contract and subcontract:

The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

Prompt Payment

We will include the following clause in each DOT-assisted prime contract:

The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than seven (7) days from the receipt of each payment the prime contractor receives from the Autonomous Municipality of Caguas Transportation Department or its sub-grantees. The prime contractor agrees further to return aged payments to each subcontractor within seven (7) days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of MAC or its sub-grantees. This clause applies to both DBE and non-DBE sub-contractors.

Monitoring and Enforcement Mechanisms (§26.37)

We will bring to the attention of the DOT any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps provided in §26.109. MAC

also will consider similar action under its own legal authorities, including responsibility determinations in future contracts.

Overall Goals (§26.45)

MAC's overall goal for FY's 2024-2026 3.18% of the federal financial assistance MAC will expand in DOT assisted contracts. MAC will begin using its overall goal on October 1 of each fiscal year, unless MAC has received other instructions from DOT. (See Attachment A for the DBE Goal Determination Process)

Transit Vehicle Manufacturers (§26.49)

MAC will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurement, to certify that it has complied with the requirements of this section. Alternatively, MAC may, as its discretion and with FTA approval, established project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the TVM complying with this element of the program.

Contract Goals (§26.49)

MAC will use contract goals to meet any portion of the overall goal it does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of MAC's overall goal that is not projected to be met using race-neutral means. MAC will establish contract goals only on those DOT-assisted contracts that have subcontracting possibilities. We need not establish a contract goal on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work). MAC will express its contract goals as a percentage of the total amount of a DOT-assisted contract.

Good Faith Efforts (§26.53)

Information to be submitted

MAC treats offerors' compliance with good faith efforts requirements as a matter of responsibility. Therefore, each solicitation for which a contract goal has been established will require the offerors to submit the following:

1. The names and address of DBE that will participate in the contract.
2. A description of the work that each DBE will perform:
3. The dollar amount of the participation of each DBE firm
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal.
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor's commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Demonstration of good faith efforts

The obligation of the offeror is to make good faith efforts. The offeror can demonstrate that it has done so either by meeting the contract goal documenting good faith efforts. Examples of good faith efforts are found in Appendix A part 26.

MAC Program Managers are responsible for determining whether an offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible.

MAC will ensure that all information is complete and accurate and adequately documents the offeror's good faith efforts before we commit to the performance of the contract by the offeror.

Good faith Efforts when a DBE is replaced on a contract

MAC will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. MAC will require the prime contractor to notify the DBE Liaison Office immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation. In this situation, MAC will require the prime contractor to obtain MAC's prior written approval of the substitute DBE and to provide copies of new or amended subcontract, or documentation of good faith efforts.

Counting DBE Participation (§26.55)

MAC will count DBE participation toward overall and contract goals as provided in 49 CFR §26.55.

Certification (§§26.61 – 26.91)

MAC will use the certification standard of subpart D part 26 and the certification procedures of subpart E of part 26 to determine the eligibility of firms to participate as DBE in DOT-assisted contracts. To be certified as a DBE, a firm must meet all certification eligibility standards. MAC will make our certification decisions based on the facts as a whole.

Process

For information about the certification process or to apply for certification, firms should contact: Puerto Rico Transit Authority, Civil Rights Office, Minillas Government Center, Stop 22 1/2, Santurce, P.R. 00910, 787-721-8787 ext. 51740, 51741 or at <http://sashto.dtop.gov.pr/CivilRights/DBE.html> or <http://act.dtop.pr.gov/> click on "Applicants for DBE Certification".

In the event MAC proposes to remove a DBE's certification, MAC will follow procedures consistent with §26.87. If MAC denies a firm's application or decertifies it, it may not reapply until twelve (12) months have passed from MAC's action.

Certification Appeals

Any firm or complainant may appeal MAC's decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation
Office of Civil Rights
Certification Appeals Branch
400 7th St., SW, Room 2104
Washington, DC 20590

MAC will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for MAC's DOT-assisted contracting (e.g., certify a firm if DOT has determined that MAC's denial of its application was erroneous).

