



**NEW JERSEY DEPARTMENT OF TRANSPORTATION
DISADVANTAGED BUSINESS ENTERPRISE GOAL SUBMISSION
FEDERAL FISCAL YEARS 2026 THROUGH 2028**

The New Jersey Department of Transportation (NJDOT) has established a Disadvantaged Business Enterprise (DBE) Program in accordance with the regulations of the United States Department of Transportation (USDOT), 49 C.F.R. Part 26.

NJDOT has determined its overall DBE goal for federal fiscal years 2026 through 2028 as 14.82% of the total federal financial assistance NJDOT will expend on Federal Highway Administration (FHWA) contracts.

NJDOT will seek to attain a maximum portion of its DBE goal utilizing race and gender-neutral means. Race and gender-neutral DBE participation and race and gender conscious DBE participation are monitored by the NJDOT Division of Civil Rights on a monthly basis, and adjustments are made accordingly to ensure that NJDOT neither exceeds nor falls short of meeting its overall DBE goal.

I. Step One: Establishing the Base Figure

Pursuant to 49 CFR 26.45(c), "You must begin your goal setting process by determining a base figure for the relative availability of DBEs." To determine the relative availability of DBEs in its market, NJDOT followed a modified version of the "DBE Directories and Census Bureau Data" methodology as outlined in 49 CFR 26.45(c)(1). Pursuant not 49 CFR 26.45(c)(1), "Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes... Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market." NJDOT modified the methodology described in 49 CFR 26.45(c)(1) by dividing the number of relevant NAICS codes held by DBEs by the number of relevant NAICS codes held by all businesses to derive a base figure for the relative availability of DBEs in its market.

A. Market Area Analysis

As indicated in 49 CFR 26.45(c)(1), the "DBE Directories and Census Bureau Data" methodology for determining the base figure must begin with the identification of the market area. The market area is the geographical area that represents a particular market. There must be sufficient facts to support a market area determination. NJDOT has determined that there are sufficient facts to conclude that the State of New Jersey is its

market area. Between July 1, 2022, and June 30, 2024, NJDOT awarded the majority (89%) of its contracts to New Jersey based firms. Therefore, the State of New Jersey is NJDOT's market area.

Table 1 depicts the total number and dollar value of construction and consulting contracts, or agreements awarded by NJDOT between July 1, 2022, and June 30, 2024. As depicted in Table 1, NJDOT awarded prime contracts or agreements to 194 firms. The total expenditure was \$2,263,477,210. Of these contractors, 173 or 89.17% were New Jersey based companies. The dollar value of the contracts awarded to New Jersey based firms was \$2,219,275,950 or 98.05% of the total expenditure. Based on this data, NJDOT's market area is the State of New Jersey.

Table 1: NJDOT Contracts or Agreements Awarded from 2022-2024

Geographic Distribution of Participating Contractors (2022 - 2024)	Number of Contractors	Dollar Value of Contracts	Percentage of Total Dollars
New Jersey Based Contractors	173	\$2,219,275,950	98.05%
Pennsylvania Based Contractors	8	\$38,420,617	1.70%
New York Based Contractors	10	\$4,457,350	0.20%
Ohio Based Contractors	1	\$789,447	0.03%
Connecticut Based Contractors	2	\$533,846	0.02%
TOTAL:	194	\$2,263,477,210	100.00%

B. Defining the Variables

The Step One Base Figure is a measurement of the actual relative availability of DBEs to perform the types of work that NJDOT intends to contract. It is the percentage of DBEs among all firms that are ready, willing, and able to compete for DOT-assisted contracts. This percentage is calculated by dividing the number of DBEs ready, willing, and able to perform the types of work that NJDOT will fund during this triennial period, by the number of all firms (DBEs and non-DBEs) ready, willing, and able to perform these same work types.

Pursuant to 49 CFR 26.45(c)(1), NJDOT identified the North America Industry Classification System (“NAICS”) codes that correspond to the work categories where it would normally contract. Then, NJDOT used the 2022 Census Bureau's County Business Pattern (CBP) database to identify “all firms ready, willing, and able” in its market with NAICS codes in work categories where it would normally contract. The 2022 CBP is the most current data available at the time of this proposed goal.

“Ready willing and able DBEs” are DBEs certified in the New Jersey Unified Certification Program (NJUCP) Directory with six-digit NAICS codes in work categories where NJDOT can identify opportunities for DBE firms to participate on FHWA-assisted contract(s).

