

GATEWAY DEVELOPMENT COMMISSION

DBE Goal and Methodology

for

**FFY 2024-2026
Triennial Goal Period**

Gateway Development Commission
FTA Recipient ID: 7419

For:
Federal Transit Administration
Office of Civil Rights

December 22, 2023
Version 3.0

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Version control:

Version	Issue Date	Notes
1.0	September 28, 2023	Initial Draft
2.0	November 17, 2023	Updated
3.0	December 22, 2023	Updated

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1.0 EXECUTIVE SUMMARY

The Gateway Development Commission (“GDC”) herein presents its Overall DBE Goal Methodology for Federal Fiscal Year (“FFY”) 2024-2026 to the Federal Transit Administration (“FTA”) for review and approval.

This Overall DBE Goal and Methodology for FFY 2024-2026 is 20.07%. GDC utilized the best available project scope and DBE and non-DBE availability, weighted by projected cost per scope for the seven contracts, including that of the Delivery Partner, that are planned to be awarded during the goal period.

The overall DBE goal is set at three-year (triennial) intervals, based on a schedule established by FTA. The FTA established GDC’s first triennial goal submission as FFY 2024-2026 (October 1, 2023 - September 30, 2026).

The goal was derived in the following manner:

- Identified the scopes of work for the seven packages and further grouped by North American Industry Classification System (“NAICS”) codes
- Considered the dollar values per scopes of work on each contract, by NAICS codes
- Identified the availability of DBEs and non-DBEs based on the scopes of work
- Used a weighted formula based on the FTA funds associated to the scopes of work and the relative availability of DBEs.

The 30-day public comment and consultation began on November 17, 2023 with an email distribution of over 4200 entities. The public comment period ended on December 18, 2023. GDC held a virtual public consultation and presentation on the goal and methodology on December 1, 2023, with an audience of 170 firms including 80 DBEs. GDC received 46 comments that were all reviewed and considered as a component of potentially adjusting the overall DBE goal. The 46 comments did not warrant further research to adjust the overall DBE goal.

GDC determined the Race-neutral/Race-conscious percentage split of the 20.07% overall DBE goal is 1.5% race-neutral and 18.57% race-conscious.

During the triennial period, GDC will implement race-neutral measures to meet its 1.5% race-neutral goal. GDC will apply race-conscious measures such as setting a DBE goal on individual contracts where subcontracting opportunities exist to meet the 18.57% race-conscious goal.

2.0 INTRODUCTION

GDC is a public authority and government-sponsored authority created by the Gateway Development Commission Act (2019 NY Laws, ch.108) and (N.J.S.A. 32:36-1, et seq.) (referred to hereafter as the “GDC Act”) to facilitate the passenger rail transportation project (Gateway Program) between Penn Station NY, and Penn Station in Newark, New Jersey.

GDC was formed via parallel legislation in New York (“NY”) and New Jersey (“NJ”) in July 2019 to oversee and deliver the Gateway Program. GDC works closely with stakeholders, including the United States

Department of Transportation (“USDOT”), FTA, the States of NY and NJ, Amtrak, NJ TRANSIT, and the Port Authority of New York and New Jersey (“PANYNJ”), to advance this critical program.

2.1 Hudson Tunnel Project Overview

The purpose of the Hudson Tunnel Project (“HTP”) is to preserve the current functionality of Amtrak’s Northeast Corridor (“NEC”) service and NJ TRANSIT’s commuter passenger rail service between New Jersey and Penn Station New York (“PSNY”) by repairing the deteriorating North River Tunnel; and to strengthen the NEC’s resiliency to support reliable service by providing redundant capability under the Hudson River for Amtrak and NJ TRANSIT NEC trains between NJ and PSNY.

The HTP includes the development, design, and construction of a new two-tube tunnel connecting NY and NJ and certain ancillary facilities, the construction of the final segment of the concrete casing under western Hudson Yards in Manhattan, NY, the rehabilitation of the existing North River Tunnels, and certain projects necessary to connect such projects to the contiguous Amtrak NEC facilities. At the completion of the HTP, the NEC would have four tracks (two in the new Hudson River Tunnel and two in the North River Tunnel) between NY and NJ under the Hudson River.

The HTP will apply FTA financial assistance through the discretionary Section 5309 Capital Investment Grant (“CIG”) program, for New Starts, Small Starts, and Core Capacity Investments. FTA obligates discretionary Section 5309 grants for new fixed guideway projects or extensions to existing fixed guideway systems with a total estimated capital cost of \$300 million or more, or that are seeking \$100 million or more in Section 5309 CIG program funds. Federal funding assistance from the FTA in the form of a CIG New Starts grant is assumed in the financial plan for the HTP.

3.0 BACKGROUND

GDC is a first-time recipient of FTA grants that will be applied to construct the HTP. As a recipient of FTA grants, GDC must set an overall goal for Disadvantaged DBE participation in the FTA-assisted contracts. The DBE regulations at 49 Code of Federal Regulations (CFR) 26 Participation by Disadvantaged Business Enterprises established under §26.21 that FTA recipients receiving planning, capital and or operating assistance who will award prime contracts the cumulative total value of which exceeds \$250,000 in FTA funds in a FFY must administer a DBE program and establish an overall DBE goal. The overall DBE goal is set at three-year (triennial) intervals, based on a schedule established by FTA. The FTA established GDC’s first triennial goal submission as FFY 2024-2026 (October 1, 2023-September 30, 2026).

GDC anticipates awarding seven FTA financially assisted contracts during FFY 2024-2026. The seven contracts will compose the basis of the overall DBE goal. The proposed contracts (packages) are:

Delivery Partner – A third-party contracted professional services staff augmentation to GDC. The Delivery Partner will assist GDC through all key aspects of project management through the life of the HTP.

Package EA1 – Hudson River Ground Stabilization – A design build contract for the fortification and stabilization of the river bottom on the NY side of the Hudson River. This work will create an improved condition in which to bore the new tunnel through the eastern portion of the Hudson River section of the project. The work will also comply with

all environmental regulations to ensure the protection of the river and be conducted only during specified time ranges to protect fish spawning and wildlife.

Package 1A – Palisades Tunnel – A design-bid-build contract for the construction of the tunneling and heavy civil work for the portion of the tunnel through the Palisades to the construction shaft in Hoboken, NJ.

Package 1B – Manhattan Tunnel – A design build contract is the design and construction of the tunneling and heavy civil work for the section of the tunnel going through the bulkhead of the West Side of Manhattan, under Hudson River Park and connecting to the new 12th Avenue construction shaft between West 30th Avenue and 29th Street.

Package 1C – Hudson River Tunnel – A design-bid-build contract on the construction of the tunneling and heavy civil work under the Hudson River from the new construction shaft in Hoboken, NJ, to the new construction shaft at 12th Avenue in Manhattan.

Package 2 - Tunnel and Systems Fit-Out– A design-bid-build contract on the fit-out for the Hudson River Tunnel, including (i) the internal concrete for the ventilation shafts, (ii) the concrete for the track bed, benches, and ventilation duct walls in the tunnels, (iii) fan plant building structures and fit-outs, (iv) traction power, communications and signal systems; and (v) track work along the entire alignment. Also includes A-Yard Work and 10th Avenue Cut and Cover Tunnel.

Package 3 - New Jersey Surface Alignment – A design build contract is the design and construction of the NJ surface alignment work, including retaining walls, embankments, bridges, and viaducts to support the track bed in NJ from the Portal to the Allied Interlocking east of the Secaucus Station.

Under FTA guidance, GDC committed to submit the FFY 2024-2026 overall triennial DBE goal to FTA, by December 29, 2023. The GDC engaged in consultation with DBEs, minority, women's and general contractor groups, community organizations, and other officials or organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and GDC's efforts to establish a level playing field for the participation of DBEs on the HTP. The 30-day public comment period began on November 17, 2023 and ended on December 18, 2023. A virtual consultation session was held on December 1, 2023 with 170 attendees, including 80 DBEs. The public comment period including the consultation were intended to provide the public with the opportunity to review and comment on the proposed DBE goal and methodology and to obtain information sufficient to make an informed adjustment to the proposed overall DBE goal. GDC received 46 comments that were reviewed and considered as a component of potentially adjusting the overall DBE goal. None of the comments generated further research to adjust the DBE overall goal.

