



HOUSTON-GALVESTON AREA COUNCIL DBE TRIENNIAL GOAL UPDATE

FISCAL YEARS 2020 - 2022



**HOUSTON-GALVESTON AREA COUNCIL
DISADVANTAGED BUSINESS ENTERPRISE PROGRAM
TRIENNIAL GOAL UPDATE FYs 2020 - 2022**

Name of Recipient: Houston-Galveston Area Council (H-GAC)

Goal Period: October 1, 2019 through September 30, 2022

Anticipated U.S. DOT Assisted Contract Amount: \$7,050,000

Proposed DBE Goal: 24%

Anticipated DBE Expenditure: \$1,692,000

Pursuant to Section 49 Code of Federal Regulations Part 26, the Houston-Galveston Area Council (H-GAC) has selected an overall goal of 24% for the participation of Disadvantaged Business Enterprises (DBEs) in its Transportation Department contracts funded by the U.S. Department of Transportation (DOT) through the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The goal will be effective October 1, 2019 through September 30, 2022.

The following is the list of U.S. DOT - assisted contracts anticipated for FY 2020 - FY 2022:

1. Regional Goods Movement Study;
2. Intersection Safety Audits;
3. Regional Travel Surveys;
4. Livable Centers Studies;
5. High Capacity Transit Feasibility Study;
6. Transit Origin-Destination Travel Survey.

Source: H-GAC

It is H-GAC's policy that DBE firms have the opportunity to receive and participate in contracts without regard to the funding source utilized. Consequently, H-GAC fully applies the requirements of its DBE program to non-U.S. DOT-assisted contracts.

BACKGROUND

The Houston-Galveston Area Council (H-GAC) Transportation Department receives federal financial assistance from the U.S. Department of Transportation (DOT) through the Federal Highway Authority (FHWA), the Federal Transit Authority (FTA), and the Federal Aviation Administration (FAA). Recipients of these federal funds are required to set an overall goal for participation by Disadvantaged Business Enterprises in their DOT-assisted contracts in accordance with 49 CFR Part 26: “Participation by Disadvantaged Business Enterprises (DBE) in Department of Transportation Programs.” The triennial goal is established to ensure that DBE firms have reasonable opportunity to participate in DOT-assisted contracts.

The FHWA requires local governments and other entities that receive federal funds through the Texas Department of Transportation (TxDOT) to sign a Memorandum of Understanding adopting TxDOT’s federally approved DBE Program. Each recipient is however expected to set their own DBE goals based on their individual circumstances.

This document provides information about the DOT-assisted contracts which the H-GAC Department of Transportation anticipates awarding during the three federal fiscal years 2020, 2021, and 2022. It identifies the new triennial DBE goal and describes the methodology used to derive it. The document lastly discusses H-GAC’s projection of the portions of the goal that will be met through race-neutral and by race-conscious means. (49 CFR 26.45(f)(3)).

THE MARKET AREA

The overall DBE goal is determined by apportioning a percentage of the anticipated contracting opportunities to DBE firms, based on the “relative availability” of these firms within the relevant market area. The market area for H-GAC’s DBE firm availability analysis is the Houston-The Woodlands-Sugar Land Metropolitan Statistical Area (MSA) – which includes Austin, Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties. The Houston-The Woodlands-Sugar Land MSA was selected as the relevant market area because:

- a) A large majority of the bidders for professional services, (contractors and subcontractors) have their principal place of business within this area, and
- b) A large majority of the contracting dollars are expended in this area.

The number of DBE firms available in the H-GAC market area was obtained from the Texas Unified Certification Program (TUCP) database which consolidates the lists of DBE firms qualified by the states’ six federal DBE certifying agencies into one centralized directory. Firms certified as DBE firms in the TUCP database are presumed to be ready, willing, and able to participate in the DOT-assisted contracts within their declared areas of specialty. The TUCP database also identifies the geographical districts within which each of these firms actively conducts business. The selection of DBE firms for the H-GAC market availability analysis was limited to the Houston and Beaumont Districts.

METHODOLOGY

H-GAC followed the methodology for calculating the overall DBE Goal described in the federal DBE regulations (49 CFR § 26.45). The regulations outline several approaches for determining the overall DBE goal and the recipient is given relatively wide latitude in selecting the method that works for their jurisdiction. In addition, the DOT has published a detailed guide which contains tips, techniques, and best practices for setting the triennial DBE goal.¹ The DOT guidance reiterates the options described in the federal DBE regulations but also includes examples of calculations that support the analyses.