Re-certifications

To date, the PRHTA Civil Rights Office has reviewed and recertified all of the firms listed in the directory and determined that they meet the eligibility criteria of subpart D of Part 26 and Subpart E of Part 26. Each firm will be recertified no later than three years from the most recent certification date. The firms will be reviewed in chronological order based on the submittal of the information required for recertification.

"No Change" Affidavits and Notices of Change

All DBEs will be required to inform PRHTA, in a written affidavit, of any change in its circumstances affecting its ability to meet size, disadvantaged status, ownership or control criteria of 49 CFR Part 26 or any material changes in the information provided with the application for certification.

Also, all owners of all certified DBEs will be required to submit to PRHTA on the anniversary date of their certification, a “no change” affidavit meeting the requirements of 26.83(j).

PRHTA will require DBEs to submit with this affidavit documentation of the firm’s size and gross receipts. MAC will notify all currently certified DBE firms of these obligations by letter sixty (60) days in advance of the due date of the recertification information. This notification will inform DBEs that to submit the “no change” affidavit, their owners must swear or affirm that they meet all regulatory requirements of Part 26, including personal net worth. Likewise, if a firm’s owner knows or should know that he or she, or the firm, fails to meet a Part 26 eligibility requirement (e.g., personal net worth), the obligation to submit a notice of change applies.

Personal Net Worth

PRHTA will require all disadvantaged owners of applicants and of currently-certified DBEs whose eligibility under part 26 we review, to submit a statement of personal net worth at the time of certification or re-certification.

Reporting and Confidentiality

Monitoring Payments to DBEs

MAC will require prime contractors to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of MAC or DOT. This reporting requirement also extends to any certified DBE subcontractor. MAC will keep a running tally of actual; payments to DBE firms for work committed to them at the time of contract award.

MAC will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Reporting to DOT

MAC will report DBE participation to DOT as follows:

MAC will report DBE participation on a semi-annual basis, using the *Uniform Report of DBE Awards or Commitments and payments* is submitted through TRAMS. These reports will reflect payments actually made to DBEs on DOT assisted contracts.

Confidentiality

MAC and PRHTA will safely guard from disclosure to third parties' information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law Notwithstanding any contrary provisions of state or local law. MAC will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

DBE GOALS UP-DATE 2024/2026
AUTONOMOUS MUNICIPALITY OF CAGUAS (AMC)

Overall Goals

The FFY 2024/26 Overall goal for the Autonomous Municipality of Caguas (AMC) Disadvantage Business Enterprise (DBE) Program for federal funded contracts is established in accordance to USDOT guidelines. The overall goal for fiscal years 2024/2026 has been established at **3.18%** utilizing the methodology described in 49 CFR Part 26.

Methodology:

The Autonomous Municipality of Caguas-AMC as a recipient of FTA funds is mandated by USDOT to establish a goal for the utilization of DBEs on federally-assisted contracts. The AMC overall goal is expressed as a percentage of all Federal-aid total payments. This goal is based on demonstrable evidence of the availability of ready, willing and able DBEs relative to the universe of all businesses participating on Municipality of Caguas-assisted contracts. The Regulation requires a two-step process for setting the DBE goal. The first step is to establish a base figure for the relative availability of DBEs. To establish the base figure, AMC has gathered information with respect to the estimated federal dollar share of each project category into the estimated federal dollar of each project. The second step is to adjust the base figure in order to determine the Municipality DBE goal. In accordance with 49 CFR 26.45 (c) (1), to arrive at the Base Figure, the Autonomous Municipality of Caguas (AMC) elected to use of the DBE's Directory of the Puerto Rico Highway Authority to determine the relative availability of DBE's in several fields.

AMC divided the total number of DBE firms in their respective trade descriptions (that the Puerto Rico Highway Authority DBE Directory considers ready willing, and able) by the number of all businesses in the applicable NAIC codes appearing in the 2021 U.S. Census Bureau, specifically on the Census' Business Patterns for Puerto Rico. As a result, it arrived for the AMC a **3.18%** for overall goal.

The initial phase of the Step One analysis required the compilation of critical data regarding AMC's contracting, and the AMC decided to use the UCP and the companies census data for the fiscal year 2021 for step 1.