Table 2 illustrates the final count of NAICS codes in the NJUCP and CBP used to determine the availability of DBEs for contracting and subcontracting opportunities with NJDOT on federally assisted contracts.

Table 2: Ready, Willing and Able DBEs, March 2025

NAICS Description	NAICS	NJUCP Counts	2022 Census CBP Counts by Applicable County
Water and Sewer Line and Related Structures Construction	237110	73	203
Oil and Gas pipeline and related Structures Construction	237120	14	28
Power and Communication Line and Related Structures Construction	237130	43	126
Highway, Street, and Bridge Construction	237310	209	276
Other Heavy and Civil Engineering Construction	237990	136	129
Poured Concrete Foundation and Structure Contractors	238110	73	333
Structural Steel and Precast Concrete Contractors	238120	71	95
Masonry Contractors	238140	70	717
Other Foundation, Structure, and Building Exterior Contractors	238190	60	132
Electrical Contractors and Other Wiring Installation Contractors	238210	117	2670
Other Building Equipment Contractors	238290	28	205
Painting and Wall Covering Contractors	238320	79	1030
Other Building Finishing Contractors	238390	39	226
Site Preparation Contractors	238910	103	749
All Other Specialty Trade Contractors	238990	115	935
Ready-Mix Concrete Manufacturing	327320	4	60
Cut Stone and Stone Product Manufacturing	327991	1	65
Fabricated Structural Metal Manufacturing	332312	34	63
Ornamental and Architectural Metal Work	332323	17	76
Fabricated Pipe and Pipe Fitting Manufacturing	332996	8	13

NAICS Description	NAICS	NJUCP Counts	2022 Census CBP Counts by Applicable County
All Other Misc. Fabricated Metal Product Manufacturing	332999	9	50
Sign Manufacturing	339950	23	164
Lumber, Plywood, Millwork and Wood Panel Merchant Wholesalers	423310	17	161
Brick, Stone, and Related Construction Material Merchant Wholesalers	423320	31	142
Other Construction Material Merchant Wholesalers	423390	40	95
Other Miscellaneous Durable Goods Merchant Wholesalers	423990	38	433
Metal Service Centers and Other Metal Merchant Wholesalers	423510	32	246
Electrical Apparatus & Equipment & Wiring Supplies, and Related Equipment Merchant Wholesalers	423610	63	380
Hardware Merchant Wholesalers (fasteners, bolts, nuts, rivets, screws)	423710	29	156
Wholesale Trade Agents and Brokers	425120	88	1051
General Freight Trucking, Local	484110	68	1617
General Freight Trucking, Long-Distance, Truckload	484121	25	1147
Specialized Freight (except Used Goods) Trucking, Local	484220	91	673
Specialized Freight (except Used Goods) Trucking, Long-Haul	484230	20	187
Snow clearing, highways and bridges, road transportation	488490	22	88
Title Abstract and Settlement Offices	541191	3	277
Architectural Services	541310	58	646
Landscape Architectural Services	541320	58	154
Engineering Services	541330	402	1532
Inspection services, building or home	541350	70	159
Geophysical Surveying and Mapping Services	541360	24	14
Surveying and Mapping (except Geophysical) Services	541370	74	166
Testing Laboratories	541380	64	230
Administrative and General Management Consulting Services	541611	507	2667
Marketing Consulting Services	541613	151	1320
Process, Physical Distribution and Logistics Consulting Services	541614	125	294
Other Management Consulting Services	541618	207	510
Environmental Consulting Services	541620	133	343
Other Scientific and Technical Consulting Services	541690	196	606
Public Relations Agencies	541820	64	210
Marketing Research and Public Opinion Polling	541910	55	153
Landscaping Services	561730	48	4718

NAICS Description	NAICS	NJUCP Counts	2022 Census CBP Counts by Applicable County
Hazardous Waste Collection	562112	11	16
Other Waste Collection (hazardous waste hauling, local)	562119	32	42
Remediation Services	562910	67	249
All Other Miscellaneous Waste Management Services (Catch Basin Cleaning Service, Storm Basin Cleanout Service)	562998	67	33
SUBTOTAL		4306	29060

C. Calculating the Step One Base Figure

NJDOT modified the methodology described in 49 CFR 26.45(c)(1) by dividing the number of relevant NAICS codes held by DBEs by the number of relevant NAICS codes held by all businesses to derive a base figure for the relative availability of DBEs in its market.