4.0 FTA-ASSISTED CONTRACTING PROGRAM FOR FFY 2024-2026

Table 1 represents the seven packages that are GDC's FTA financially-assisted contracting program for the next three years, which includes primary scope areas and corresponding values anticipated to be procured as a part of the HTP. The HTP project has viable subcontracting possibilities and corresponding availability of DBEs, a required criterion for Overall Goal consideration, and is anticipated to be awarded within the

respective goal period. GDC considered these scope areas in preparing its Overall DBE Goal-Setting Methodology.

4.1. Scopes of Work and FTA Value for each Package

Scopes of Work and FTA Value

Delivery Partner \$135,187,841.51

The Delivery Partner will provide procurement support (including strategic advice and document development), innovation in project delivery, rigorous project management, maximization of cost savings opportunities, development and implementation of sustainable practices, and maximization of diversity and inclusion and participation of companies of all sizes. The Delivery Partner will be a source of sound professional project expertise, decision-making, and judgment in performing planning, design management, procurement, construction management, and oversight of commissioning services in connection with the HTP.

Package EA1 – Hudson River Ground Stabilization \$152,602,635.28

The Hudson River Ground Stabilization is a Design-Build contract on the fortification and stabilization of the river bottom on the NY side of the Hudson River. This work will create an improved condition in which to bore the new tunnel through the eastern portion of the Hudson River section of the project. Additional scopes of work include: site preparation, marine construction, surveying, inspection and testing, retaining walls, site utilities, and environmental engineering.

Package 1A – Palisades Tunnel \$739,150,850.80

The Palisades Tunnel is a Design-Bid-Build is the construction of the tunneling and heavy civil work for the portion of the tunnel through the Palisades to the construction shaft in Hoboken, NJ. Additional scopes of work include: site preparation, concrete, retaining walls, site utilities, testing laboratories, surveying, and engineering services.

Package 1B – Manhattan Tunnel \$621,410,713.53

The Manhattan Tunnel is a design and construction of the tunneling and heavy civil work for the section of the tunnel going through the bulkhead of the West Side of Manhattan, under Hudson River Park and connecting to the new 12th Avenue construction shaft between West 30th Avenue and 29th Street. Additional scopes of work include: underground tunneling, site utilities, utility relocation, engineering services, hazmat, contaminated soil removal/mitigation, and ground water treatments.

Package 1C – Hudson River Tunnel \$874,332,074.68

The Hudson River Tunnel is a design-bid-build contract on the construction of the tunneling and heavy civil work under the Hudson River from the new construction shaft in Hoboken, NJ, to the new construction shaft at 12th Avenue in Manhattan. Additional scopes of work include: underground

tunneling, site utilities, utility relocation, engineering services, hazmat, contaminated soil removal/mitigation, and ground water treatments.

Package 2 - Tunnel and Systems Fit-Out \$1,378,009,625.39

The Tunnel and Systems Fit-Out is a design-bid-build contract on the fit-out for the Hudson River Tunnel, including (i) the internal concrete for the ventilation shafts, (ii) the concrete for the track bed, benches, and ventilation duct walls in the tunnels, (iii) fan plant building structures and fit-outs, (iv) traction power, communications and signal systems; and (v) track work along the entire alignment. Also includes A-Yard Work and 10th Avenue Cut and Cover Tunnel. Additional scopes of work include: track: direct fixation and ballasted, support facilities, surface site preparation, and communications systems.

Package 3 New Jersey Surface Alignment \$368,760,373.23

The New Jersey Surface Alignment is a design build construction contract of the NJ surface alignment work, including retaining walls, embankments, bridges, and viaducts to support the track bed in NJ from the Portal to the Allied Interlocking east of the Secaucus Station. Additional scopes of work include: site utilities, utility relocation, environmental mitigation, demolition, clearing and earthwork.

Total FTA value for seven packages	\$4,269,454,114.42
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The triennial DBE goal for FFY 2024-2026 is based on the proposed level of \$4,269,454,114.42 in FTA financial assistance.

5.0. GOAL METHODOLOGY

GDC recognizes that the overall goal must be based on a methodology that demonstrates the evidence of the availability of ready, willing, and able DBEs relative to all businesses ready, willing and able to participate on our FTA financially assisted contracts, hereafter, the “relative availability of DBEs.” The goal must reflect GDC’s determination of the level of DBE participation we would expect absent the effects of discrimination.

The 49 CFR §26.45 provides five example methodologies to determine the DBE base figure. The examples are: 1) Use DBE Directories and US Census Bureau Data, 2) Use a bidders list, 3) Use data from a disparity study, 4) Use the goal of another USDOT recipient, and 5) Alternate methods.

The GDC considered the five approaches and determined the best justification to establish the FFY 2024-2026 DBE base figure is through the use of the DBE Directories and US Census Bureau Data. The other approaches were not selected because GDC does not have a substantial number of past contract awards to establish a robust bidders list; GDC does not have a five year history of awarding contracts to complete a thorough disparity study; there is no USDOT recipient with a similar infrastructure project like the HTP, and GDC does not have procurement history to consider an alternative method to establish the DBE base figure. An expansion on why the approaches not selected are in the **Step 2: Adjusting the Weighted Base Figure** section of the document.

5.1 **Step 1: Determination of a Base Figure (§26.45)¹**

An important factor in completing the **Step 1** DBE Base Figure process is for GDC to determine the percentage of DBEs who are ready, willing, and able to compete for the types of work GDC is contracting out. This percentage is calculated by dividing the number of certified DBEs who ready, willing, and able, by type of work; to the number of all firms (DBEs and non-DBEs) ready, willing, and able also by type of work, which will be released FFY 2024-2026. That is, the number of DBEs will be in the numerator, and the number of all firms (DBEs and non-DBEs) will be in the denominator.

Before the numerator and denominator were calculated, GDC's considered the geographic areas where the majority of the DBEs, contractors and subcontractors would come from to do business with GDC. GDC worked closely with its partners - Amtrak, NJ TRANSIT, and PANYNJ to determine, based on their experience, where the majority of DBEs, contractors and subcontractors come from for their capital projects. The responses were the geographic areas for DBEs and non-DBEs are the states of NY and NJ. With the HTP facilitating the passenger rail transportation project between Penn Station, Newark, NJ, and Penn Station, NY, and the partners information on where DBEs and non-DBEs come from, GDC defined the geographic area as the states of NY and NJ.

As a final consideration to establish a base figure, GDC identified the scopes of work for the seven package and further grouped the scopes of work by NAICS code.

5.2. **Establishing the DBE Numerator and DBE/Non-DBE Denominator**

GDC used the NY, NJ and PANYNJ **Unified Certification Program Directories of Certified DBE Firms** and corresponding NAICS codes to establish the DBE numerator of available firms. GDC used the **2021 U.S. County Business Patten (CBP) Database** to identify the number of firms (DBE and non-DBE) within a corresponding NAICS code and market area to establish the denominator.

GDC's specified industries and types of businesses used to identify the numerator (column "B") and the denominator (column "C") are presented in **Table 1** under columns "B" and "C".

GDC made a concerted effort to ensure that the scope of businesses included in the numerator were as close as possible to the scope included in the denominator. For corresponding detail of all work category classifications grouped, refer to **Table 1**.

For the numerator:	NY, NJ and PANYNJ DBE Directories of Certified Firms
For the denominator:	2021 – CBP database

5.3 **Determining the Weighted Factor on the Relative Availability of DBEs and Non-DBEs by NAICS**

To determine the relative availability of DBEs, GDC divided the numerator² representing the number of ready, willing and able certified DBE firms, by NAICS code, by the denominator³ representing all firms (DBE and Non-DBEs), available in each NAICS code, as shown below:

¹ §26.45 represents Title 49 CFR Part 26 regulatory goal setting methodology reference.

² Numerator represents all DBE firms established within NY and NJ geographic area.

³ Denominator represents all comparable available established firms within NY and NJ geographic area.

$$\frac{\text{Number of Ready, Willing and Able certified DBEs}}{\text{Number of All Available Firms including DBEs in 2021 CBP database}} = \frac{\text{Numerator}}{\text{Denominator}}$$

To help ensure the **Step 1** Base Figure is accurate as possible, GDC chose to apply an appropriate weighting percent for each NAICS code. To determine the appropriate weighting percent by NAICS, the estimated dollar value by NAICS was divided by the total estimated federal dollars for FFY 2024-2026. The weighting percent by NAICS was then multiplied by the DBE/Non-DBE Availability % to determine the Base Figure % by NAICS, see below:

$$\begin{array}{ccccc} \text{DBE and DBE/Non-DBE Availability \%} & \times & \text{Weight} & = & \text{Base Figure \% by NAICS} \\ \text{Column "D"} & \times & \text{Column "F"} & = & \text{Column "G"} \end{array}$$

Based on the above, the resulting **Step 1** Base Figure is **20.07%**. **Table 1** presents the total FTA dollars per NAICS code.