The relevant data considered for the Step One analysis included the following:

- Past utilization of DBEs on USDOT-assisted contracts;
- *Any future changes in the volume and distribution of contract dollars by category of work;*
- *Potential DBE contractors who may not qualify for re-certification;*
- *And other factors as referenced by 49 CFR Part 26. 45(d).*

Past utilization has not been used because the municipality has not had significant federally assisted projects for the last 5 years.

To determine the preliminary DBE goal base figure, the Municipality conducted the analysis and calculations described as follow in accordance with 49 CFR 26.45.

In setting the goals for the AMC, it is required that the goal setting process begin with a Base Figure for the relative availability of DBE's. The overall goal is based on demonstrable evidence of the availability of ready, willing, and able DBE's relative to all business ready, willing, and able to participate on USDOT-assisted contract. The goal reflects the level of DBE participation expected absent of the effect of discrimination. The normal market area is statewide consisting of firms that inquire, show interest, and performed work on similar projects. There are no boundaries established for firm to perform work. Geographically firms can move easily from one extreme of the Island to the other, depending upon necessities and working conditions. The distribution of federally aid projects that are put to bid around the island is in accordance with the bid plans specified in the projections of the AMC projects for the next five years in the local market. Any firm may participate in federally funded projects as long as they comply with state and federal regulations.

The following is the methodology chosen to calculate the AMC DBE annual goal and determine the relative availability of DBEs. To determine the preliminary DBE goal base figure, the Municipality conducted the analysis and calculations described as follow in accordance with 49 CFR 26.45.

STEP ONE: Calculation of Base Figure

The Municipality of Caguas first identified the anticipated FTA-assisted projects scheduled to be built FFY 2024-2026 to determine (1) the type of projects where DBE participation is possible and (2) the number of firms in the market and the DBE qualified firms available in the relevant NAICS codes for inclusion in the baseline formula. The AMC anticipated expenditures is shown in Table A:

Table A: represents construction and design projects to be awarded in fiscal years 2024-2026. For the next three years we have four projects to carry out. The first one is the design of a three bike routes for various Avenues and PR Road Numbers 33,156,183,189,196 and 768 at a cost of \$1,242,333. The second one is the reconstruction and renovation of the Francisco Pereira Transportation Terminal at a cost of \$18,356,659 million. The third is the installation of 30 bus stop shelters at a cost of \$263,550. The fourth is the installation of 18 security cameras. Other contracting opportunities involve the provision of fuel for the operation of the municipal fleet, GPS and computer programming services, technical consulting for the management of FTA funds, purchase of 20 tablets and 5 keyboards, and the contracted preventive maintenance services for the vehicles acquired with FTA funding.

Table A: Anticipated FTA-Assisted Expenditures for FYs 2024-2026

Description of Activity to consider for contracting DBE	Annual Element	Three Year Program			Total
	2022	2024	2025	2026	Est. Cost
Study and Design of three Bike Routes on PR-196, PR-156, Regimiento 295 Infantería Ave., Degetau Ave, Luis Muñoz Marín Ave., PR-183, PR-33, PR-768 and PR-189.		828,222	414,111		\$1,242,333
Reconstruction and Renovation of the Francisco Pereira Transportation Terminal		5,850,000	6,310,000	6,196,659	\$18,356,659
Preventive Maintenance Services		196,000	198,500	201,000	595,500
Fuel		98,500	108,500	112,000	319,000
Consulting		134,000	146,000	159,000	439,000
GPS and Computer Services		17,300	19,100	20,700	57,100
Acquisition and Installation of 30 Bus Shelters for the Trolley Routes		263,550			263,550
Acquisition and Installation of 18 Security Cameras		6,200			6,200
Acquisition of 20 Tablets and 5 keyboards for Public Transportation System		83,775			83,775
Sub-Total Federal Funds		\$7,477,547	\$7,196,211	\$6,689,359	\$21,363,117

In accordance with 49 CFR 26.25, the overall DBE goal is expressed as a percentage of the federal FTA projected to be expended in AMC's FTA assisted contracts over the next three federal fiscal years. Therefore, we calculated the percentage of federal dollars allocated to each NAICS category by dividing the estimated dollar share of each NAICS category by the estimated federal dollar share of all projects to be performed for a total of **\$21,363,117**. The results of these calculations are shown in **Table D**:

Selection of Relevant NAICS Codes:

The selection of relevant NAICS codes for FFY 2024-2026 projects was based upon the anticipated construction and design projects. Table C displays the projects anticipated for this period. Actual projects undertaken are dependent upon available funding.