Step One Base Figure = NJUCP NAICS codes ÷ CBP NAICS codes

Step One Base Figure = 4,306 ÷ 29,060

Step One Base Figure = 0.148176

Step One Base Figure = 14.82%

D. Weighting

NJDOT did not use weighting in its 2026 through 2028 DBE goal calculation. NJDOT considered weighting the base figure according to the projected federally funded Statewide Transportation Improvement Program (STIP) expenditures for construction services and consulting services. While the STIP represents the best data available to determine NJDOT's future expenditures, it does not provide the best information as to how those expenditures will be divided between construction and professional services work. Without that data, the number of relevant NAICS codes held by DBEs by the number of relevant NAICS codes held by all businesses in the 2022 Census CBP Counts provides the most accurate measure of the relative availability of DBEs in NJDOT's market.

II. Step Two: Adjusting the Step One Base Figure

In accordance with 49 CFR 26.45(d), the factors to be considered in determining whether or not adjustments are necessary are as follows: past participation; evidence from

disparity studies; statistical disparities in the ability of DBEs to get financing, bonding and insurance; data on employment, self-employment, education and training, union programs and apprenticeship programs; and any other data that would help to better measure the percentage of work that DBEs would be likely to obtain in the absence of discrimination.

A. Past Participation

NJDOT determined that the Step One Base Figure would not be adjusted based on past participation. An adjustment based on past participation is not warranted because the median past participation from 2020 through 2024 was 14.53%, as represented in Table 3.

Table 3: Median Past Participation, Years 2020-2024

Year	DBE Attainment	Median Participation
2020	10.57%	
2021	12.13%	
2022	16.66%	
2023	14.53%	
2024	15.86%	
		14.53%

The Step One Base Figure is 14.82% and the median past participation was 14.53%, a difference of 0.29%. Therefore, NJDOT determined that an adjustment based on past participation was not necessary, because the median past participation is very similar to the Step One Base Figure. (See, Table 3).

B. Adjustment based on disparity studies and/or statistical studies conducted in our market area

In January 2024 the State of New Jersey released a comprehensive statewide study that reviewed public contracting opportunities of minority and women owned business. Statistically significant disparities were found in contracting with Minority Business Enterprises – including specifically in contracting with businesses owned by Black Americans, Asian Americans, and Hispanic Americans – for formal prime contracts in construction, professional services, and goods and services and for informal prime contracts across all industries studied. NJDOT chose not to use the data from this study, because the proportion of contract dollars awarded to DBEs, as indicated by past participation, was relatively close to the proportion of available DBEs in the relevant market area. Therefore, there was no need to make an adjustment based on this

disparity study.

III. DBE Goal for federal fiscal years 2026 through 2028

NJDOT has determined its overall DBE goal for federal fiscal years 2026 through 2028 as 14.82% of the total federal financial assistance NJDOT will expend on Federal Highway Administration (FHWA) contracts.

IV. Public consultation and publication

Pursuant to 49 CFR 26.45(g)(1), "In establishing an overall goal, you must provide for consultation and publication."

NJDOT posted a public notice of the proposed goal and methodology on its website on May 30, 2025, for public review and comment. NJDOT emailed the public notice to over 2,500 businesses and interested parties and organizations in the New Jersey area. Outreach included DBEs in the NJUCP directory, various chambers of commerce, minority and woman business organizations, community organizations and business interest groups. NJDOT conducted a virtual public consultation meeting on June 23, 2025, at 10:00 A.M.

A. Summary of Public Comments and Agency Responses:

Comments from the Utility and Transportation Contractors Association of New Jersey (UTCA)