Table 1

Total FTA Dollars is (A): \$4,269,454,114.42

NAICS Code	NAICS Description	B	C	D	E	F	G
		DBE Firms	All Firms	Availability (B/C)	Fed \$ Value	Weight (E/A)	Base Figure (D*F)
237110	Water and Sewer Line and Related Structures Construction	73	536	14%	\$ 31,446,483.76	0.74%	0.10%
237130	Power and Communication Line and Related Structures Construction	34	330	10%	\$ 5,635,275.48	1.77%	0.18%
237310	Highway, Street, and Bridge Construction	218	719	30%	\$ 6,633,315.63	1.79%	0.54%
237990	Other Heavy and Civil Engineering Construction	102	323	32%	\$1,477,990,469.61	34.62%	10.93 %
238110	Poured Concrete Foundation and Structure Contractors	115	1104	10%	\$ 284,638,628.44	6.67%	0.69%
238120	Structural Steel and Precast Concrete Contractors	91	334	27%	\$ 91,255,355.54	2.14%	0.58%

NAICS Code	NAICS Description	B	C	D	E	F	G
		DBE Firms	All Firms	Availability (B/C)	Fed \$ Value	Weight (E/A)	Base Figure (D*F)
238190	Other Foundation, Structure, and Building Exterior Contractors	75	398	19%	\$ 10,211,035.41	0.24%	0.05%
238210	Electrical Contractors and Other Wiring Installation Contractors	126	7859	2%	\$ 210,592,233.28	4.93%	0.08%
238220	Plumbing, Heating, and Air-Conditioning Contractors	55	10420	1%	\$ 34,274,072.38	0.80%	0.00%
238290	Other Building Equipment Contractors	21	736	3%	\$ 176,953,513.39	4.14%	0.12%
238310	Drywall and Insulation Contractors	95	1642	6%	\$ 74,920,405.21	1.75%	0.10%
238390	Other Building Finishing Contractors	54	613	9%	\$ 2,039,205.51	0.05%	0.00%
238910	Site Preparation Contractors	148	2484	6%	\$ 219,776,882.43	5.15%	0.31%
238990	All Other Specialty Trade Contractors	146	2934	5%	\$ 66,233,911.75	1.55%	0.08%
423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	39	594	7%	\$ 1,238,444.68	0.03%	0.00%
423990	Other Miscellaneous Durable Goods Merchant Wholesalers	37	494	7%	\$ 31,281,095.15	0.73%	0.05%
423320	Brick, Stone, and Related Construction	61	339	18%	\$ 228,385,995.63	5.35%	0.96%

NAICS Code	NAICS Description	B	C	D	E	F	G
		DBE Firms	All Firms	Availability (B/C)	Fed \$ Value	Weight (E/A)	Base Figure (D*F)
	Material Merchant Wholesalers						
423690	Other Electronic Parts and Equipment Merchant Wholesalers	27	1115	2%	\$ 89,231,063.22	2.09%	0.05%
484110	General Freight Trucking, Local	30	3350	1%	\$ 1,653,090.70	0.04%	0.00%
484220	Specialized Freight (except Used Goods) Trucking, Local	93	1670	6%	\$ 30,220,564.04	0.71%	0.04%
488210	Support Activities for Rail Transportation	19	53	36%	\$ 82,019,003.49	1.92%	0.69%
488490	Other Support Activities for Road Transportation	17	229	7%	\$ 609,184.06	0.01%	0.00%
524126	Direct Property and Casualty Insurance Carriers	6	890	1%	\$ 176,288,432.84	4.13%	0.03%
531210	Offices of Real Estate Agents and Brokers	7	8824	0%	\$ 233,930.83	0.01%	0.00%
532490	Other Commercial and Construction Machinery and Equipment	16	660	2%	\$ 2,541,632.05	0.06%	0.00%
541110	Legal Services	13	17019	0%	\$ 92,373,000.39	2.16%	0.00%
541330	Engineering Services	445	4024	11%	\$ 91,153,408.91	2.14%	0.24%
541360	Geophysical Surveying and Mapping Services	34	19	100%	\$ 120,125,489.81	2.81%	2.81%
541370	Surveying and Mapping (except Geophysical) Services	76	527	14%	\$ 1,023,277.61	0.02%	0.00%
541380	Testing Laboratories	60	540	11%	\$ 8,536,744.54	0.20%	0.02%

NAICS Code	NAICS Description	B	C	D	E	F	G
		DBE Firms	All Firms	Availability (B/C)	Fed \$ Value	Weight (E/A)	Base Figure (D*F)
541490	Other Specialized Design Services	32	656	5%	\$ 40,805,713.95	0.96%	0.05%
541511	Custom Computer Programming Services	221	6658	3%	\$ 352,144.23	0.01%	0.00%
541512	Computer Systems Design Services	326	5459	6%	\$ 120,624.64	0.00%	0.00%
541519	Other Computer Related Services	170	1209	14%	\$ 70,876.42	0.00%	0.00%
541611	Administrative Management and General Management Consulting Services	735	8409	9%	\$ 163,427,732.83	3.83%	0.33%
541614	Process, Physical Distribution, and Logistics Consulting Services	127	715	18%	\$ 49,460,424.83	1.16%	0.21%
541620	Environmental Consulting Services	19	868	2%	\$ 5,272,310.12	0.12%	0.00%
541690	Other Scientific and Technical Consulting Services	266	1849	14%	\$ 2,490,815.83	0.06%	0.01%
541990	All Other Professional, Scientific, and Technical Services	156	1962	8%	\$ 45,234,748.22	1.06%	0.08%
561110	Office Administrative Services	100	3463	3%	\$ 8,105,652.72	0.19%	0.01%
561410	Document Preparation Services	7	645	1%	\$ 46,858.74	0.00%	0.00%
561730	Landscaping Services	63	12352	1%	\$ 532,456.75	0.01%	0.00%
561990	All Other Support Services	42	1005	4%	\$ 882,218.78	0.02%	0.00%

NAICS Code	NAICS Description	B	C	D	E	F	G
		DBE Firms	All Firms	Availability (B/C)	Fed \$ Value	Weight (E/A)	Base Figure (D*F)
562119	Other Waste Collection	25	116	22%	\$ 110,783,943.88	2.59%	0.56%
562211	Hazardous Waste Treatment and Disposal	5	41	12%	\$ 37,114,708.47	0.87%	0.11%
562910	Remediation Services	68	625	11%	\$ 15,046,406.42	0.35%	0.04%
611420	Computer/Software Training	56	150	37%	\$ 191,331.80	0.00%	0.00%
*Availability percentages that were over 100% were modified to reflect 100%.					Total Base Figure:		20.07%

6.0 DETERMINING THE PROPOSED DBE GOAL FOR FFY 2024 - 2026

Centered on the base figure methodology, GDC determined its proposed DBE goal for FFY 2024-2026 is **20.07%** for the seven FTA financially assisted contracts.

6.1. Step 2: Adjusting the Base Figure

Upon establishing the base figure, GDC reviewed and assessed other known information available in GDC's geographic area to determine if additional information could increase the relative availability of DBEs within GDC's geographic area, as prescribed by the narrow tailoring provisions set forth under §26.45(d) **Step 2: Adjusting the DBE Base Figure Goal.**

The information considered in making an adjustment to the Base Figure included GDC's *Past DBE Goal Attainments*, were evidence from *Disparity Studies* conducted in GDC's geographic area by other agencies, use of the *DBE goal from other USDOT recipients*, and *Alternate Methods – Outreach*. The additional considerations to adjust the Base Figure result are presented below.

6.2. Past DBE Goal Attainment

GDC is a first-time recipient of FTA Section 5309 CIG program financial assistance. The FTA 5309 financial assistance was committed on July 6, 2023. An interim DBE goal of 23.8% was approved by FTA in September 2023, specifically for two GDC contracts. The two contracts were Tonnelle Avenue Overhead Bridge and Utility Relocation (Tonnelle Avenue) and the Performance of Expert Professional Construction Management and Related Technical Services (PM/CM) for the Tonnelle Avenue contract. The Tonnelle Avenue contract DBE goal was 17% and it was awarded with a 18% DBE commitment. The PM/CM contract DBE goal was 25% and it was awarded with a 27% DBE commitment. Other than the two contracts, the GDC does not have a three-year history on annual DBE participation to establish a median DBE past participation goal.

