

**MOTION:**

**SECOND:**

**RE:            AUTHORIZE PUBLICATION OF, SEEK PUBLIC COMMENTS ON, AND  
PROVISIONALLY ADOPT THE PROPOSED DISADVANTAGED BUSINESS  
ENTERPRISE (DBE) GOAL FOR FEDERAL FISCAL YEARS 2019-2021**

**ACTION:**

**WHEREAS**, the United States Department of Transportation (DOT) Regulations 49 CFR Part 26 (“the Regulations”) and the PRTC’s DBE Program require that an overall annual goal for DBE participation in federally assisted contracts be established every three years; and

**WHEREAS**, management is recommending the establishment of a proposed DBE goal of 11.3 percent for Federal Transit Administration (FTA) assisted contracts for FFY 2019-2021 in accordance with the methodology set forth in the DBE program; and

**WHEREAS**, the Regulations prescribe that a notice be published providing for a 30-day public inspection period and a 45-day public comment period regarding the proposed DBE overall goal; and

**WHEREAS**, the Regulations also prescribe a consultative process that must include a scheduled, direct interactive exchange with as many interested stakeholder’s as possible; and

**WHEREAS**, the Potomac and Rappahannock Transportation Commission (“PRTC” or the “Commission”) finds that the proposed Federal Fiscal Year 2019-2021 DBE goal of 11.3 percent is appropriate and reasonable.

**NOW, THEREFORE, BE IT RESOLVED** that the Potomac and Rappahannock Transportation Commission does hereby authorize the Executive Director to publish PRTC’s proposed Disadvantaged Business Enterprise goal for Federal Fiscal Years 2019-2021 of 11.3 percent for FTA-assisted contracts for public inspection for a period of 30 days and for public comment for a period of 45 days.

**ITEM 11-C**  
**May 3, 2018**  
**PRTC Regular Meeting**  
**Res. No. 18-05-\_\_\_\_**  
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**BE IT FURTHER RESOLVED** that the Potomac and Rappahannock Transportation Commission directs the Executive Director to submit the DBE goal of 11.3 percent for FFY 2019-2021 to the United States Department of Transportation through the Federal Transit Administration by August 1, 2018, in accordance with the Regulations, in the event that no further action is required by the Commission.

**Votes:**

**Ayes:**

**Abstain:**

**Nays:**

**Absent from Vote:**

**Alternate Present Not Voting:**

**Absent from Meeting:**



Potomac and Rappahannock  
Transportation Commission

14700 Potomac Mills Road  
Woodbridge, VA 22192

May 3, 2018

TO: Madam Chair Anderson and PRTC Commissioners

FROM: Betsy Massie *Betsy Massie*  
Director of Grants and Project Management

THROUGH: Robert A. Schneider, PhD  
Executive Director *[Signature]*

RE: Authorize Publication of, Seek Public Comment on, and Provisionally Adopt the Proposed Disadvantaged Business Enterprise (DBE) Goal for Federal Fiscal Years 2019-2021

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Recommendation:

Authorize the Executive Director to publish for public inspection and comment the proposed FFY 2019-2021 DBE overall goal of 11.3 percent for Federal Transit Administration (FTA) assisted contracts and to provisionally adopt the proposed goal.

Background:

The Potomac and Rappahannock Transportation Commission (PRTC) and the Virginia Railway Express (VRE) have established a Disadvantaged Business Enterprise (DBE) program in accordance with Regulations of the United States Department of Transportation (DOT), 49 CFR Part 26 ("the Regulations"). The DBE program intends to provide contracting opportunities to small businesses owned and controlled by socially and economically disadvantaged individuals. The goal of the program is to "level the playing field" on which DBE businesses compete for contracts and subcontracts in the transportation industry.

The Regulations specify that DOT grantees must establish an overall triennial goal for DBE participation in federally assisted contracts, and prescribe implementation methods for achieving this goal (PRTC's compliant methodology for determining the triennial goal is attached). The FTA requires all agencies with a DBE program to advertise their proposed goal for the upcoming fiscal years through various media (e.g. local newspapers and industry publications) for a period of thirty (30) days and public comment for forty-five (45) days from the date of publication. In addition to advertising the proposed goal, PRTC and VRE are required to provide for consultation with minority women's and general contractor groups, which could be expected to provide information concerning the availability of disadvantaged and non-disadvantaged businesses. The consultation must include a scheduled, direct, interactive exchange with as many stakeholders as possible.