The staff at the Office of Citizens Mobility analyzed the scope of work of each project category and assigned the **North American Industry Classification System (NAICS)** codes to the applicable work elements, as shown in Table C for projects of design or consulting.

Table B: Determination of Total Establishments by Applicable NAICS Code in PR:

After identification of the projects, the relevant NAICS Codes of companies that will perform the different contracts to be awarded were selected for determining the number of ready, willing, and able firms to be counted in the baseline calculation as shown in Table B:

Table B:	Classification by NAICS Title and Industry Code for Construction	
Industry Code	Industry Code Description	Total Establishments including DBE's in PR
236220	Commercial/Institutional Building Construction	1,418
238120	Structural Steel and Precast Concrete Contractors	28

238210	Electrical Contractors and Other Wiring Installation	272
238220	Plumbing, Heating and A/C Contractors	203
238320	Painting and Wall Covering Contractors	79
561621	Security Systems Services	52
541330	Engineering Services	506
447110	Gas Fuel Providers	1,033
541511	Custom Computer Programming Services	102
423420	Office Equipment Merchant Wholesalers	11
541611	General Management Consulting Services	203
811111	Vehicle maintenance	404
	Total	4,311

Base Figure Determination

The base figure is intended to be a measurement of the relative percentage of ready, willing, and able businesses that are DBE's. The recipient is required to measure willing and able businesses in its marketplace, using the best available evidence, to come up with a fair and accurate base figure that represents the percentage of available DBE's. According to Section 26.45 (c) and USDOT Tips, the overall goal must be based on demonstrable evidence of available ready, willing, and able DBE's relative to all ready, willing, and able non-DBE's to participate on AMC's federally assisted contracts.

To establish the relative availability of DBE's to all comparable firms (DBE and Non-DBE's) in the AMC's market area, in applicable work categories (NAICS Codes) identified in Table B, the AMC followed one of the prescribed goal setting methodologies in accordance with 49 CFR 26.45. It determined that the DBE availability percentage by performing an inquiry of the Puerto Rico Unified Certification Program (PRUCP) DBE directory and the most recently available (2021) U.S. Census Bureau County Business Patterns (CBP) database.

For each NAICS code/subsector, the AMC calculated the number of DBE's (numerator) and the number of all firms (denominator) in each NAICS code subsector, and they arrived at a percentage for each project category.

Table C: Base Figure Availability

NAICS CODES	# of DBE's available to perform work	# of all firms available (including DBE's)	Relative Availability
236220 Commercial/Institutional Building Construction	24	1,418	.017
238120 Structural Steel and Precast Concrete Contractors	2	28	.071
238210 Electrical Contractors and Other Wiring Installation	20	272	.074
238220 Plumbing, Heating and A/C Contractors	4	203	.020
238320 Painting and Wall Covering Contractors	2	79	.025
561621 Security System Services	3	52	.058
541330 Engineering Services	48	506	.095
447110 Gas Fuel Providers	0	1,033	0
541511 Custom Computer Programming Services	4	102	.039
423420 Office Equipment Merchant Wholesalers	0	11	0
541611 General Management Consulting Services	26	203	.128
811111 Vehicle Maintenance	3	404	0

Combined Totals	136	4,311	.0315
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USDOT Tips requires that the calculations of the relative base figure by dividing the number of market area DBE's by all market area businesses (DBE's and non-DBE's). The result in the case of the AMC's projects is 2.8%.

$$\begin{aligned}
 \text{Base Figure} &= \frac{\text{Ready, willing, and able DBE's}}{\text{\# of all firms available (Including DBE's and non-DBE's)}} \\
 &= \frac{136 \text{ DBE's}}{4,311 \text{ Total Businesses}} = 3.15 \%
 \end{aligned}$$

This number is the percentage of DBE's in the AMC's market area. To more accurately reflect the nature and the scope of work, the USDOT Tips recommends a weighted calculation of availability. This calculation is based on expenditures in each NAICS code, is also provided.