GDC researched past projects in the states of NY and NJ with USDOT financial assistance and, it was determined that there is no project like in scope or scale to the HTP infrastructure.

As GDC does not have three-years of past DBE attainment data and could not identify a like project with relevant and viable DBE attainment data, GDC has elected not to apply past participation as an adjustment to the Base Figure. In addition, the USDOT guidance on “Tips for Goal-Setting in the Disadvantaged Business Enterprise Program” states in pertinent part:

“..an adjustment for past participation is not required if you are developing a DBE program for the first time and do not have any [substantial] statistics on past DBE participation.”

6.3 Evidence from DBE Disparity Studies

The purpose of a Disparity Study is to determine whether a government entity, either in the past or currently, engages in exclusionary practices in the solicitation and award of contracts to minority, and women-owned, and DBEs (MWDBEs). The primary goal of the study is to assess, quantify, and evaluate the prevalence, significance (degree and weight) and scope of discrimination by the government entity based on the availability of MWDBEs. The study, at minimum, includes the three most recent past years of MWDBE participation and with a statistical analysis to determine if disparities exist between the availability of MWDBEs and their utilization on FTA and non-FTA-funded contracts.

GDC does not meet the minimum requirement of having three years of contracting data to consider completing a disparity study.

However, it identified two disparity studies within the geographic areas and considered the studies data points on relative DBE availability.

The first disparity study considered was the NY State MWDBE Disparity Study, completed in 2016, which included contracts and availability within one of GDC’s geographic areas – the State of NY. The NY State Disparity Study reviewed construction, construction-related and non-construction-related services and commodities contracts state-wide awarded between April 1, 2010, to March 31, 2015. The geographic area was limited to the borders of NY State. The NY State Disparity Study only included contracts with a value between \$50,000 and \$2,000,000. The study documented findings of statistically significant underutilization of ethnic and gender groups on the NY State’s prime and subcontracts which are the predicate for the race and gender-conscious contract goal setting recommendations. Although the study was completed 7 years ago, the data used to complete the study is between eight (8) and thirteen (13) years old. The State of NY City MWDBE programs continue to implement race-and-gender conscious measures to their contracting program, thus taking affirmative steps to address disparities based on MWDBE availability.

The second disparity study taken into consideration was the NY City Disparity Study, completed in 2018, it included construction, professional services and goods contracts awarded between the years of July 1, 2006, to June 30, 2015. The geographic area was limited to NY City and the boroughs of Nassau, Putnam, Rockland, Suffolk and Westchester counties in NY, and Bergen, Hudson, and Passaic Counties in NJ. The disparity analysis results support the continuation of the NY City M/WBE program; and evidence for expansion of the M/WBE program. The study indicated that most racial/ethnic and gender groups showed disparities on contracts where race- and gender-conscious measures were not in place during the study period. As a result, the Disparity Study recommended the continuation of M/WBE contract goals. Although

the study was completed five years ago, the data used to complete the study is between eight (8) to seventeen (17) years old. The NY City M/WBE programs continue to implement race-and-gender conscious measures to their contracting program, thus taking affirmative steps to address disparities based on M/WBE availability.

GDC opted not to utilize the NY State and NY City disparity studies to adjust the 20.07% DBE base figure because the MWDBE availability data in the studies are more than 10 years old and not reflective of the current DBE availability as identified in the **NY, NJ and PANYNJ DBE Directories of Certified Firms**.

6.4 DBE Goal from Other USDOT Recipients

GDC considered the overall triennial DBE goal from four FTA-financial assistance recipients. The four recipients are shown in **Table 2**.

Table 2. FTA Recipients with Triennial DBE Goals

FTA Recipients			
Recipient	Geographic Area	Overall DBE Goal Race-Conscious (RC) Race-Neutral (RN)	Notes
PANYNJ - PATH	Five NY City boroughs and eight northern NJ counties	2023-2025 DBE Goal 19.3% = 17.3% RC and 2% RN	Planned FTA grant amount for triennial period \$263,595,000
New Jersey TRANSIT	State of NJ and the five lower counties of NY	2023-2025 DBE Goal 15.2% = 13.23% RC and 1.97% RN	Planned FTA grant amount for triennial period \$845,807,062
NY State Department of Transportation	NY State	2022-2024 DBE Goal 10.26% = 7.08% RC and 3.18% RN	Planned FTA grant amount for triennial period \$46,518,737
NY MTA (NYMTA)	NY City, Nassau, and Suffolk on Long Island and Dutchess, Sullivan, Orange, Putnam, Rockland, Ulster and Westchester counties	*2020-2023 DBE Goal 20% = 16% RC and 4% RN *The 2024-2026 DBE overall goal is under development.	Planned FTA grant amount for triennial period: \$17,723,791,620 Includes over \$3 billion in rail cars and transit vehicles.

GDC chose not to adopt the overall DBE goal from the four FTA recipients as:

- The four FTA recipients geographic area for DBE availability were not the entire states of NY and NJ, as is for the GDC;
- The four FTA recipients’ scopes of work are primarily for transit services and maintenance, while GDC’s work is all new construction.

6.5 Alternate Methods - DBE Outreach

GDC held seven industry outreach events, from February 2023 to October 2023, with businesses interested in the HTP contracts. During the events, GDC received anecdotal comments from MWDBEs and non-MWDBEs that the construction packaging, size, and delivery methods undoubtedly present challenges for MWDBEs to bid as prime contractors and equally challenging to quote as a subcontractor without establishing an individual DBE contract goal for each contract and or require a DBE Performance Plan. The commenters suggested that to be a part of the HTP, GDC will need to apply race-conscious measures similar to those applied by NYMTA, PANYNJ and NJ TRANSIT for their construction projects.

Table 3. GDC Industry Engagement Events - Summary for February to October 2023

EVENT	DATE	DESCRIPTION
Industry Outreach Event	February 2, 2023	GDC's first in-person industry outreach event. The event included panels with federal government representatives and GDC's partners and had over 250 participants, including 48 from Disadvantaged Business Enterprises (DBEs).
Contract Packaging and DBE Networking Event	April 26, 2023	GDC's second in-person event, which included a networking session for DBEs and primes. The event included a panel of GDC staff and consultants where the updated contract packaging strategy was presented. Over 280 participants, including 50 from DBEs, attended.
Virtual Hudson River Ground Stabilization Request for Qualifications Session	June 21, 2023	As part of the Hudson River Ground Stabilization Request for Qualifications (RFQ) procurement process, GDC held a virtual information session and Questions and Answers (Q&A), which had over 180 participants, including 71 from DBEs.
Virtual Palisades Tunnel Request for Qualifications Session	July 13, 2023	As part of the Palisades Tunnel Request for Qualifications (RFQ) procurement process, GDC held a virtual information session and Q&A, which had over 240 participants, including 62 from DBEs.

EVENT	DATE	DESCRIPTION
Manhattan Tunnel Industry Day	July 25, 2023	GDC's third in-person industry outreach event, which included a networking session for DBEs and primes. The event included a panel of GDC staff who presented a HTP update as well as an in-depth presentation about the Manhattan Tunnel upcoming procurement. The event had 158 participants, including 50 from DBEs.
Virtual Manhattan Tunnel Request for Qualifications Session	October 6, 2023	As part of the Manhattan Tunnel Request for Qualifications (RFQ) procurement process, GDC held a virtual information session and Questions and Answers (Q&A), which had over 191 participants, including 46 from DBEs.
HTP Project Briefing and DBE Networking Session	October 25, 2023	GDC's third in-person industry outreach event included a HTP briefing and a networking session for DBEs to meet the shortlisted firms from the Hudson River Ground Stabilization and Delivery Partner procurements. The event had 267 participants, including 68 from DBEs.

The anecdotal comments did not identify sufficient information that could be considered to adjust the base figure. However, the comments strongly suggest that DBEs need race-conscious measures, such as placing a DBE contract goal on contracts to participate on GDC's packages.

6.6 Publication, Comment and Public Consultation

In accordance with 49 CFR §26.45(g), the proposed overall DBE goal requires the publication and public consultation with minority businesses, women businesses, local business chambers, government entities and community organizations within GDC's geographic area to provide an opportunity to review GDC's DBE goal analysis and provide input that may result in an adjustment to the final overall DBE goal.