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Madam Chair Anderson and PRTC Commissioners

May 3, 2018

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The proposed FFY 2019-2021 DBE goal of 11.3 percent for FTA-assisted contracts is based on an assessment of the FTA projected expenditures for FFY 2019-2021, a review of U.S. Census, and other sources concerning the availability of DBE companies in the industries and geographic markets relevant to PRTC contracting activity, and consideration of the Commission's historical utilization of DBE companies. Management believes this goal is a reasonable projection of DBE participation overall for the upcoming fiscal years.

With the Commission's approval, the proposed FFY 2019-2021 goal, as required by DOT, will be posted internally and advertised in a transportation trade publication as well as local newspapers to provide for public inspection for a period of 30 days and public comment for 45 days from the date of publication (public notice also attached). The goal, once adopted, will be posted on the PRTC website and included in relevant procurement documents involving DOT-assisted contracting opportunities.

Management is recommending that the Commission authorize the publication of the proposed FFY 2019-2021 goal and provisionally adopt the goal, subject to the condition that the public inspection and consultative process does not result in any public comments that necessitate reconsideration/possible modification of the goal as proposed. If reconsideration is needed, the Commission will be asked to review and adopt the final FFY 2019-2021 goal after completion of the consultative process and the public comment period. Comments will be provided to the Commission at the close of the public review process.

PRTC is required to submit the proposed FFY 2019-2021 DBE overall goal to the FTA by August 1, 2018.

Fiscal Impact:

Not applicable.

Attachments: As stated

**POTOMAC AND RAPPAHANNOCK  
TRANSPORTATION COMMISSION**

**AND**

**VIRGINIA RAILWAY EXPRESS**

**DISADVANTAGED BUSINESS ENTERPRISE GOAL METHODOLOGY**

**FEDERAL FISCAL YEARS  
2019-2021**

**POTOMAC AND RAPPAHANNOCK TRANSPORTATION COMMISSION  
AND VIRGINIA RAILWAY EXPRESS  
DISADVANTAGED BUSINESS ENTERPRISE GOAL METHODOLOGY  
FOR FEDERAL FISCAL YEARS 2019 - 2021**

**I. SUMMARY**

The Potomac and Rappahannock Transportation Commission (PRTC) and Virginia Railway Express (VRE) have established an overall goal for Disadvantaged Business Enterprise (DBE) participation in Federal Transit Administration (FTA) assisted contracts in accordance with regulations of the United States Department of Transportation (DOT), 49 CFR Part 26. This rule requires recipients of Federal funds to use a methodology based on demonstrable data of relevant market conditions and is designed so that the goal reflects the level of DBE participation the recipient would expect absent the effects of discrimination.

**II. PROPOSED GOAL FOR FFY 2019-2021**

PRTC/VRE have established its Triennial Disadvantaged Business Enterprise (DBE) Goal of **11.3% percent** for FFY 2019-2021 on FTA-assisted contracts. PRTC/VRE anticipates achieving this goal through **11.3%** race-neutral measures.

**III. METHODOLOGY**

**Step 1. Base Figure Determination**

The first step in establishing an overall DBE Goal is to measure the actual relative availability of DBE vendors within PRTC/VRE's service area to perform the types of FTA-assisted contracts that PRTC and VRE intend to award during the three-year Federal fiscal year cycle. In FFYs 2019, 2020, and 2021, PRTC/VRE is expected to initiate contracts in Construction, Engineering, Roofing, and Activities for Rail.

Specifically, VRE's contracts include: construction of Lifecycle Overhaul and Maintenance Facility, construction services to build second platforms at the Leeland Road and Lorton Stations, extend the existing platforms at the Alexandria VRE Station; engineering and design for Broad Run Yard and Station expansion; Canopy Roof Replacements at Backlick Road and Rolling Road Stations; rail activities and automated rail passenger counting. As shown in **Table 1**, VRE has projected thirteen (13) projects by NAICS Code it expects to be awarded in federal fiscal years 2019 – 2021, upon which this goal methodology is based.

