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IN REPLY REFER TO:
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August 1, 2022

VIA EMAIL: Hawaii.FHWA@dot.gov

Ms. Richelle Takara
Division Administrator
Federal Highway Administration
U.S. Department of Transportation
Box 50206
Honolulu, Hawaii 96850

Dear Ms. Takara:

Subject: Disadvantaged Business Enterprise Proposed Goal and Methodology for FY 2023 to 2025 for Federal Highway Administration Funded Projects

Attached is the State of Hawaii, Department of Transportation's (HDOT) Disadvantaged Business Enterprise (DBE) FFY 2023-2025 Proposed Goal & Methodology.

Based on the results of the 2019 DBE Availability and Disparity Study prepared by Keen Independent Research (Keen Independent), feedback from the public, and our external stakeholders, HDOT proposes a 12.18% DBE goal (with a 4.69% race-neutral / 7.49% race-conscious split respectively) for FFYs 2022 through 2025 for FHWA-funded contracts. The overall goal is based on demonstrable evidence of ready, willing, and able DBEs relative to all businesses currently ready, willing, and able to participate on HDOT's FHWA-assisted contracts.

The 2019 Availability and Disparity Study report provided information to HDOT as it considered refinements to: 1) Its overall DBE goal for FFY 2023 through FFY 2025 for FHWA-funded contracts and 2) Its projection of the portion of its overall DBE goal to be achieved through neutral means. HDOT estimates that 4.69% of the overall goal can be achieved through race-neutral participation on HDOT FHWA-assisted projects.

Should you have any questions, please contact Daniel Williams, DBE Program Supervisor at (808) 831-7914 or via email at daniel.k.williams@hawaii.gov.

Sincerely,

A handwritten signature in black ink, appearing to read "Jade T. Butay".

JADE T. BUTAY
Director of Transportation

Attachment

State of Hawaii

Department of Transportation

Highways Division

Disadvantaged Business Enterprise

FFY 2023 - 2025

Proposed Goal & Methodology

August 2022

Introduction

The Hawaii Department of Transportation hereby submits its proposed annual, overall Disadvantaged Business Enterprise goal for federal fiscal years 2023 through 2025 to the Federal Highway Administration pursuant to [49 CFR Part 26, section 26.45](#). From Federal Fiscal Year 2020 through Federal Fiscal Year 2022, HDOT projected a DBE goal of 17.26%, of which it projected that 0.00 percentage points be met through neutral means, while 17.26 percentage points would be met through race- and gender-conscious means. In March 2020, HDOT submitted a DBE goal of 17.26% for FHWA-funded contracts for federal fiscal years 2020 through 2022, which has now been refined.

Based on the results of the 2019 DBE Availability and Disparity Study prepared in December 2019 by Keen Independent Research (Keen Independent) and HDOT's internal Road Map of federally funded projects, HDOT is anticipating additional projects totaling approximately \$386,260,000. Coupling that together, HDOT proposes a revised DBE goal of 12.18% for FFYs 2023 through 2025 for FHWA-funded contracts. The overall goal is based on demonstrable evidence of ready, willing, and able DBEs relative to all businesses currently ready, willing, and able to participate on HDOT's FHWA-assisted contracts.

The 2019 DBE Availability and Disparity Study report provided information to HDOT as it considered refinements to: (1) its overall DBE goal for FFY 2023 through FFY 2025 for FHWA-funded contracts, and (2) its projection of the portion of its overall DBE goal to be achieved through neutral means. HDOT estimates that the overall goal can be achieved through race conscious and race neutral participation on HDOT FHWA-assisted projects.

HDOT's previous DBE overall goal was 17.26% with a 17.26%/0% race neutral / race conscious split respectively. Again, based on HDOT's internal Road Map for federally funded projects, HDOT is anticipating approximately \$386,260,000 worth of projects during FFY 2023-2025. A variety of subcontracting opportunities have been identified for those projects. HDOT's proposed overall goal will be 12.18% with a 4.69% race neutral and 7.49% race conscious split.

HDOT used previous data from the Master Availability Database from the 2019 Keen Independent Study, and guidance from the *2022 DBE Overall Goal Methodology DBE Program – Overall Goal Methodology PowerPoint* and USDOT's *Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program* for this process.