1. NJDOT's Methodology references 49 CFR 26.45(c)(1) in multiple instances, but fails to follow the procedures required of the referenced regulation. 49 CFR 26.45(c)(1) states, "Determine the number of ready, willing, and able DBEs in your market from your DBE directory." Per NJDOT's Title VI Nondiscrimination Compliance Executive Summary for Federal Fiscal Year ("FFY") 2024, "At the end of FFY 2024 the number of certified DBE firms in NJ's UCP ready, willing, and able to perform work for NJDOT increased to 2,509." Further, as of May 2025, the entire NJUCP Directory included only 2,839 certified DBE's, including all NAICS codes and including all markets, which represents the maximum number of DBE's NJDOT could possibly account for prior to adjusting for NJDOT's market area and identified NAICS codes. Therefore, clearly the number of firms NJDOT calculated (4,306) has been artificially inflated. As required by FHWA the triennial goal setting methodology must reflect an "apples-to-apples" comparison. As per Paragraphs (a) and (b) below there are two key aspects from the Step One Base Figure in NJDOT's methodology that do not satisfy the apples-to-apples comparison, thereby creating a severely over-inflated representation of alleged DBE availability, potentially giving rise to the question of whether the goal is narrowly tailored.

First, NJDOT identifies the State of New Jersey as its market area. Per 49 CFR 26.45(c)(1), "Determine the number of ready, willing and able DBEs *in your market* (emphasis added)

from your DBE directory." However, in Table 2 of Step 1(B) NJDOT includes DBE's from **outside its market area** (i.e. non- NJ-based firms) and compares this number to the number of all firms (DBE and non-DBE) from NJ only (via US Census Bureau CBP). In fact, less than 32% of the DBE firms in the NJUCP directory are NJ-based firms. A basic export of the NJUCP directory indicates that, as of May 2025, there are only 859 total NJ-based DBE firms using all NAICS codes, not just those NAICS codes anticipated to be used by NJDOT. The UTCA recognizes that while DBE firms from outside NJDOT's identified market area may participate in NJDOT's federally funded projects, NJDOT must only include DBE firms from the same market area in the numerator as are included in the denominator; or it must include comparable US Census Bureau CBP data from the corresponding market areas that are captured by the NJUCP Directory. In that NJDOT is using only NJ-based firms in the denominator of its Step One Base Figure, to reflect an apples-to-apples comparison, NJDOT must also use only NJ-based firms in the numerator of its Step One Base Figure.

NJDOT's methodology also artificially inflates its representation of ready, willing, and able DBE's by counting the same firm more than once, and in some circumstances up to 14 times, in its total count of 4,306 DBE firms used in the numerator. USDOT's published tips for goal setting is clear that recipients must be careful not to double count firms by including them in your list more than once. NJDOT uses the inflated count of 4,306 firms as the numerator in comparison to 29,060 firms from the US Census Bureau's CBP. Per the US Census Bureau's website, the US Census Bureau assigns and maintains only one NAICS code for each establishment (FAQ #16 below):

16. Can a business have more than one NAICS code?

In the process of collecting, tabulating, analyzing, and disseminating statistical data, the U.S. Census Bureau assigns and maintains only one NAICS code for each establishment based on its primary activity (generally the activity that generates the most revenue for the establishment). Since other agencies and organizations have adopted NAICS for use in programs that are not statistical (e.g., regulatory activities and procurement), it is possible that they allow for more than one NAICS code per establishment. For instance, the System for Award Management (SAM), where businesses register to become federal contractors, will accept multiple classification codes per establishment. You will need to contact these other agencies to find out what their policies are, and what NAICS codes are appropriate for your business relative to their programs. For access to a list of Federal government agencies, visit <https://www.usa.gov/agency-index>.

The UTCA recognizes that NJDOT and/or its certifying partners may assign an individual DBE firm multiple NAICS codes. However, the number of all firms NJDOT uses in the denominator of the Step One Base Figure counts individual firms only once (based on only one NAICS code per firm). Therefore, in order to reflect an apples-to-apples comparison, NJDOT must also

use only one NAICS code per firm in the numerator of its Step One Base Figure.

When utilizing the demonstrable evidence from (a) and (b) above as the basis of an apples-to-apples comparison that is in accordance with 49 CFR 26.45, narrowly tailored, and more accurately reflects the true availability of ready, willing, and able DBE firms in the local market, the numerator in NJDOT's Step One Base Figure should be approximately 631 DBE firms compared to 29,060 in the denominator, or 2.17%. Further, NJDOT's past DBE participation was the result of using similarly flawed data in its numerator/denominator comparisons when setting previous triennial goals, and the median of NJDOT's past race/gender-neutral participation exceeds 2.17%, therefore a Step Two adjustment is not warranted. NJDOT can anticipate achieving 2.17% DBE participation entirely through race and gender-neutral means.