The FTA authorized GDC to engage in the 30-day public comment period in November 2023. On November 17, 2023, the 30-day public notice was posted on GDC's website, at: www.gatewayprogram.org. The notice announced the proposed 20.07% DBE goal, invited the business community to a virtual consultation session scheduled for December 1, 2023 and invited the business community to review and comment on the proposed overall DBE goal. The proposed DBE goal and methodology were available on the website and at the GDC's offices at: Gateway Development Commission, 2 Penn Plaza East, 11th Floor, Newark, New Jersey 07105, and 120 Broadway – 10th Floor, New York, NY 10271. GDC encouraged the submission of comments on the goal and methodology through December 18, 2023 via the email DBE@gatewayprogram.org and or during the virtual consultation session.

The public notice was emailed to over 4200 entities that included DBEs on the NY, NJ and PANYNJ DBE Directories, local/ethnic chambers of commerce, prime contractors and other business/community

organizations in GDC’s geographic area; published on the Minority Commerce Weekly, and posted on the GDC building.

The December 1, 2023, public consultation session facilitated representatives from the contracting community, DBEs, stakeholders, which include minority and women business groups, community organizations, trade associations, prime contractors and government officials. The virtual session enabled GDC to provide an overview of the seven packages that compose the development of the overall DBE goal. GDC encouraged the participants to share anecdotal information concerning the availability of DBEs and to provide comments on the proposed overall DBE goal and corresponding methodology. Over 170 attended the virtual session and it generated 41 comments.

The GDC received a total of 46 comments (41 from virtual session and 5 from the DBE email box).

The number of comments by topic were:

- 12 comments asking about the NAICS codes and what was included and what should be included
- 12 comments asking about DBE certification and the Personal Net Worth criteria
- 6 comments asking if the project has SDVOB or MBE or WBE goals
- 6 comments asking general project questions
- 3 comments asking about where to find work opportunities
- 3 comments asking about the DBE rules on crediting
- 2 comments asking about the contract award schedule
- 2 comments asking about Commercially Useful Function interpretations

The public comments did not warrant an adjustment to the overall DBE goal.

See Attachment A for the DBE goal notice postings on website, building and a publication. See Attachment B for GDC’s responses to the 46 comments from the consultation session and 30 day comment period.

7.0 OVERALL DBE GOAL FOR FFY 2024-2026

Based on the narrow tailoring in establishing the **Step 1** base figure and considering the options to adjust the overall goal, GDC has determined the overall DBE goal for FFY 2024-2026 for FTA-assisted contracts is **20.07%**.

The **20.07%** DBE goal serves to identify the relative availability of DBEs based on the best available evidence from the **NY, NJ and PANYNJ DBE Directories** of ready, willing, and able DBEs to all comparable firms, from the **2021 - CBP Database** identified to be available to compete for and perform on GDC’s FTA-assisted contracts. The overall DBE goal reflects a statistical supported determination of the level of DBE participation, which would be expected absent the effects of discrimination.

7.1 Race-Neutral and Race-Conscious Application

In accordance with 49 CFR Section 26.51, the GDC intends to meet the maximum feasible portion of the overall 20.07% DBE goal by using race/gender-neutral measures of facilitating DBE participation. The GDC reviewed the guidance from USDOT on “Tips for Goal Setting in the DBE Program” that provides some

considerations to defining the race-neutral/race-conscious percentage split of the overall DBE goal. The guidance considerations were:

- Consider any past achievement over the contract or overall DBE goal
- Consider past prime DBE participation
- Consider DBE participation on no-goal contracts
- Consider participation in other agencies’ race-neutral programs

Considering the four options, GDC does not have multiple years of past DBE participation. However, GDC has past DBE commitment data that is an indicator of future race-neutral participation due to the similarity of the scopes of work between the awarded contracts and the procurements to be awarded during FFY 2024-2026.

In October 2023, the GDC awarded two contracts with DBE goals. The two contracts were Tonnelle Avenue and the Project Management/Construction Management (PM/CM). The Tonnelle Avenue contract DBE goal was 17% and it was awarded with a 18% DBE commitment. The PM/CM contract DBE goal was 25% and it was awarded with a 27% DBE commitment.

2023 Contract	DBE Contract Goal	DBE Commitment at Award	RN % above Contract Goal
Tonnelle Ave	17%	18%	1%
PM/CM	25%	27%	2%

In accordance with USDOT guidance, past participation obtained through the use of DBE subcontractors on contracts without DBE goals (or DBE commitment above goal), is considered race/gender-neutral and can be used as a basis for estimating a similar level of race/gender-neutral participation for the triennial goal period. GDC assessed the median race-neutral participation on the two contracts:

Median Race-Neutral Participation*: $1\% + 2\% = 3\% \div 2 = 1.5\%$

**Determining the median of an even number of values: Find the average of the two middle numbers by adding them together and dividing the sum by two. The result of this average is the median.*

The 1.5% race-neutral goal projection was established from two past contracts that include similar scopes to the proposed procurements for FFYs 2024-2026. The scopes of work and NAICS codes utilized to establish the Tonnelle Ave and PM/CM DBE contract goals can be found within Table 1 that establishes the scopes of work and NAICS for the procurements to be awarded during FFY 2024-2026. GDC can reasonably presume that similar race-neutral results on the two contracts can follow into FFYs 2024-2026 procurement results.

To determine the anticipated race-conscious participation, the anticipated race-neutral participation was subtracted from the DBE goal:

20.07% overall DBE goal minus 1.5% race-neutral portion equals 18.57% race-conscious goal.

FFY 2024-2026 Overall DBE Goal 20.07%	
Race-neutral Portion of the Overall Goal	Race-Conscious Portion of the Overall Goal
1.5%	18.57%

7.2 Race-Neutral and Race-Conscious Measures

USDOT has identified that instituting comprehensive mechanisms aimed at obtaining DBE participation through race-neutral means. GDC’s race-neutral measures include but not limited to:

- **SBE Set-Aside** – GDC may, at its sole discretion, establish a race-neutral small business set-aside for certain projects/packages for Prime contracting with DBEs/SBEs certified with NY State UCP/New Jersey UCP/PANYNJ. GDC will consider the nature of the scope, contracting opportunities, historical data, and the pool of available DBEs/SBEs certified with NY State UCP/New Jersey UCP/PANYNJ, to determine if this is feasible and suitable.
- **Multi-Year Design-Build or Alternate Delivery Method Contracts** – GDC may, at its sole discretion, require bidders/proposers on the Prime contract to specify elements of the contract or specific contracts that are of a size that DBEs and small businesses can reasonably perform be structured for competition or award to DBEs/SBEs.
- **Team building and networking** - Host workshops customized to encourage and enhance relationships between DBEs and non-DBEs.
- **Development of a Resource Directory** - To refer DBEs for technical assistance and supportive services.
- **Develop relationships** - With bonding assistance entities to support DBE participation. The GDC will also periodically review third party supportive services programs/initiatives and select certain programs/initiatives applicable to the needs of the DBE community working on federally funded programs and co-sponsor such initiatives or refer DBEs.
- **Outreach and Pre-Bids** – GDC will conduct pre-bid conferences with the objective to facilitate the networking of DBEs and SBES with the proposers who will be submitting proposals to the GDC.

To meet the race-conscious component of the overall DBE goal, GDC will establish an individual DBE contract goal only on FTA-assisted contracts that have subcontracting opportunities. Contract goals will be established so that, over the **triennial** period to which the overall goal applies, contract goals will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means. GDC will not set the individual contract goal at the same level as the overall DBE goal. GDC will evaluate each contract individually, and establish the goal based on the type of contract, subcontracting opportunities, type and location of work, availability of DBEs to perform the particular type of work and any other information deemed necessary or relevant.

8.0 MONITOR DBE PARTICIPATION

GDC will implement its DBE Program plan and monitor its DBE participation during the overall goal period to determine whether the application of the race-neutral/race-conscious measures to meet the overall

DBE Goal of 20.07% remains on target. GDC will adjust the application of race-neutral and race-conscious measures, as necessary to meet the target goals for FFY 2024-2026.

9.0 FINAL GDC OVERALL DBE GOAL for FFY 2024-2026

GDC's overall DBE goal for FFY 2024-2026 is 20.07%, represented by 18.57% race-conscious goal and 1.5% race-neutral goal.

ATTACHMENT A

DBE Goal Notice Postings

Notice emailed to 4236 addresses.