**Table 1 – VRE – List of Projects for Federal Fiscal Years 2019 – 2021**



NAICS CODE	PROJECT	Estimated Amount
236220	Alexandria Station Platform Extension	\$ 5,440,000
488210	Automated Electric Parking Brake System	\$ 172,800
541330	APC - Passenger Counting	\$ 2,900,000
541330	Broad Run Expansion	\$ 5,072,000
238160	Canopy Roof Replacement at Backlick Road & Rolling Road	\$ 280,000
236220	Leeland Road Station - Second Platform	\$ 1,112,000
236220	Lifecycle Overhaul & Maintenance Facility	\$ 28,087,127
236220	Lorton Station - Second Platform	\$ 5,280,000
236220	Modernization of Woodbridge Station - East Elevator	\$ 480,000
236220	Replacement of Station Tactile Warning Strips	\$ 660,000
236220	Rolling Road Station Improvements	\$ 1,261,600
236220	Rippon Station	\$ 4,080,000
488210	Seat Bottoms for Passenger Railcars	\$ 1,552,000
<b>TOTAL</b>		<b>\$ 56,377,527</b>

### Local Market Area

The local market area is the area wherein the substantial majority of the contractors and subcontractors are located and the area in which PRTC/VRE spends the substantial majority of its contracting dollars. In past years, the local market area has included the District of Columbia as well as the cities and counties located in Northern Virginia (Cities of Alexandria, Fairfax, Falls Church, Fredericksburg, Manassas and Manassas Park and the Counties of Arlington, Fairfax, Loudoun, Prince William, Stafford, and Spotsylvania). However, evidence has shown that PRTC/VRE tends to find its contractors in several Virginia localities outside of the Northern Virginia area. Therefore, PRTC and VRE have determined the relevant market area to be the District of Columbia and the entire Commonwealth of Virginia.

The available pool of ready, willing and able firms to participate in VRE's FTA-funded contracting opportunities is analyzed based on the specific NAICS codes and descriptions. Thus, the total number of all contractors and subcontractors located in PRTC and VRE's local market area who would be available for FTA-assisted projects were extracted from the 2015 County Business Patterns (NAICS) database hosted by the U.S. Census Bureau. **Table 2** summarizes the total available firms in the local market area by corresponding Industry (NAICS) Code.

**Table 2 – Total Available Firms**

TOTAL AVAILABLE FIRMS				
NAICS CODE	NAICS CODE Description	Local Market Area		Number of Total Firms
		District of Columbia	Commonwealth of Virginia	
236220	Construction	104	994	1,098
238160	Roofing Contractors	4	439	443
488210	Activities for Rail	0	19	19
541330	Engineering	251	2281	2,532
<b>Total Firms From Census Data Business Patterns Database</b>				<b>4,092</b>

Source: U.S. Census Bureau, 2015 County Business Patterns

The total number of available DBE firms within each specified NAICS code were derived from State Unified Certification Program (UCP) DBE Directories provided by the District of Columbia and Virginia as shown in **Table 3**.

- **District of Columbia UCP DBE Directory** includes DBE firms that have been certified by the District of Columbia Department of Transportation (DDOT) and the Washington Metropolitan Area Transit Authority (WMATA).
- **Virginia UCP DBE Directory** includes DBE firms that have been certified by the Virginia Department of Small Business and Supplier Diversity (DSBSD) and the Metropolitan Washington Airports Authority (MWAA).

**Table 3 – Certified DBE Firms**

DBE Certified Firms				
NAICS CODE	NAICS CODE Description	DDOT/WMATA	SBSD/MWAA	Totals
236220	Construction	62	80	142
238160	Roofing Contractors	10	12	22
488210	Activities for Rail	0	4	4
541330	Engineering	16	80	96
<b>Total DBE Firms From DC/VA DBE Directories</b>				<b>264</b>

PRTC/VRE cross-referenced each directory in order to prevent double counting a particular DBE firm who is certified and registered by more than one agency.