If, however, NJDOT elects to proceed with an adjustment of the Step One Base Figure based on a comparison to past DBE participation, then inclusion of the factual evidence presented in (a) and (b) above, in conjunction with NJDOT's methodology would yield the results below:

DBE Goal = (Step One Base Figure + Median Past Participation) / 2

DBE Goal = (2.17% + 14.53%) / 2

DBE Goal = (16.7%) / 2

DBE Goal = 8.35%

Given that NJDOT expects to obtain 5.75% participation through race and gender-neutral means for FFY 2026 through 2028, the remaining 2.6% can be achieved through race and gender-conscious means or methods.

2. What specific actions is NJDOT taking to "meet the maximum feasible portion of [its] overall goal via race neutral DBE participation"? How many race neutral Federally assisted NJDOT contracts does the department anticipate for FFY 2026-2028?

3. Per 49 CFR 26.11(c)(2) NJDOT is required to obtain and maintain a bidders list separate and apart from the UCP. Please confirm when NJDOT will furnish a copy of the bidders list information obtained by NJDOT in compliance with 49 CFR 26.11(c)(1)&(2). Specifically, please provide a complete list of the "universe of DBE and non-DBE contractors and Subcontractors who seek to work on your federally assisted Contracts... "?

- a. Please provide the bidders list information being used by NJDOT to establish overall/contract goals.
- b. Based upon your bidders list information, how many (unique) "DBE's have bid or quoted (successful and unsuccessful) on your Federal Highway Administration (FHWA) -assisted prime contracts or subcontracts in the past three years"?

4. Please provide a complete list inclusive of dates and the DBE participants that took part in

the NJDOT Supportive Services Programs for DBEs provided by NJDOT pursuant to 49 C.F.R. 26.51(b)(5) for years 2020 through 2024.

5. The NUCP Directory includes the following disclaimer: "Certification and the information listed within this directory is not a guarantee of a firm's capacity or ability to perform specific tasks or services. Users of this information are advised to conduct their own due diligence when engaging any listed entities. Prior to contracting, it is the prime contractor's responsibility to ensure a subcontractor is ready, willing and able to perform the defined scope of work. " Please provide the steps, processes, and/or procedures NJDOT took to confirm that all DBE firms utilized in Table 2 are ready, willing, and able to perform the work associated with all the relevant NAICS codes assigned to each firm as well as the results therefrom.

6. NJDOT's DBE attainment for FY 2023 (14.53%) and 2024 (15.86%) exceeded the annual goal of 9.95%. Per 49 CFR 26.51(f)(2), "If, during the course of any year in which you are using contract goals, you determine that you will exceed your overall goal, you must reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal." Please provide the following:

- a. NJDOT's list of Federally funded contracts for FY 2023 and FY 2024 that used reduced or eliminated contract goals, and the corresponding magnitude of the reduction and actual attainment in order to comply with 49 CFR 26.51(f)(2).
- b. NJDOT's reduced DBE participation goal for FY 2025 and the date which the reduced participation goal was implemented. Please also advise if the reduced participation goal was made publicly available.

NJDOT's Response to comments from the UTCA

The UTCA falsely claims that NJDOT has failed to follow 49 CFR 26 in developing its overall DBE goal based on an erroneous belief that 49 CFR 26 requires a specific methodology for setting the overall DBE goal. 49 CFR 26.45(c) does not mandate any particular methodology for calculating the Step One Base Figure. 49 CFR 26.45(c)(5) reads in pertinent part as follows, "Except as otherwise provided in this paragraph, you may use other methods to determine a base figure for your overall goal. Any methodology you choose must be based on demonstrable evidence of local market conditions and be designed to ultimately attain a goal that is rationally related to the relative availability of DBEs in your market." NJDOT chose to use a modified version of the DBE Directories and Census Bureau Data methodology described in 49 CFR 26.45(c)(1).

Under 49 CFR 26.45(b), "Your overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on your DOT-assisted contracts (hereafter, the "relative availability of DBEs"). The goal must reflect your determination of the level of DBE participation you would expect absent the effects of discrimination." To determine the relative availability of DBEs in its market, NJDOT followed a modified version of the "DBE Directories and Census Bureau Data" methodology as

outlined in 49 CFR 26.45(c)(1). Pursuant not 49 CFR 26.45(c)(1), “Determine the number of ready, willing and able DBEs in your market from your DBE directory. Using the Census Bureau's County Business Pattern (CBP) data base, determine the number of all ready, willing and able businesses available in your market that perform work in the same NAICS codes... Divide the number of DBEs by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.”