Gateway Development Commission Public Notice

Disadvantaged Business Enterprise (DBE) Goal for Federal Fiscal Years 2024-2026

In our commitment to meet the Federal Transit Administration's financial aid requirements and under US DOT Title 49 Code of Federal Regulations, Part 26, the Gateway Development Commission (GDC) announces its proposed overall DBE participation goals for the required Federal Fiscal Years 2024 - 2026 (October 1, 2023, through September 30, 2026).

The goal represents the percentage of work anticipated to be completed by DBE firms on contracts for the Hudson Tunnel Project and to be awarded during the abovementioned years.

The proposed goal is 20.07%.

The proposed goal and methodology are available for review, through **December 18, 2023**, and accessible on GDC's website (www.gatewayprogram.org) and at our offices at:

Gateway Development Commission

Two Penn Plaza East – 11th Floor
Newark, NJ 07105

120 Broadway – 10th Floor
New York, NY 10271

Written comments can be submitted to GDC's physical address or via email to DBE@gatewayprogram.org through December 18, 2023.

GDC is also hosting a virtual session to obtain comments on the proposed goal and methodology. The session is taking place on **December 1, 2023, at 11 AM**. To RSVP, please use the QR.




GDC Website Posting

<https://www.gatewayprogram.org>

GATEWAY PROGRAM

About Gateway ▾ About the Commission ▾ Work With Us Careers Media Center

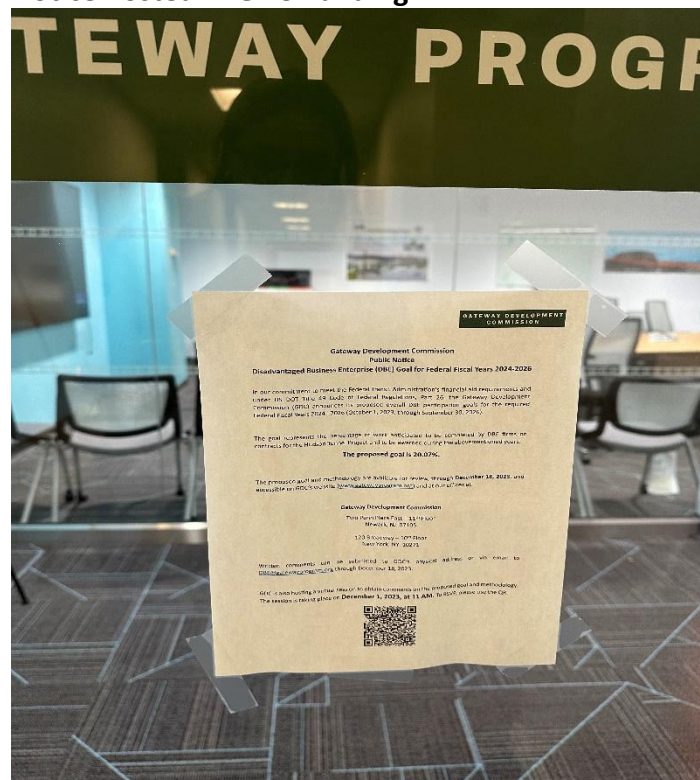


The Gateway Development Commission (GDC) announces its proposed overall DBE participation goals for the required Federal Fiscal Years 2024 – 2026. The **proposed goal is 20.07%** and represents the percentage of work anticipated to be completed by DBE firms.

Click [here](#) to access the Public Notice and [here](#) to access the Goal Methodology document.

GDC is also hosting a virtual session to obtain comments on the proposed goal and methodology on **December 1, 2023, at 11 AM**, to RSVP click [here](#). Written comments on the goal and methodology can also be submitted via email to DBE@gatewayprogram.org through **December 18, 2023**.

Notice Posted in GDC Building



Notice posted in Minority Commerce Weekly Publication

November 23-29, 2023

Minority Commerce Weekly - "A Document of Good Faith Efforts"

7

Office of General Services (OGS)

ADVERTISEMENT FOR BIDS – PROJECT LABOR AGREEMENT PROJECT (PLA)

Sealed bids for Project No. 47036-C, for Construction Work, Exterior Envelope Improvements, Building 106, Manhattan Psychiatric Center, 102 Rivers Edge Road, New York (New York County), NY, will be received by the Office of General Services (OGS), Design & Construction Group (D&C), Division of Contract Management, 35th Fl., Corning Tower, Empire State Plaza, Albany, NY 12242, on behalf of the Office of Mental Health, until 2:00 p.m. on Wednesday, December 20, 2023, when they will be publicly opened and read. Each bid must be prepared and submitted in accordance with the Instructions to Bidders and must be accompanied by a bid security (i.e. certified check, bank check, or bid bond in the amount of \$224,800 for C).

Further, Project Labor Agreement (PLA) Projects require a completed form BDC 59P (Project Labor Agreement List of Subcontractors) be filled out and submitted in accordance with Document 002221, Supplemental Instructions to Bidders – PLA. **Failure to submit this form correctly will result in a disqualification of the bid.**

All successful bidders will be required to furnish a Performance Bond and a Labor and Material Bond pursuant to Sections 136 and 137 of the State Finance Law, each for 100% of the amount of the Contract, estimated to be between \$8,000,000 and \$9,000,000 for C.

Designated staff are Jessica Cook, Jessica Hoffman, and Pierre Alric in the Division of Contract Management, telephone (518) 474-0203, fax (518) 473-7862.

Pursuant to Public Buildings Law § 8(6), effective January 11, 2020, for any projects where the project design commenced on or after January 1, 2020 and for any contracts over \$5,000 for the work of construction, reconstruction, alteration, repair, or improvement of any State building, a responsible and reliable NYS-certified Minority or Women-Owned Business Enterprise that submits a bid within ten percent of the lowest bid will be deemed the apparent low bidder provided that the bid is \$1,400,000 or less, as adjusted annually for inflation beginning January 1, 2020. If more than one responsible and reliable MWBE firm meets these requirements, the MWBE firm with the lowest bid will be deemed the apparent low bidder.

___Project commenced design before January 1, 2020. Not subject to provision.

XXProject commenced design on or after January 1, 2020. Subject to provision.

The substantial completion date for this project is 678 days after the Agreement is approved by the Comptroller.

The only time prospective bidders will be allowed to visit the job site to take field measurements and examine existing conditions of the project area will be at 1:00 p.m. on December 7, 2023, at OGS/TDX Field Office, Manhattan Psychiatric Center, 102 Rivers Edge Road, Wards Island, NY. Prospective bidders are urged, but not mandated, to visit the site at this time. Prospective bidders or their representatives attending the pre-bid site visit will not be admitted on facility grounds without proper photo identification. Note that parking restrictions and security provisions will apply and all vehicles

OGS contracts. All bidders are expected to cooperate in implementing this policy. OGS hereby establishes an overall goal of 30% for MWBE participation, 15% for Minority-Owned Business Enterprises ("MBE") participation and 15% for Women-Owned Business Enterprises ("WBE") participation (based on the current availability of qualified MBEs and WBEs). The total contract goal can be obtained by utilizing any combination of MBE and /or WBE participation for subcontracting and supplies acquired under this Contract. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of MWBEs on the Contract for the provision of services and materials.

Article 3 of the Veterans' Services Law provides for more meaningful participation in public procurement by certified Service-Disabled Veteran-Owned Businesses ("SDVOBs"). Bidders are expected to consider SDVOBs in the fulfillment of the requirements of the Contract. Such participation may be as subcontractors or suppliers, as protégés, or in other partnering or supporting roles. OGS hereby establishes overall goals for SDVOBs' participation under this contract as follows: 6% for the C trade contractor, based on the current availability of qualified SDVOBs. Trades with 0% goals are encouraged to make "good faith efforts" to promote and assist in the participation of SDVOBs on the Contract for the provision of services and materials.

The Bidding and Contract Documents for this Project are available for viewing, downloading, and Electronic Bidding from OGS Design & Construction's Electronic Bidding service, Bid Express.

Registration along with viewing, downloading, and electronic bidding can be accessed at the following link: <http://www.bidexpress.com>

For questions about downloading of bid documents, please send an e-mail to support@bidexpress.com, or call the Bid Express toll-free number at (888) 352-2439.

For all other questions, please send an email to DCPlans@ogs.ny.gov, or call (518) 474-0203.