The overall DBE goal of 12.18% is based on the utilization of the 2019 DBE Availability and Disparity Study, which is required, as per the *2022 DBE Overall Goal Methodology DBE Program – Overall Goal Methodology PowerPoint*, and the USDOT's *Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program*.

Here is an overview of HDOT's public outreach and interactive exchanges:

- Public Participation — 49 CFR Section 26.45(g) and 26.15(b)(1) implemented a public participation process as part of the revised goal methodology.
- Opportunity to Comment. HDOT provided opportunities for the public to provide information that might contribute to the revised overall DBE goal. These activities included:

- External Stakeholder Groups were provided two opportunities to meet with HDOT and provide comments and feedback on the overall DBE goal.
 - Tuesday, July 12, 9-10:30 a.m. - Hawaii Standard Time
 - Thursday, July 14, 9-10:30 a.m. - Hawaii Standard Time

- The public was provided a 30-day comment period (June 30, 2022 to July 29, 2022) and were encouraged to provide feedback on the proposed goal and methodology. HDOT posted its press release informing the public on June 30, 2022 at: <https://hidot.hawaii.gov/blog/2022/06/30/public-notice-announcing-proposed-overall-triennial-disadvantaged-business-enterprise-dbe-goal/>. During this period, the public had three different avenues to communicate their comments:
 - Online at: <https://forms.office.com/g/u62M6gg3S6>
 - Email at HDOT-DBE@hawaii.gov
 - Through regular mail to HDOT Office of Civil Rights, 200 Rodgers Boulevard, Honolulu, HI 96819

The table below illustrates the comments received from the public and external stakeholders:

Questions Posed					
Type(s) of work business performs	Is the 17.26% overall DBE goal attainable?	Should the overall DBE goal be higher than 17.26%?	Should the overall DBE be lower than 17.26%?	On what island is your firm located?	Does your firm provide services in the public, private of federal sector
Architecture, Engineering, Landscape Architecture and Construction Management	Yes – no comments provided	Yes – 25%-30% perhaps	No – no comments provided	Oahu	Public and federal sector
Security System Installation	Yes – no comments provided	Yes – no comments provided	No – no comments provided	Oahu	Federal sector
Construction	Maybe – no comments provided	Maybe – no comments provided	No – no comments provided	Oahu	Private sector

*There were three comments received from the public and external stakeholders during this period.

Relevant Geographic Market Area and Types of Work

HDOT is using data from its 2019 DBE Availability and Disparity Study to determine Relevant Geographic Market Area and Types of Work. Based on analysis of FHWA-funded contracts for FFY 2023-2025, HDOT determined that Hawaii should be selected as the relevant geographic market area.

- About 95% of HDOT FHWA-funded contract dollars from July 2011 through June 2016 went to firms with locations in Hawaii. Therefore, the availability analysis examined firms with locations in Hawaii.
- Keen Independent also examined the types of work involved in FHWA-funded contracts from July 2011 through July 2016. There were 31 types of work that accounted for about 96% of FHWA-funded contract dollars. The availability analysis focused on firms performing these 31 types of work. We utilized the same 31 types of work for the proposed goal.

STEP 1 – Availability Analysis

Availability is expressed as the percentage of the associated contracting dollars that one might expect DBEs to receive based on various factors including the type of work involved, the location of the work and the size of the contract or subcontract, and then dollar-weighting results to prepare an overall availability estimate.

HDOT’s availability analysis determined the percentage of FHWA-funded contracts from FFY 2023-2025 that might go to current or potential DBEs if they had the same chance of winning that work as any other available firm, after accounting for the type, size and location of those prime contracts and subcontracts. HDOT used a dollar-weighted approach to determine this overall availability estimate. Based on this analysis, it is expected that current and potential DBEs will receive 12.18% of FHWA-funded transportation contracts let by HDOT for FFY 2023-2025.

Master Availability Database. Keen Independent developed a master availability database (current and potential DBEs and non-DBEs) by contacting thousands of firms to collect information about availability for HDOT contracts. The firms contacted for the database came from sources including, but not limited to:

- Companies that had previously identified themselves to HDOT as interested in learning about future work by being prequalified for certain types of work or being on bidding lists; and
- Businesses that Dun & Bradstreet (D&B) identified in certain transportation contracting-related sub-industries in Hawaii (D&B’s Hoover’s business establishment database). (D&B’s Hoover’s database is accepted as the most comprehensive and complete source of business listings in the nation.)