### **Base Figure Formula**



The Regulations suggest the following formula for determining the base figure percentage of ready, willing and able DBE firms for DOT-Assisted projects:

*Numerator: Ready, Willing and Able DBE Firms (by category) divided by;*

*Denominator: All Ready, Willing and Able Firms (by same numerator category)*

PRTC and VRE developed a base goal using the relative availability of DBEs in the local market area based on the project and work item.

Therefore, the base goal calculation, using combined totals, is as follows:

Base Goal	Calculations
6.5%	(142 construction DBE firms + 22 roofing DBE firms + 4 Activities for Rails DBE firms + 96 engineering DBE firms)
	(1,098 construction firms + 443 roofing firms + 19 Activities for Rails firms + 2,532 engineering DBE firms)

$$\text{Base Figure} = \frac{264}{4,092} = 0.06451 \text{ or } 6.5\%$$

### Weighting

To make certain that the base goal is as accurate as possible, PRTC and VRE used weighting to adjust its Step 1 goal figure. In FFY 2019, 2020 and 2021, VRE is expected to initiate the majority of contracts for construction and also for engineering and design while less contract dollars will be spent on Roofing and Activities for Rail. PRTC and VRE estimated that approximately 82% of contract dollars will be spent on heavy construction, 14% on Engineering, 3% on Activities for Rail and less than 1% on Roofing. The calculations in **Table 4** are provided as **Appendix A** and shows how PRTC and VRE arrived at these percentages.

### Weighted Calculations

The following calculations were performed to determine an appropriately weighted baseline goal:

$$[.823 * \frac{142}{1,098} + .004 * \frac{22}{443} + .030 * \frac{4}{19} + .014 * \frac{96}{2,532}] * 100 = 0.118489 \text{ or } 11.8\%$$

In order to calculate the weighted goal, PRTC and VRE used the number of DBE firms for construction, engineering, roofing, and activities for rail as the numerators and divided them by the number of firms in the same fields (denominators) and multiplied them by the weighted percentages. The sum of these numbers multiplied by 100 resulted in the weighted goal of 11.8%.

$$[.823*(0.1293) + .004*(0.0496) + .030*(0.2105) + .141*(0.0379)] \times 100 = 11.8\%$$

### **Step 2: Adjustment to Base Goal**

Step Two of the goal setting calculation process is intended to adjust the Weighted Base Figure calculated in Step One (11.8%) to make sure the goal is precise as possible. Under the rule, all evidence available to the grantee must be considered to determine whether such an adjustment is necessary.

PRTC and VRE examined additional factors to determine what adjustment, if any, was needed to establish the overall goal. The factors considered are outlined below:

### **Past Participation**

Since contracting opportunities for FFYs 2019 -2021 are very similar to past years, PRTC and VRE analyzed past participation to determine the feasibility of an adjustment to the base figure (**See Table 5**). VRE will let contracts for construction of platform extensions and second platforms, engineering and design at the Broad Run VRE Station in addition to contract for constructions of platform extensions and second platforms. As in previous years, construction projects accounts for 82% of contract dollars while approximately 14% of contract dollars will be spent on engineering. The remaining projects (roofing and activities for rail) account for 3% and less than 1% of total contract dollars and have a limited number of certified DBE firms available. This leads to the assumption that our previous rate of DBE participation is a more accurate reflection of DBE capacity in the type of work expected for FFYs 2019 -2021 and an adjustment is warranted.

**Table 5 – Past DBE Participation**

<b>Federal Fiscal Year</b>	<b>DBE Participation</b>	<b>Established Overall DBE Goal</b>
2017	10.7%	7.5%
2016	11.1%	7.5%
2015	2.5%	8.4%



For Federal Fiscal Years 2015, 2016, and 2017, the median for past DBE participation is 10.7%. When applying the federally-prescribed formula (the average of the median past participation (10.7%) and the step one base figure (11.8%), the resultant adjusted figure is 11.3% as shown in **Table 6**.