For additional information on this project, please use the link below and then click on the project number:

<https://online.ogs.ny.gov/dnc/contractorConsultant/esb/ESBPlansAvailableIndex.asp>

OGS Design & Construction Group

GATEWAY DEVELOPMENT COMMISSION

The Gateway Development Commission (GDC), as Project Sponsor to the Hudson Tunnel Project, announces its proposed overall DBE participation goals for the required Federal Fiscal Years 2024 – 2026. The **proposed goal is 20.07%** and represents the percentage of work anticipated to be completed by DBE firms.

GDC is hosting a virtual session to obtain comments on the proposed goal and methodology on **December 1, 2023, at 11 AM**. Details on the goal and the session can be found at www.gatewayprogram.org. Written comments on the goal and methodology can also be submitted via email to DBE@gatewayprogram.org through **December 18, 2023**.

ATTACHMENT B

Received 46 - Public Comments

PUBLIC COMMENT		GDC RESPONSE
1.	Does DBE joint venture allowed?	Yes. A DBE may be part of a joint venture. The joint venture agreement must clearly define the DBE's percentage role in the JV, financial risk, management, direction and control of the JV.
2.	When is the first contract expected to be awarded?	The first contract awarded on the Hudson Tunnel Project is the Construction Management Services contract that was awarded October 5, 2023. The second contract is the Tonnelle Avenue construction contract. The second contract was awarded on October 12, 2023.
3.	Is the DBE requirement the same for Design/CM/CI portion of the project as for the Construction Portion?	The DBE requirements will be included within the solicitation documents for each procurement, they will be based on GDC's DBE Program and 49 CFR part 26.
4.	How is staffing firm planned to be use in this project?	The GDC does not currently have a solicitation for staffing services. The recommendation is to contact the proposed bidders on GDC's current contract solicitations. The bidder's list can be found on the GDC Work With Us website at www.gatewayprogram.org/workwithus-2.html
5.	When will the Delivery Partner and Package EA1 be awarded?	The anticipated contract award for the Delivery Partner is March 15, 2024. The anticipated contract award for EA1 is March 15, 2024.
6.	I realize that my NAICS code will likely be in one of the later packages. However, I would like to request you review any work for NAICS code 238390 and 238290.	NAICS codes 28390 and 238290 were included in developing the overall DBE goal. To see the NAICS code referenced, refer to Table 1 of the DBE Goal methodology.
7.	Can you participate in this project if you are a NJ State certified, and or NY NJ PA MBE firm?	To count towards the DBE goal on a GDC contract, the firm must be certified as a DBE by either NJ State DOT, NY State DOT, NJ TRANSIT, Niagara Frontier, MTA or PANYNJ. GDC encourages participation by all firms, including MBE/WBE/SDVOBs and other small business firms.
8.	Is this a DBE only project?	Per the USDOT DBE regulations, GDC is not permitted to have a DBE only contract or project. If the contract has a DBE goal the bidders will be seeking certified DBEs to count towards the DBE contract goal. To count toward the DBE contract goal, the firm must be certified as a DBE by either NJ State DOT, NY State DOT, NJ TRANSIT, Niagara

		Frontier, MTA or PANYNJ. GDC encourages participation by all firms, including MBE/WBE/SDVOBs and other small business firms.
9.	What is the website to get verification and procurement opportunities?	Visit the GDC Work With Us website at www.gatewayprogram.org/workwithus-2.html for procurement opportunities and information outreach events to include DBE certification workshops.
10.	I would appreciate it if the NAICS codes could include 524210 (Insurance Brokerage Services). There are insurance opportunities (i.e., contractors pollution, etc.) in the construction of highway, street and bridges.	An insurance services NAICS code 542126 was included in developing the overall DBE goal. The industry comprising establishments primarily engaged in insurance agents and brokers who sell different types of insurance policies falls under NAICS codes that start with 542. As a certified DBE with NAICS code 524210 your participation will count towards the DBE contract goal as long as GDC or the bidder/prime contractor engages you for the insurance services you are certified to perform. Your participation is not limited to the NAICS codes in Table 1.
11.	Can a DBE subcontract work to contractor? If yes, would it be seen as CUF? I have not seen anything about CUF.	Per 49 CFR Section 26.53(a)(3), when a DBE subcontracts part of the work of its contract to another firm, the value of the subcontracted work may be counted toward DBE goals only if the DBE's subcontractor is itself a DBE. Work that a DBE subcontracts to a non-DBE firm does not count toward DBE goals. For more information on CUF, please review 49 CFR Section 26.53(c) and the USDOT Official Questions and Answers on the DBE Program reference the CUF discussion.
12.	Are DBE's required to pre-qualify? How do we register to join the team?	GDC does not require DBEs or small businesses to pre-qualify to work on its contracts. However, you may want to ask the individual bidders who are pursuing GDC contracts on their pre-registration/prequalification information. The proposed bidders list on GDC's current contract solicitations is found on GDC Work With Us website at www.gatewayprogram.org/workwithus-2.html .
13.	Which agencies will GDC accept DBE certification? Can you provide a list?	To count towards the DBE goal on a GDC contract, the firm must be certified as a DBE by either NJ State DOT, NY State DOT, NJ TRANSIT, Niagara Frontier, MTA or PANYNJ.
14.	Will proposal scoring for prime contractors include points for meeting individual goals for M/W/SDV subcontracting?	For participation to be credited towards the individual DBE contract goal, the firm must be DBE certified in accordance with 49 CFR part 26. Contracts with FTA financial assistance will not

		have a W/MBE/SBE/SDVOB goal. GDC encourages participation from MBE/WBE/SDVOBs and other small business firms on all its contracts.
15.	I would request that the NAICS codes 531210, 531312, 531390 & 531190 be included in the goals. Can you let me know if they are included as NAICS codes?	A real estate services NAICS code 531210 was included in developing the overall DBE goal. The industry comprising establishments primarily engaged in real estate services are firms with NAICS codes that start with 531. As a DBE certified with NAICS code 531210 and other codes, your participation will count towards the DBE contract goal as long as GDC or the bidder/prime contractor engages you for the real estate services you are certified to perform. Your participation is not limited to the NAICS codes in Table 1.
16.	When you mention the NJ DBE list, are you referring to those businesses that are certified by the State of NJ Uniform Certification Service program?	To count towards the DBE goal on a GDC contract, the firm must be certified as a DBE by either NJ State DOT, NY State DOT, NJ TRANSIT, Niagara Frontier, MTA or PANYNJ.
17.	Will there be specific goals for W/MBE SBE and SDVOBs?	For participation to be credited towards the individual DBE contract goal, the firm must be DBE certified in accordance with 49 CFR part 26. Contracts with FTA financial assistance will not have a W/MBE/SBE/SDVOB goal. GDC encourages participation from MBE/WBE/SDVOBs and other small business firms on all its contracts.
18.	How about DBE firms certified by other states, but not by NY or NJ?	If the DBE is not certified in the State that the project is being built, the DBE must obtain a new DBE certification in the State where the project is being built. The Hudson Tunnel Project is in two States, the State of NY and the State of NJ. To count towards the DBE goal on a GDC contract, the firm must be certified as a DBE <u>by either</u> NJ State DOT, NY State DOT, NJ TRANSIT, Niagara Frontier, MTA <u>or</u> PANYNJ.
19.	When do you anticipate having a more comprehensive list of NAICS codes available for consideration?	For a list of NAICS codes included to develop the overall DBE goal, please refer to Table 1 of the DBE Goal methodology. As a certified DBE, your participation will count towards the DBE contract goal as long as GDC or the bidder/prime contractor engages you for the services you are certified to perform. Your DBE participation on a contract is not limited to the NAICS codes in Table 1.
20.	Can you also make sure to include NAICS 541613?	For a list of NAICS codes included to develop the overall DBE goal, please refer to Table 1 of the DBE Goal methodology. As a certified DBE, your participation will count towards the DBE contract