Keen Independent completed surveys with 1,101 Hawaii businesses. After consolidating duplicate responses and removing companies that are no longer in business, not-for-profit, unable to perform transportation-related work or uninterested in discussing availability for HDOT work, the final database contains 304 businesses, of which 174 (or 57%) were minority- or women-owned (MBE or WBE).

Dollar-Weighted Availability. HDOT developed a dollar-weighted availability benchmark. This approach is consistent with USDOT’s *Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program*. To calculate dollar-weighted availability, HDOT determined the number of DBEs (109) and the total number of firms available (1,947) for the total amount of FHWA-funded contract (\$386,260,000) for FFY 2023-2025.

HDOT then dollar-weighted the availability results for the total projects based on the dollars of that prime contract or subcontract relative to the total dollars of FHWA-funded contracts for FFY 2023-2025.

Dollar-weighted availability is much more precise than a simple “head count” of businesses because it considers the following factors regarding available firms: (1) qualifications and interest in performing prime contracts and/or subcontracts, (2) type of work performed, (3) location of contracting opportunity, and (4) size of the contract or subcontract. Availability calculations were first done for minority- and women-owned firms (MBE/WBEs) and then refined to show results for current and potential DBEs.

Potential and Certified DBE Availability Adjustments. To determine the DBE base figure, which focuses on availability of currently certified DBEs and firms that could be certified as DBEs, HDOT did not count any MBE or WBE firms as potential DBEs that appear to be ineligible for certification. There were three groups of MBE/WBEs that did not count as potential DBEs when calculating the base figure:

- MBE/WBEs that in recent years graduated from the DBE Program or had applied for DBE certification in Hawaii but were denied.
- MBE/WBEs that reported annual revenue in the availability surveys that exceeded the revenue limits for DBE certification for their sub-industry over the most recent three years (at the time of the 2018 survey).
- MBE/WBEs that indicated in follow-up interviews that they were not eligible or not interested in DBE certification (interviews performed in the Availability and Disparity Study).

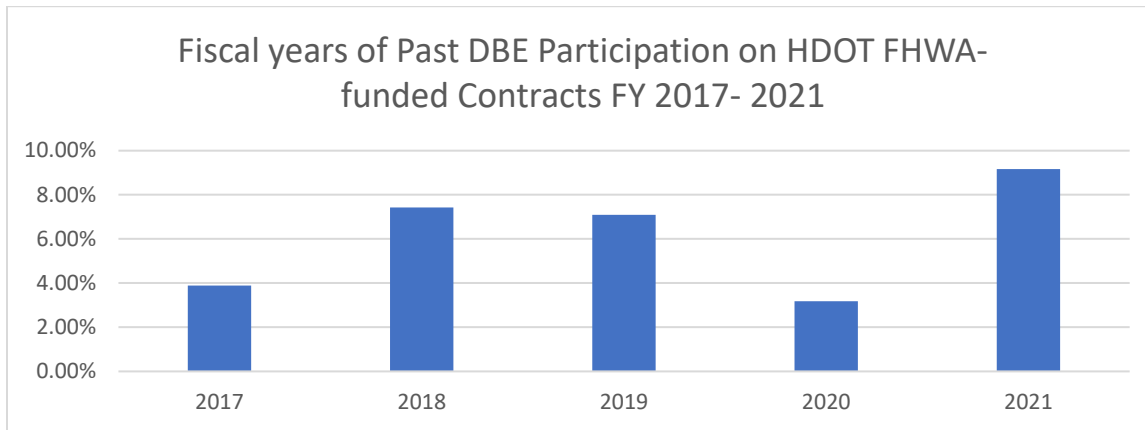
STEP 2 – Base Figure Adjustment

In the base figure analysis, firms considered as DBEs were those businesses that were DBE-certified or appeared that they could be DBE-certified based on revenue criteria described in federal regulations including 49 CFR Section 26.65.

Summary of Approaches for Making Step 2 Adjustments. Quantification of potential downward or upward step 2 adjustments is summarized below:

1. Current Capacity of DBEs to Perform Work, Measured by the Volume of Work DBEs Performed in Recent Years.

Analysis of this factor might indicate a downward step 2 adjustment if HDOT analyzed its estimates of past DBE participation from FFY 2017 through FFY 2021. Based on HDOT's analysis, the median DBE participation on FHWA-funded contracts was 7.10% for fiscal years 2017–2021.