**Table 6 – Base Figure Adjustment**

Median of Past Participation	Step One Base Figure	Divided By	Adjusted Goal
10.7%	11.8%	2	<b>11.3%</b>
22.5%			

Therefore, PRTC/VRE are making an adjustment to the base figure based on past participation. Accordingly, the final proposed overall DBE Goal for FFY 2019 -2021 for PRTC/VRE DOT assisted contracts is 11.3%. PRTC/VRE feels that this DBE goal is a more accurate representation of ready, willing and able DBE's that are qualified and able to work with PRTC/VRE.

#### **Discriminatory Practices**

PRTC/VRE have maintained a race-neutral DBE program and have not evidenced any reports of discrimination in the award of subcontracts, availability of insurance, bonding or any other business related complaints resulting from discriminatory practices. PRTC/VRE have not discovered any examples of discrimination that may warrant an adjustment of the base figure to rectify a particular problem.

#### **Disparity Study**

PRTC/VRE have not commissioned or conducted a disparity study regarding DBEs; however, there is a disparity study currently being conducted within our market area in the City of Virginia Beach, Virginia. The disparity study will examine prime contracts and subcontracts that the City of Virginia Beach awarded in fiscal years 2012 through 2017. The study will assess whether minority, woman, and service disabled veteran-owned firms face discrimination in City contracting. The study is expected to be completed in August 2018.

There is no other data that suggest additional adjustments in PRTC's and VRE's base figure are warranted.

### **Breakout of Estimated Race-Conscious/Race-Neutral Breakdown**

PRTC/VRE have established an overall goal of 11.3%; PRTC and VRE intend to attain 11.3% of this goal through race-neutral participation.

PRTC/VRE will meet the maximum feasible portion of the overall goal by using race-neutral means of facilitating DBE participation. PRTC/VRE have consistently met its DBE goal by implementing race-neutral measures.

PRTC/VRE continue to work with prime contractors to assist their efforts to facilitate race-neutral DBE participation. Race-neutral measures are a means to obtain DBE participation when a DBE firm wins a prime contract through customary competitive procurement procedures; DBE participation is awarded through a subcontract or a prime contract that does not carry a DBE goal; DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

PRTC/VRE implements race-neutral measures consisting of, but not limited to, the following:

1. PRTC/VRE attend local outreach events for Small businesses, Prime Contractors and DBEs in addition to hosting VRE's Industry Day in order to introduce upcoming construction projects and discuss how contractors can do business with PRTC and VRE.
2. PRTC/VRE provide copies of the Request for Proposals (RFPs) and Invitation for Bids, when requested to Certified DBE's.
3. PRTC/VRE encourage introductions at pre-proposal conferences to help DBEs and other small businesses develop working relationships with prime contractors.

### **Consultation and Publication of Overall Goal**

The regulations requires that in establishing an overall goal, you must provide for consultation and publication. This includes: Consultation with 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 effectors of discrimination on opportunities for DBEs, and your efforts to establish a level playing field for the participation of DBEs.

With the Commissioners approval, a public notice of the proposed goal is posted on PRTC and VRE's websites and in employee areas at headquarters buildings. Also, the public notice is published in the following magazines and newspapers: APTA Passenger Transport, the Washington Post and Potomac News & Manassas Journal Messenger,

informing the public that the proposed goal and its rationale are available for public inspection during normal business hours at PRTC and VRE offices for a period of 30 days and public comment for 45 days from the date the notice. A copy of the public notice is provided as **Appendix B**.

Interested stakeholders such as Prince William County Chamber of Commerce, Hispanic Business Council, Northern Virginia Black Chamber of Commerce and the Business Women of Prince William County along with minority contractors, DBEs and other community organizations are invited to participate in a teleconference with PRTC and VRE regarding the proposed goal and its rationale. Consultation with the groups identified above is not to be construed as mutually exclusive or exhaustive. All stakeholders will be asked to complete the PRTC/VRE Consultative Process Form, which is attached as **Appendix C**.

Copies of the meeting summary, list of attendees and public comments will be provided as an attachment to this report.