A. Weighted Base Figure

Weighting is recommended in USDOT Tips to ensure that the overall goal accurately reflects the scope of work. The first step is to calculate a weight for each NAICS code, which is the percentage of the budget for past contracts. Due to the fact that AMC's federally funded contracts are identified on a contract-by-contract basis after federal funding is received, weights can be calculated based on anticipated contracts.

To determine the weight of each project we divided the amount of money allocated to each project by the total amount of funds assigned to the AMC as indicated in Table D:

TABLE D Weight of Each Project

Project	Funds Assigned	Total Funds Assigned to AMC	Weight of Project
236220 Commercial/Institutional		\$21,363,117	

Building Construction	\$ 13,968,639		.654
238120 Structural Steel and Precast Concrete Contractors	\$918,614	\$21,363,117	.043
238210 Electrical Contractors and Other Wiring Installation	\$1,248,252	\$21,363,117	.058
238220 Plumbing, Heating and A/C Contractors	\$256,993	\$21,363,117	.012
238320 Painting and Wall Covering Contractors	\$495,629	\$21,363,117	.023
561621 Security System Services	\$6,200	\$21,363,117	.001
541330 Engineering Services	\$2,974,415	\$21,363,117	.138
447110 Gas Fuel Providers	\$319,000	\$21,363,117	.015
541511 Custom Computer Programming Services	\$57,100	\$21,363,117	.003
423420 Office Equipment Merchant Wholesalers	\$83,775	\$21,363,117	.004
541611 General Management Consulting Services	\$439,000	\$21,363,117	.021
811111 Vehicle Maintenance	\$595,500	\$21,363,117	.028

The percentage of DBE's to all firms for each project category was then multiplied by the percentage of federal funds allocated to each project category. The resulting ratios were then added to arrive at the preliminary base figure as shown in **Table E**.

Table E: Determination of Weighted Base Figure Percentage

NAICS Category	(A) Weight	(B) Availability	Weighted Base Figure
236220 Commercial/Institutional Building Construction	.654	.012	.008
238120 Structural Steel and Precast Concrete Contractors	.043	.071	.003
238210 Electrical Contractors and Other Wiring Installation	.058	.074	.004
238220 Plumbing, Heating and A/C Contractors	.012	.020	.0002
238320 Painting and Wall Covering Contractors	.023	.025	.0006
561621 Security System Services	.001	.058	.0001
541330 Engineering Services	.138	.095	.0131
447110 Gas Fuel Providers	.015	0	0
541511 Custom Computer Programming Services			

	.003	.039	.0001
423420 Office Equipment Merchant Wholesalers	.004	0	0
541611 General Management Consulting Services	.021	.128	.0027
811111 Vehicle Maintenance	.028	0	0
Total			.0318
Expressed as a %			3.18

STEP TWO: BASE FIGURE ADJUSTMENT

Consideration for Adjustment of Base Figure:

Almost all participants and/or possible bidders in our transportation and construction projects are minorities (Hispanics) as defined by 49 CFR Part 26. The AMC established for this fiscal year a participation goal of three point eighteen percent (**3.18%**) and the factor considered to maintain our overall annual DBE goal at this percentage is the analysis of federally assisted programs and bidder's list records for the previous five fiscal years and the amount of projects awarded.

For the projects included, the AMC will conduct assessments of the possible bidders, contracts and/or professional services to obtain pertinent data and be more efficient in the measurement of the capacity of the DBEs in the local market. The AMC's review of the current capacity of DBEs to perform work on future DOT assisted contracts as measured by the volume of work DBEs have performed in recent years has concluded that this

capacity is adequate. Procedures to implement other corrective actions deemed appropriate to remediate instances of discrimination shall be established, as permitted by law. According to 49 CFR Part 26, step two of the calculation process should consider the evidence to determine if adjustments are needed in the base figure to arrive at an overall goal. The AMC considered all available evidence in its jurisdiction to determine if that adjustment is necessary by considering the participation of DBE's in projects performed in recent years. The Municipality does not have any basis to consider that an adjustment may be necessary.