The DOT guidance outlines a two-step process for setting the overall DBE goal. Step One is to determine a base figure for the relative availability of DBEs, while Step Two involves adjusting the base figure to improve its precision when this is feasible. H-GAC's methodology for determining its overall DBE goal is outlined below.

STEP ONE: DETERMINE A BASE FIGURE.

The base figure was derived by dividing the number of DBE firms in the H-GAC market area that are ready, willing, and able to compete for H-GAC's DOT-assisted contracts by the number of all the firms (DBE and Non-DBE) in the market area that are ready, willing, and able to compete for the said contracts.

The following data sources were consulted to establish the base figure for the relative availability of DBE firms:

- 2019 Texas Unified Certification Program (TUCP) DBE Directory (<https://txdot.txdotcms.com>).²
- 2016 Houston-The Woodlands-Sugar Land MSA County Business Patterns (CBP) produced by the United States Census Bureau. (https://factfinder.census.gov/faces/tableservices/jsf/pages/productview.xhtml?pid=BP_2016_00A1&prodType=table).²

As stated earlier, the 2019 TUCP directory was examined to determine the number of certified DBE firms that could compete for H-GAC's DOT-assisted contract opportunities projected for FYs 2020 – 2022. On the other hand, the County Business Pattern (CBP) Data for the Houston-The Woodlands-Sugar Land MSA was queried to determine the number of all the firms (DBE and Non-DBE) that could compete for H-GAC's DOT-assisted contract opportunities projected for FYs 2020 – 2022. The results are listed in Table 1 below.

¹ U.S. DOT Staff. "Tips for Goal-Setting in the Disadvantaged Business enterprise (DBE) Program." U.S. DOT, November 6, 2014, https://www.transportation.gov/sites/dot.gov/files/docs/Tips_for_Goal-Setting_in_DBE_Program_20141106.pdf, Accessed June 14, 2019.

² Accessed on June 12, 2019.

Table 1: DBE Firms in Market Area as Ratio of Total Number of Firms

NAICS	Type of Work	Total # DBEs (TUCP)	Total # Firms in MSA (CBP)	Percent DBE
541330	Engineering Services	351 (District)	1,905 (MSA)	18%
541810	Advertising Agencies	25 (State)	175 (MSA)	14%
541820	Public Relations Agencies	30 (State)	62 (MSA)	48%
TOTAL		406	2,142	18.9%

Source: 2016 County Business Patterns & 2019 Texas Unified Certification Program Directory

The North American Industry Standard Classification (NAICS) codes were obtained for the categories of projects that will be available for bid by prime and subcontractors. They include:

- 541330** – Engineering Services,
- 541810** – Advertising Services, and
- 541810** – Public Relations Services.

Because the number of public relations and advertising agencies listed in the TUCP at the District level exceeded the numbers listed for the State, H-GAC found it reasonable to use the totals listed for the State in its base figure calculations. No weights were applied to the calculation of the base figure because no information was available on which to base an accurate multiplier.

To calculate the base figure, the number of DBE firms listed as available to work on these contracts for professional services (406) was divided by the total number of firms that perform those professional services (2,142), producing a base figure of 18.9%. This base figure was rounded up to 19%. The relevant calculations are expressed below:

THE FORMULA:

$$\text{Base Figure} = \frac{\text{Ready, Willing, and Able DBEs}}{\text{All Ready, Willing, and Able Firms}}$$

THE APPLICATION:

$$\begin{aligned} \text{Base Figure} &= (351 + 25 + 30) / (1905 + 175 + 62) && \text{[from Table 1]} \\ &= 406 / 2142 \\ &= 0.1895 (* 100) \\ &= \mathbf{18.95\% \text{ or } 19\%} \end{aligned}$$

STEP TWO: REFINE THE BASE FIGURE

The second step in setting the overall DBE goal was to refine the base figure to improve its precision. Guidance from the DOT presents several options for performing this action when relevant and reliable data is available. This goal setting process considered two of these options: (1) Available Disparity Studies, and (2) Participation by DBE firms in recent years.

DISPARITY STUDIES:

H-GAC researched its market area and comparable jurisdictions within the state for any recent business disparity studies that could inform the current goal setting effort.

A. City of Houston Disparity Study - 2012

The City of Houston commissioned the NERA Economic Consulting Group to conduct a disparity study for the City of Houston Minority/Women Business Enterprise (MWBE) Program in 2012. This study was however not used to adjust the H-GAC Step One base figure for several reasons. The study did not assess the availability of DBE businesses described by the same NAICS codes as the H-GAC analysis. Again, the range of contract opportunities for DBE participation at the City of Houston differ vastly from the range and kinds of opportunities available for the H-GAC Transportation Department. Consequently, the study findings would not be directly applicable to the H-GAC context. Moreover, the study is somewhat dated, and its practical usefulness is more as a period reference. These differences made the City of Houston Disparity Study unsuitable for adjusting the base figure calculation in Step One.