APPENDIX A

PRTC and VRE

FFY 2019-2021 DBE Weighted Goal Calculation

TABLE 4

Project	Construction NAICS 236220	Roofing NAICS 238160	Activities for Rail NAICS 488210	Engineering NAICS 541330	TOTALS
Alexandria Station Platform Extension	\$5,440,000				\$5,440,000.00
Automated Electric Parking Brake System			\$172,800		\$172,800.00
APC - Passengers				\$2,900,000	\$2,900,000.00
Broad Run Expansion				\$5,072,000	\$5,072,000.00
Canopy Roof Replacement at Backlick Road and Rolling Road		\$280,000			\$280,000.00
Leeland Road Station Second Platform	\$1,112,000				\$1,112,000.00
Lifecycle Overhaul & Maintenance Facility	\$28,087,127				\$28,087,127.00
Lorton Station Second Platform	\$5,280,000				\$5,280,000.00
Modernization of Woodbridge Station East Elevator	\$480,000				\$480,000.00
Replacement of Station Tactile Warning Strips	\$660,000				\$660,000.00
Rolling Road Station Improvements	\$1,261,600				\$1,261,600.00
Rippon Station	\$4,080,000				\$4,080,000.00
Seat Bottoms for Passenger Railcares			\$1,552,000		\$1,552,000.00
<b>Totals</b>	<b>\$46,400,727</b>	<b>\$280,000</b>	<b>\$1,724,800</b>	<b>\$7,972,000</b>	<b>\$56,377,527</b>
% of total Contract \$	0.82303587	0.004966518	0.030593751	0.141403861	
Available Firms	1,098	443	19	2,532	<b>4,092</b>
Available DBE Firms	142	22	4	96	<b>264</b>
% DBE Firms	0.129326047	0.0496614	0.210526316	0.037914692	
	0.106440	0.000247	0.006441	0.005361	0.118489
<b>Weighted Goal</b>					<b>11.8%</b>
					<b>Base Goal 6.5%</b>



## PUBLIC NOTICE

### DISADVANTAGED BUSINESS ENTERPRISE PROPOSED FEDERAL FY 2019-2021 GOAL

The Potomac and Rappahannock Transportation Commission (PRTC) and the Virginia Railway Express (VRE), in accordance with requirements of the U.S. Department of Transportation as set forth in 49 C.F.R. Part 26, as amended, hereby notifies the public that it is recommending the following Disadvantaged Business Enterprise (DBE) goal for applicable procurement contracts assisted by the Federal Transit Administration during Federal FY 2019-2021. The overall proposed DBE goal for Federal Fiscal Years 2019-2021 is 11.3%.

Information pertaining to this goal and a description of how it was selected is available for inspection from 9:00 a.m. to 5:00 p.m. (Local Time) at the PRTC Administrative Offices at 14700 Potomac Mills Road in Woodbridge for 30 days following the date of publication of this notice. Written comments on this goal will be accepted for 45 days from the date of publication of this notice. Comments should be addressed to: PRTC (Attn: Cynthia Porter-Johnson), 14700 Potomac Mills Road, Woodbridge, Virginia 22192 (cporter-johnson@omniride.com), and to Ms. Lynn Bailey, Regional Civil Rights Officer, Federal Transit Administration, Region III, 1460 Market Street, Suite 500, Philadelphia, Pennsylvania 19103.

**PRTC/VRE OVERALL DBE GOAL**  
CONSULTATIVE PROCESS FORM

Federal Fiscal Years \_\_\_\_\_

Proposed DBE Goal \_\_\_\_\_

Organization \_\_\_\_\_ ☐ DBE ☐ Small Business

Contact Person/Title \_\_\_\_\_

Email Address \_\_\_\_\_ Phone \_\_\_\_\_

## Questions for Stakeholders:

1. What do you think of the PRTC/VRE proposed DBE goal? Please provide your comments.

2. How can PRTC/VRE establish a DBE goal and maximize its race-neutral measures?

3. How can PRTC/VRE better reach out to small and minority firms about upcoming solicitations?

4. Would it be helpful for PRTC/VRE to hold informational sessions for DBEs?

Please provide any additional comments, suggestions or concerns on the back of this form or on a separate sheet.

\*The information and feedback collected on this form will be incorporated into the PRTC/VRE 2019 - 2021 DBE goal submission.