Race Conscious & Race Neutral Participation:

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and we will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

The population in Puerto Rico as defined by the regulation is Hispanic (98.8% as of 2020 census) - and are considered minority. For that reason, after the review of the overall DBE participation, the AMC has elected **1%** race gender-neutral and **2.18%** race conscious as contracting methods to attaining our **DBE 3.18% goal** for FFY 2024/26.

The race gender-conscious DBE participation will be two point eighteen percent (2.18%) unless it is determined that race gender-neutral are not effective in achieving the overall annual goal for the next three federal fiscal years (FFY 2024/26). Individual contract goals will be used only if race neutral measures prove to be unsuccessful toward achieving our overall annual goal. To ensure that our DBE program will be narrowly tailored to overcome the effect of discrimination, if contract goals are used, we will adjust the estimated breakout of race gender-neutral and race gender-

conscious participation as needed to reflect actual DBE participation in accordance with 49 CFR Part 26.51 (f). To that end, contract goals will only be used for contract that have subcontracting opportunities upon funds availability.

The Autonomous Municipality of Caguas will implement the following race conscious measures to meet its race conscious goal:

- a. Arrange solicitations, times for presentation of bids, quantities, specifications, and delivery schedules to facilitate DBE participation
 - Unbundling contracts to make them more accessible to small business
 - Requiring and encouraging large contractors to subcontract portions of their work to DBEs that they might do themselves
- b. Carrying out information and communication programs on specific contract procedures and Contract opportunities
 - Ensure the inclusion of DBEs in recipient mailing lists for bidders
 - Ensure dissemination to bidders on prime contract of lists of potential DBE contractors
 - Provision of information in the Spanish language
 - Ensure distribution of the UCP DBE Qualified Directory, through print and electronic means to the widest feasible universe of potential prime contractors

Disparity Studies

No disparity studies were found in Puerto Rico showing existence of past discrimination, or relevant to our goal setting process in our market area.

Public Participation and Outreach Efforts

In accordance with 49 CFR 26.45 (g), the Autonomous Municipality of Caguas provided an opportunity for public participation in establishing its overall DBE goal. The notification process has two objectives:

- To provide public notice of the proposed overall goal by making the goal setting methodology and rationale available for public inspection.
- To consult with minorities, women, and general contractor groups, community organizations, and other officials that could be expected to have information concerning DBE and Non DBE availability, the effects of discrimination on opportunities for DBEs, and the efforts of the AMC to establish a level playing field for the participation of DBEs.

The AMC will consult with its advisors to obtain information concerning the availability of disadvantaged and non-disadvantaged business, the effects of discrimination on opportunities for DBEs, and the AMC's efforts to establish a level playing field for the participation of DBEs. These advisors include individuals, minority women groups, general contractor groups, community organizations, and other officials or organizations.

Following this consultation, the AMC will publish a notice of the proposed overall goal, at least three months before the start of the federal fiscal year (October 1) informing the public the proposed goal, and its rationale.

AMC will publish the notice of the proposed overall goal on January 2024, informing the public of the overall goal for FFY 2024-2026 and its rationale. The information is available for inspection during normal business hours at its Office of Citizens Mobility for thirty (30) days after the notice is published. The public will have forty-five (45) days after the notice is published to submit comments to the AMC or the DOT. It will be published in a regional newspaper, where other public notices are published regarding contracting opportunities such as bidding, RFPs, etc. It will be also available in our web page (Caguas.gov.pr).

Because the FY is already running, the Municipality of Caguas will directly contact those firms, listed as certified DBEs by the UCP prepared by the Puerto Rico Highway and Transit Authority, through email and phone calls to provide them an opportunity to comment on its goal determination methodology and provide feedback on ways to increase DBE participation in projects financed with FTA funds.

Autonomous Municipality of Caguas Citizen Mobility Department