More recently, the City of Houston commissioned the firm Colette Holt & Associates (CHA) to perform a new Disparity study in 2017. While the study is reported as being complete,³ the results of this study have not been published at the time of this analysis.

B. City of Austin Disparity Study - 2016

The City of Austin also commissioned the NERA Economic Consulting Group to conduct a disparity study – which was completed in 2016. This study examined the extent of participation by minority-owned, women-owned, veteran-owned, and disabled veteran owned businesses in the in the city’s contracting and procurement opportunities. The study was not used to adjust the Step One base figure.

Like the City of Houston disparity study, the City of Austin analysis considered a wide range of contract opportunities for DBE participation which differed widely from those

³ Colette Holt & Associates, June 2019.

available through the H-GAC transportation department. Moreover, the record of firms that provided professional services included architectural firms and other business enterprises that were outside the purview of the H-GAC Transportation Department. Finally, it could be argued that the Austin market could not be analogous to the Houston metropolitan market due to differences in the population size and demographic structure, the business environment, and differences in cultural character. These dissimilarities made the Austin Disparity study unsuitable for adjusting the DBE participation Base Figure calculated in Step One.

C. Texas Department of Transportation (TxDOT) Disparity Study - 2018

TxDOT is currently conducting a disparity study of its Disadvantaged Business Enterprise (DBE) and Historically Underutilized Business (HUB) programs to determine if these businesses have had equal access to compete for contracting opportunities, and to assess whether the programs remain legally defensible and are administratively successful. The contract for the study was awarded to Colette Holt & Associates in conjunction with several local partners. This study is still ongoing.

D. Conclusion

While the disparity studies consulted were not used to fine-tune H-GAC's Step One base figure, the studies agreed on one important issue that is instructive to the H-GAC program, namely, that the DBE process is still needed in today's marketplace to level the playing field for minority and women owned business enterprises.

PAST DBE PARTICIPATION

The record of past DBE participation on DOT-assisted contracts was considered the more appropriate basis for refining the DBE base figure and improving its precision. To complete this step, H-GAC examined its overall DBE participation for the fiscal years 2017, 2018 and 2019. Although the DBE participation goal established for the FY 2017 – 2019 triennial period was 23%, the actual DBE participation achieved in the Transportation Department contracts for professional services in Engineering, Advertising, and Public Relations exceeded this goal in each of the fiscal years accounted. This suggests that DBE firms in the Houston market may have greater capacity to compete for prime contracts and subcontracts than was indicated by the goal. The median percentage of DBE participation achievement was 29% (See Table 2).

The DBE base figure obtained in Step One (19%) was adjusted by finding the average of the base figure with the median value of the DBE participation achieved during the preceding triennial period. The average of the base figure of 19% and the median value of 29% resulted in.

Table 2: DBE Participation for Fiscal Years 2017 - 2019

Fiscal Year	DBE Goal	DBE Participation Achieved	Type of Work
2019*	23%	41%**	Engineering Services, Advertising, Public Relations
2018	23%	27%	Engineering Services, Advertising, Public Relations
2017	23%	29%	Engineering Services, Advertising, Public Relations

*Billings through March 2019. **This report includes a prime contractor that is also a DBE.

an overall DBE participation goal of 24%. This proposed overall DBE goal represents a one-percent increase over the previous triennial goal and will support H-GAC’s efforts to promote the use of DBE firms in federally assisted contracts and procurement activities conducted by the agency

THE FORMULA:

$$\text{Adjusted Base Figure} = \frac{(\text{Base Figure} + \text{Median DBE Participation})}{2}$$

THE APPLICATION:

$$\begin{aligned} \text{Adjusted Base Figure} &= (19\% + 29\%) / 2 \\ &= 48\% / 2 \\ &= \mathbf{24\%} \end{aligned}$$

PROPOSED OVERALL DBE GOAL

Having taken available evidence into consideration in determining an adjustment to the base figure, H-GAC’s recommended overall DBE goal for the triennial period comprising FYs 2020 – 2022 is 24%. This means that of the \$7,050,000 in DOT-assisted contracts it is anticipated that the H-GAC Transportation Department will award during that triennial period, up to \$1,692,000 (or 24%) would be available for certified DBE firms.