NJDOT identified the North America Industry Classification System (“NAICS”) codes that correspond to the work categories where it would normally contract. Then, NJDOT used the 2022 Census Bureau's County Business Pattern (CBP) database to identify all ready, willing, and able businesses in its market with NAICS codes in work categories where it would normally contract. Next, NJDOT identified those DBE firms, in the NJUCP database, with NAICS codes in work categories where it would normally contract. NJDOT modified the methodology described in 49 CFR 26.45(c)(1) by dividing the number of relevant NAICS codes held by DBEs by the number of relevant NAICS codes held by all businesses to derive a base figure for the relative availability of DBEs in its market.

The overall goal of 14.82% represents the relative availability of DBEs. The accuracy of this goal is demonstrated by the fact that it is close to the median DBE participation from 2020 through 2024, which is 14.53%. Therefore, NJDOT will not reduce its DBE goal as requested by the UTCA.

In its written comments and at an in-person meeting, on or about June 30, 2025, the UTCA implied that NJDOT needed to use a bidder’s list to accurately calculate the overall DBE goal. It must be emphasized that 49 CFR 26.45 does not mandate the use of a bidders list in the preparation of the overall DBE goal. Therefore, NJDOT did not use a bidders list in the preparation of its overall DBE goal.

At NJDOT’s request, the UTCA provided it with a bidders list that it prepared in March of 2024. NJDOT used the bidders list methodology described in 49 CFR 26.45(c)(2) to test the UTCA’s claims regarding the necessity of the bidders list in terms of determining the relative availability of DBEs in its market. Under 49 CFR 26.45(c)(2), “Determine the number of DBEs that have bid or quoted (successful and unsuccessful) on your DOT-assisted prime contracts or subcontracts in the past three years. Determine the number of all businesses that have bid or quoted (successful and unsuccessful) on prime or subcontracts in the same time period. Divide the number of DBE bidders and quoters by the number of all businesses to derive a base figure for the relative availability of DBEs in your market.”

The UTCA’s bidders list was composed of DBE and non-DBE firms that had been utilized over the past three years on federally funded construction contracts with NJDOT. The list included a total of 299 construction firms, 61 of which are DBE firms. 20.4% of the firms on the UTCA’s bidder’s list are DBE firms. If NJDOT were to rely on the UTCA’s bidders list, it would have to supplement that information with NJDOT’s list of prequalified contractors, along with its list of prequalified professional services firms and cost basis approved professional services firms to ensure the accuracy of the goal.

Adding NJDOT’s prequalified construction firms to UTCA’s bidders list would result in 448 construction firms, 66 of which are DBE firms. NJDOT has 334 cost basis approved and prequalified professional services firms, 77 of which are DBE firms. If NJDOT added all of these construction and professional services firms together there would be a total of 782 firms, 143 of which would be DBE firms. Under this scenario, 18.29% of these firms are DBE firms. Therefore, the Step One Base figure would be 18.29%.

The median past participation from 2020 to 2024 is 14.53%. Adjusting the Step One Base Figure based on median past participation results in 16.41%. Therefore, under the bidders list methodology, the DBE goal would be 16.41%. It should be noted that this number is slightly higher, but still very close to NJDOT’s proposed overall goal of 14.82%.

B. Public Comments and agency responses from the virtual public consultation meeting

Public Comment	NJDOT Response
Can you explain the Race-neutral [program]?	NJDOT has a robust Supportive Services Program (“SSP”) to help DBEs grow and succeed. The SSP includes a Business Development Program, one-on-one technical assistance, seminars and workshops, and networking events. The ultimate goal of the SSP is to help DBEs obtain self-sufficiency. NJDOT also has an Emerging Small Business Enterprise (“ESBE”) certification. The ESBE certification is for small businesses that do not meet the race/gender or non-presumptive disadvantaged requirements of the DBE program.
Does NJDOT take into consideration bids from firms not located in New Jersey?	Yes. NJDOT will accept bids from contractors from all over the United States. Although most of our contractors are located in New Jersey. To be a Prime Bidder, all firms must be prequalified in their various disciplines with NJDOT. Any DBE certified firm from out of state must apply for interstate DBE certification to receive credit on an NJDOT contract with a DBE contract goal.
Will the current (federal) administration’s DEI efforts impact NJDOT in the coming months?	NJDOT does not comment on federal DEI policy. NJDOT will follow the law and all associated regulations at present and in the future.
What percentage of the (DBE) goal is allowed to be achieved by the contractor?	If the Prime contractor is not a certified DBE, then no percentage of the goal can be achieved by the contractor’s own forces. If the Prime contractor is DBE certified, and there is a DBE goal on the project, then the Prime contractor may get credit for work they perform with their own forces under the NAICS code(s) they are certified for.