FY 2020: 3.18%, FY 2017: 3.89%, FY 2019: 7.10%, FY 2018: 7.43%, FY 2021: 9.17%.
NOTE: Fiscal years of Past DBE Participation on HDOT FHWA-funded Contracts FY 2017-2021 are arranged to illustrate that FY 2019: 7.10% is the median number.

USDOT “*Tips for Goal-Setting*” suggests taking one-half of the difference between the base figure and evidence of current capacity as one approach to calculate the step 2 adjustment for that factor.

The total of the 17.26% base figure and 7.10% DBE participation is 24.36 percentage points (17.26% + 7.10% = 24.36%). One-half of this difference is a downward adjustment of 12.18 percentage points (24.36% ÷ 2 = 12.18%).

The table below illustrates downward and upward adjustments options for HDOT

Step 2 adjustment component		Value	Explanation
Lower range of overall DBE goal			
Base figure		17.26%	From base figure analysis
Evidence of current capacity	+	7.10	Past DBE participation (Uniform Report data)
Total		24.36%	
	÷	2	Reduce by one-half
Adjustment		12.18%	Downward adjustment for current capacity
Upper range of overall DBE goal			
Base figure		17.26%	From base figure analysis
Adjustment for "but for" factors	+	14.21	“But for” step 2 adjustment for business ownership (<i>As per the Keen Independent for the 2019 Availability and Disparity Study</i>)
Overall DBE goal		31.47%	Upper range of DBE goal

2. Information Related to Employment, Self-employment, Education, Training and Unions.

As per the Keen Independent for the 2019 DBE Availability and Disparity Study, HDOT used the quantification of the business ownership factor indicating an upward step 2 adjustment of 14.21 percentage points to reflect the “but-for” analyses of business ownership rates. If HDOT made this adjustment, the overall DBE goal for FHWA-funded contracts would be 31.47 percent (17.26% + 14.21%).

HDOT considered the above information when determining whether to make a downward, upward or no step 2 adjustment when establishing its overall DBE goal.

- If HDOT made a downward step 2 adjustment reflecting current capacity to perform work, its overall DBE goal for FHWA-funded contracts would be 12.18%.
- If HDOT decided to not make a downward adjustment and instead makes an upward adjustment that reflects analyses of business ownership rates, its overall DBE goal would be 31.47%.
- If HDOT decided to not make an upward or downward adjustment, its overall DBE goal would remain the same, at 17.26%.

For FHWA-funded contracts, HDOT is proposing to utilize a step 2 downward adjustment of 12.18%, as its DBE goal for FFY 2023 through FFY 2025:

- The goal of 12.18% is greater than the median past DBE participation of 7.10% (based on the Uniform Report data of 2017 – 2021), which supports using a downward adjustment rather than the previous base figure of 17.26% or an upward step 2 adjustment to 31.74%.

HDOT will utilize a downward step 2 adjustment (12.18%) because HDOT feels that goal would provide the DBEs ample opportunities to be effectively utilized by the prime contractors to meet the intent of the DBE program of creating a level playing field for DBEs. The utilization of this goal would help foster a healthy subcontracting atmosphere.

Having an overall DBE goal of 12.18% diminishes the likelihood of waste, fraud, or abuse as the goal is relevant and attainable.

- HDOT calculated the difference between the “but for” MBE/WBE availability (14.21%) and the current availability (17.26%) to calculate the potential upward adjustment. This total, and potential upward adjustment is 31.47 percentage points (14.21% + 17.26% = 31.47%). The HDOT data does not support using an upward step 2 adjustment.

HDOT would not consider utilizing an upward step 2 adjustment (31.47%) because HDOT feels there is a large disparate amount between participation in previous years. The utilization of the upward adjustment of 31.47% would not help foster a healthy subcontracting atmosphere and possible contribute to waste, fraud, or abuse.

- In FFYs 2017 through 2021, HDOT fell short of its DBE goal by an average of more than 23 percentage points each fiscal year, which indicates that utilizing the downward adjustment of 12.18% on FHWA-funded projects would continue to be challenging, but it would provide more meaningful opportunities to promote the utilization of DBEs than utilizing the previous goal of 17.26% or using the upward-adjusted goal of 31.47%.