		goal as long as GDC or the bidder/prime contractor engages you for the services you are certified to perform. Your DBE participation on a contract is not limited to the NAICS codes in Table 1.
21.	Are you including professional services?	Professional services NAICS codes were included in the development of the overall DBE goal. For a list of professional services NAICS codes refer to Table 1 of the DBE Goal methodology.
22.	Does certification by Port Authority matter?	To count towards the DBE goal on a GDC contract, the firm must be certified as a DBE by either NJ State DOT, NY State DOT, NJ TRANSIT, Niagara Frontier, MTA or PANYNJ.
23.	Please provide website info for DBE certification and also list partners that can fast track/assist.	Please go to the Port Authority of New York and New Jersey Web Page: www.panynj.gov ; New York State DOT Web page: www.dot.ny.gov ; NJ TRANSIT Web page: NJtransit.com ; New Jersey State DOT Web page: www.nj.gov Niagara Frontier Web page: www.nfta.com ; and MTA Web page new.mta.info
24.	I am a new DBE firm and do not have an established overhead rate to whom should I speak?	The US Small Business Administration is available to provide business development assistance. Visit their website at: www.sba.gov to find the closest Small Business Development Center to your location.
25.	Will there be a requirement that certification is specifically within NY or NJ, or will certifications from SBA and/or other states be sufficient?	To count towards the DBE goal on a GDC contract, the firm must be certified as a DBE by either NJ State DOT, NY State DOT, NJ TRANSIT, Niagara Frontier, MTA or PANYNJ.
26.	Is there a link to earlier overhead map that was shown (as an overall reference?) Thank you.	The virtual December 1, 2023 DBE Consultation presentation is available on the website at: www.gatewayprogram.org/workwithus-2.html
27.	Is there any opportunity for Tech/ Staffing company? Certified DBE and MBE. Raj Technologies.	GDC does not currently have a solicitation for staffing services. The recommendation is to contact the proposed bidders on GDC's current contract solicitations. The bidder's list can be found on the GDC Work With Us website at www.gatewayprogram.org/workwithus-2.html
28.	How do I get on the bidders list? I make any kind of sign.	There is no vendor registration yet, however all GDC procurements are posted here: www.gatewayprogram.org/workwithus-2.html . We encourage vendors to check regularly for updates.
29.	If you are managing the contractor, but the contractor is not a DBE, does that count toward the DBE goal?	If a DBE subcontracts out work to a non-DBE, the work the non-DBE is performing does not count towards the DBE goal. .

30.	Will all projects have a 20.7% goal, or will the goal vary on each project? There is more subcontracting opportunity on surface work and fit-out work than on the tunneling projects.	To meet the race-conscious component of the overall DBE goal, GDC will establish an individual DBE contract goal only on FTA financially assisted contracts that have subcontracting opportunities. GDC will not set the individual contract goal at the same level as the overall DBE goal. GDC will evaluate each contract individually, and establish the goal based on the type of contract, subcontracting opportunities, type and location of work, availability of DBEs to perform the particular type of work and any other information deemed necessary or relevant.
31.	Will there be a Inflation adjustment to the DBE PNW requirement for 2024? 2025? When will that be adjusted? What is it currently?	Only the USDOT may adjust the DBE Personal Net Worth (PNW) for inflation. The USDOT may adjust the PNW with the next update of the DBE rules. The current PNW of the majority owner(s) may not exceed \$1.32 million and still be considered economically disadvantaged.
32.	Please, can you tell me the PNW dollar figure today?	The current PNW of the majority owner(s) may not exceed \$1.32 million and still be considered economically disadvantaged.
33.	Will all NAICS code be addressed in each of the seven design packages or will the NAISC codes be selected per package?	To establish the individual DBE contract goal, each bid package will be assessed independently for subcontracting opportunities; identify the appropriate NAICS codes for that package and identify DBEs certified in the appropriate NAICS codes for that package. These factors will be considered to establish the individual DBE contract goal for each package.
34.	Is the census data used based on the year 2021?	Yes. The census data used to establish the proposed DBE goal is the 2021 U.S. Census County Business Pattern (CBP) databases. The 2021 CBP databases are the newest census datasets available to GDC in establishing the denominator (non-DBEs and DBEs).
35.	Are there any concerns that the census data for year 2021 are severely impacted by the pandemic and therefore not representative of actual availability of firms post pandemic?	In following the guidance from USDOT on establishing an overall DBE goal, the USDOT recommends using the best available data to identify the number of firms (DBE and non-DBE) within a corresponding NAICS code and the market area together established the denominator. The 2021 databases are the best available census datasets to establish the availability of all firms.
36.	A NY based DBE firm will meet the goals?	To count towards the DBE goal on a GDC contract, the firm must be certified as a DBE by either NJ State DOT, NY State DOT, NJ TRANSIT, Niagara Frontier, MTA or PANYNJ.

37.	When do you anticipate having a more comprehensive list of NAICS codes available for consideration?	For a list of NAICS codes included to develop the overall DBE goal, please refer to Table 1 of the DBE Goal methodology. As a certified DBE, your participation will count towards the DBE contract goal as long as GDC or the bidder/prime contractor engages you for the services you are certified to perform. Your DBE participation on a contract is not limited to the NAICS codes in Table 1.
38.	What is the PNW requirement for DBE certification today?	The current PNW of the majority owner(s) may not exceed \$1.32 million and still be considered economically disadvantaged.
39.	I realize that my NAICS code will likely be in one of the later packages. However, I would like to request you review any work for NAICS code 238390 and 238290. Thank you.	NAICS codes 28290 and 238290 were included in developing the overall DBE goal methodology. Refer to Table 1 of the DBE Goal methodology for a list of the NAICS codes.
40.	Please, can you tell me the PNW dollar figure today?	The current PNW of the majority owner(s) may not exceed \$1.32 million and still be considered economically disadvantaged.
41.	Will all NAICS code be addressed in each of the seven design packages or will the NAISC codes be selected per package?	To establish the individual DBE contract goal, each bid package will be assessed independently for subcontracting opportunities, identify the appropriate NAICS codes for that package and identify DBEs certified in the appropriate NAICS codes for that package.
42.	The document does not address goals and policies for inclusion of Service-Disabled Veteran-Owned Businesses (SDVOBs), although the states of NJ and NY, and the Federal government have established goals and policies for the inclusion of SDVOBs.	<p>Presidential Executive order 13360 requires Federal agencies to set goals for and otherwise give special consideration to service-connected disabled veteran businesses in direct Federal contracting. Executive Order 13360 concerns only applies to direct Federal procurement by Federal agencies themselves.</p> <p>The USDOT's DBE program concerns only contracts let by state and local agencies in which US DOT financial assistance is included in the state or local agency contracts. The Hudson Tunnel Project is a FTA financially assisted project. As such, the GDC must implement a DBE program to include DBEs on the FTA funded contracts.</p> <p>The Executive Order 13360 does not have the effect of creating a presumption that service-connected disabled veterans are socially and economically disadvantaged for purposes of the DBE program or establishing a goal for the use of firms owned by</p>

		<p>such veterans in state and local contracts receiving USDOT financial assistance.</p> <p>The USDOT encourages service-connected disabled veterans, as well as other individuals with disabilities, to apply for participation in the DBE program. If the contract has a DBE goal the bidders will be soliciting certified DBEs to count towards the DBE contract goal. To count toward the DBE contract goal, the firm must be certified as a DBE by either NJ State DOT, NY State DOT, NJ TRANSIT, or PANYNJ. GDC encourages participation by all firms, including MBE/WBE/SDVOBs and other small business firms.</p>
43.	Although the document specifically mentions minority and women owned DBEs, it is silent on SDVOBs. Will goals for SDVOBs be added to the document?	The FTA will not permit the GDC to apply a Minority/Women or SDVOB goal on a contract if the contract has FTA financial assistance. The DBE goal will be applied if subcontracting opportunities exist, among other factors. GDC encourages participation by all firms, including MBE/WBE/SDVOBs and other small business firms. However, only certified DBEs will count towards the DBE contract goal.
44.	Were SDVOBs included in the table of DBE breakdowns by NAICS Codes?	Yes. GDC used the 2021 U.S. CBP datasets to identify the number of firms (DBE and non-DBE) within a corresponding NAICS code and market area to establish the denominator as shown in Table 1 of the DBE goal and methodology. Non-DBEs includes firms owned by SDVOBs, Minority, Women, LGBTQIA+ firms and other non-DBE firms.
45.	Will GDC seek to ensure there is equity of opportunity by DBEs in each NAICS Code category?	Yes. GDC's DBE Policy statement includes the assurance to create a level playing field on which DBEs can compete fairly for USDOT-assisted contracts.
46.	Will specific numerical participation goals be stated for individual classes of DBE such as WBE, MBE, and SDVOB?	GDC, as a recipient of FTA financial assistance is directed to follow the requirements under DBE regulations at 49 CFR part 26. On April 25, 2018, the USDOT promulgated through the directives in the Official Questions and Answers on the DBE Program, that USDOT does not allow recipients to establish MBE/WBE/SDVOB participation goals on USDOT federally-funded contracts. The only participation goals allowed on a FTA federal-aid contract are goals applied through the DBE program under the USDOT's at 49 CFR part 26.