Public Comment	NJDOT Response
Can you explain the increase to the goal and the adjustment's impact on race neutral?	The overall goal increased from 9.95% in the last 3-year goal to 14.82%. The reason for the adjustment was a slight increase in the number ready, willing and able DBE certified firms in the identified NAICS codes NJDOT expects to have contract opportunities for. NJDOT also found significantly less firms in the updated Census data from the previous goal as well. NJDOT expects to maximize race neutral participation on all federally funded work. The more race neutral participation on the department has the less race conscious means the department would have to use, i.e. contract goals.
If a firm is certified by the Port Authority of New York & New Jersey (PANYNJ), is there reciprocity with NJDOT?	If the certification is a DBE certification, yes. NJDOT, PANYNJ, and NJ Transit make up the New Jersey Unified Certification Program ("NJUCP"). All DBE certifications are "cross-honored" among these 3 agencies in New Jersey. This includes credit for federally funded contracts with DBE goal.
Do Prime and Subcontractors have an obligation to utilize diverse businesses or to make a good faith effort toward meeting the goal?	When there is a DBE goal set on the contract, the Prime contractor and Subcontractors must give assurances in accordance with 49 CR Part 26.55 that a goal on the contract will be met using DBE certified firms. If the Prime Contractor finds it cannot meet the goal it must submit Good Faith Effort showing why it was unable to meet the goal.
How do you evaluate Good Faith Effort?	The bidder is afforded an opportunity for "Administrative Reconsideration" in which the bidder may submit written documentation or argument why it made adequate Good Faith Effort to do so. NJDOT follows Appendix A to Part 26 of 49 CFR when evaluating Good Faith Efforts.
If a DBE submits a proposal to a Prime but is not utilized, can the DBE still participate in the project?	If there is a DBE goal on the contract, a Prime contractor may request bids or proposals from DBEs but may ultimately choose another DBE firm to participate on the project for any number of reasons, such as price or capability. If a Prime Contractor commits to use a DBE firm as part of the DBE Participation Plan (DPP) for the project, and the DPP is approved by NJDOT, the Prime Contractor must use that DBE firm for the work described in the DPP unless the firm is terminated or replaced for or with "good cause" and that "good cause" is reviewed and approved by NJDOT. Otherwise, failure to use the listed DBE firm on the DPP will result in the Prime not receiving credit toward the goal and the appropriate penalty under the contract.
Is Cost Basis Approval required for DBE participation?	No. Cost Basis Approval ("CBA") is only required for Prime contract bidders on Professional Services contracts. If a firm is DBE certified in a professional service discipline, then it may

Public Comment	NJDOT Response
	participate on a contract as a sub-consultant without CBA.
Does NJDOT have a Supplier Diversity Program?	No. NJDOT relies on the NJUCP Directory.
Does NJDOT offer a Mentor Protégé Program?	No. Not at this time.
What is the graduation level of the DBE program in terms of revenue?	There are 2 revenue levels that will graduate participants from the program based on business size. First is the DBE statutory level which is the 3 year average of gross business receipts. The current statutory level is \$31.84 million. The second revenue level is by NAICS code. The United State Small Business Administration sets those levels, but they are calculated on a 5-year average of gross business receipts.
What are some practices that can help a newly certified DBE firm find work?	Newly certified firms are encouraged to register with NJDOT's DBE Supportive Services Program and learn about marketing, business management, bidding, and to take advantage of networking and project information activities.

V. Conclusion

The public comments did not warrant any changes to the goal, methodology or program elements within NJDOT's 3-year goal. NJDOT's overall DBE goal for FFY 2026-2028 is 14.82%. NJDOT expects to meet this goal by race-neutral means. NJDOT will begin using its overall goal of 14.82% on October 1, 2025.