DETERMINING RACE NEUTRAL AND RACE CONSCIOUS PARTICIPATION

Federal regulations direct that recipients must meet the maximum feasible portion of their overall goal by using race neutral means (49 CFR Part 26.51). For reporting purposes, race neutral participation includes DBE participation on a prime contract obtained through customary competitive procurement procedures, or DBE participation through a subcontract on a prime contract that does not carry a race (or gender) specific DBE goal.

The DOT-assisted contract awards by the H-GAC Transportation Department have consistently been made on a race neutral basis. This has nevertheless resulted in DBE participation rates higher than the established Goal (Table 2). H-GAC consequently resolves that the proposed overall DBE goal of 24% will be achieved by race neutral means, and that no race conscious measures will be applied towards meeting the goal.

It is H-GAC's policy to require the participation of DBE firms in the awarded contracts without regard to the funding source utilized. Consequently, all contracts for services, not just those funded by the DOT, are required to meet the DBE requirements where feasible. H-GAC will continue to track and report its DBE participation to the oversight agencies as required by law.

REPORT ON PUBLIC PARTICIPATION IN ESTABLISHING DBE GOAL

CONSULTATION - 49 CFR 26.45(g)(1)(i)

In establishing the overall DBE goal H-GAC was required to consult with interested stakeholders who could be expected to have information concerning the availability of disadvantaged and non-disadvantaged business, the effects of discrimination on opportunities for DBEs, and/or the need for efforts to level the playing field for the participation of DBEs in public sector contracts. This consultation requirement was met through a scheduled workshop held at the principal office of the agency, which included a direct “face-to-face” interactive exchange with the interested stakeholders.

Invitation flyers were emailed to minority, women’s, and small business advocates, community organizations, and consultant groups to announce H-GAC’s proposed DBE goal, inform them of the DBE goal-setting workshop, and to encourage them to share their opinions about the need for, and effectiveness of the DBE program.

PUBLISHED NOTICE - 49 CFR 26.45(g)(1)(ii) & 26.45(g)(2)

H-GAC published a notice announcing the proposed overall goal for the participation of DBE firms in its DOT-assisted contracts on the agency’s official internet web site. A copy of the notice is attached to this document (See Attachment A).

The public notice stated that the proposed DBE goal and its rationale would be available for inspection during normal business hours at H-GAC’s offices and informed the public that H-GAC would accept comments on the goal, ending 30 days from the date the notice was published. The notice included both an email address as well as mailing addresses to which comments could be sent.

H-GAC reviewed the available comments for any justified corrections or revisions to its goal determining methodology and revisited the evidence evaluated to adjust the base figure. H-GAC determined that the proposed overall DBE goal of 24% was appropriate.

ATTACHMENT “A”

PUBLIC NOTICE

Notice of Proposed Goal for the Participation of Disadvantaged Business Enterprises (DBEs) in Department of Transportation (DOT) Assisted Contracts

The Houston-Galveston Area Council (H-GAC) Transportation Department has proposed an overall goal of 24% for participation by certified Disadvantaged Business Enterprises (DBEs) in contracts with financial assistance provided by the U.S. Department of Transportation (DOT). The proposed DBE goal will be effective from October 1, 2019 through September 30, 2022.

The new goal and its rationale may be inspected at H-GAC Offices between 9:00 a.m. and 4:00 p.m., Monday through Friday at 3555 Timmons Lane, Suite 120, Houston, Texas 77027. The goal may also be viewed online at: <http://www.h-gac.com/disadvantaged-business-enterprises/default.aspx>.

H-GAC is inviting representatives of DBE and Non-DBE firms and other interested stakeholders to meeting on Thursday, July 11, 2019, where they can provide feedback on the proposed goal. The meeting will be held at 3555 Timmons Lane, Houston TX 77027 from 5:30 pm – 7:00 pm. Participants will learn about the Federal DBE program and hear how to get registered in the Texas Unified Certification Program (TUCP) directory. Information will also be provided about contracting and procurement opportunities with H-GAC and with the City of Houston.

Comments on the proposed DBE goal and the methodology used to determine it are being accepted through July 24, 2019. Your comments may be submitted online, by email to: dbelo@h-gac.com, or by U.S. Mail Service directed to the agencies below:

Houston-Galveston Area Council

Transportation Department

Attn: Disadvantaged Business Enterprise Liaison Officer (DBELO)

P.O. Box 22777

Houston, Texas 77227

dbelo@h-gac.com

Texas Department of Transportation

Civil Rights Division

125 E. 11th Street

Austin, Texas 78701-2409