Federal fiscal year	DBE goal	DBE commitments/awards	Difference from DBE goal
2017	53.43%	3.89%	-49.54%
2018	29.05	7.43	-21.62
2019	29.05	7.10	-21.95
2020	17.26	3.18	-14.08
2021	17.26	9.17	-8.09

Source: HDOT Uniform Reports of DBE Awards/Commitments and Payments.

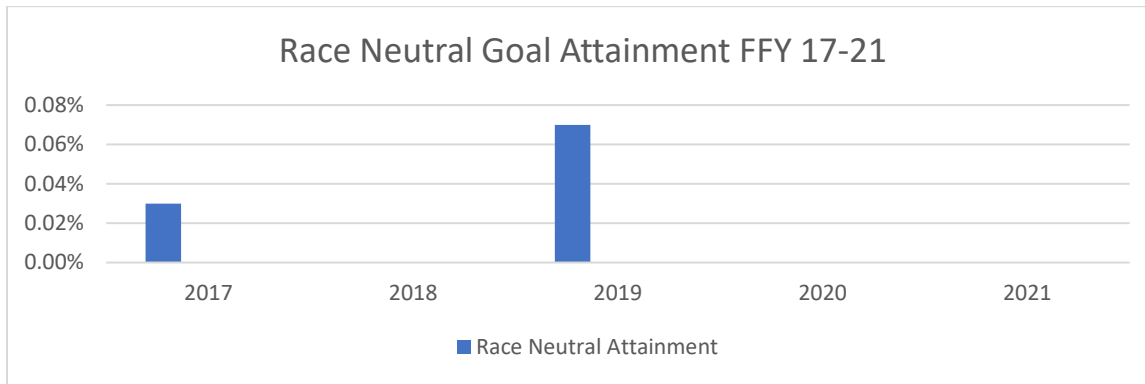
- Using the previous goal of 17.26% or the using the upward-adjusted goal of 31.47% would make it difficult foster a healthy subcontracting atmosphere, because the goals would still be too high (17.26% and 31.47%) and thus more trying to achieve.
- HDOT believes that its proposed overall goal of 12.18% is attainable, and at the same time, it stretches prime contractors to utilize more DBEs, which in turn broadens their scopes of work for DBEs.
- HDOT feels that evidence suggests an adjustment is necessary. HDOT feels that evidence suggests using the downward adjustment of 12.18% as necessary to promote healthy DBE participation, utilization, and contracting opportunities.

Overall DBE Goals for FHWA-Funded Contracts. HDOT proposes utilizing its downward adjustments to the base figure to set its overall DBE goals for FHWA-funded contracts. Based on the results of the 2019 Availability and Disparity Study and anticipating additional projects from HDOTs internal Road Map, totaling approximately \$386,260,000 (with a reasonable number of subcontracting opportunities and available DBEs), HDOT proposes to update its DBE goal to 12.18% on FHWA-funded contracts for FFYs 2023 through 2025. HDOT proposes that it will meet this goal through race neutral and race conscious measures.

Race Neutral/Race Conscious Split

HDOT looked at three methods to determine an equitable means to establish a race neutral/race conscious split.

Method One - Taking the mean of the race neutral attainment over the past 5 federal fiscal years and subtracting it from the proposed overall goal of 12.18%:



FY 2017: 0.03% + FY 2018: 0.00% + FY 2019: 0.07% + FY 2020: 0.00% + FY 2021: 0.00% = 0.10% / 5 years = 0.02% race neutral goal

- Based on the above data, if this method is utilized, the race neutral goal would be 0.02%.
- Based on the above data, if this method is utilized, the race conscious goal would be 12.16%.
- Based on the above data, if this method is utilized, the race neutral/race conscious split would be 0.02% (race neutral) / 12.16% (race conscious).

Method Two - Using the Disparity Study Index from the 2019 HDOT Availability and Disparity Study and race neutral and race conscious methodology:

1. Multiply the DBE goal by Disparity Study Index to determine race conscious projection.
2. Subtract race conscious percentage from DBE goal to determine race neutral projection.

Utilization and availability for HDOT FHWA-funded contracts (July 2011 – June 2016)

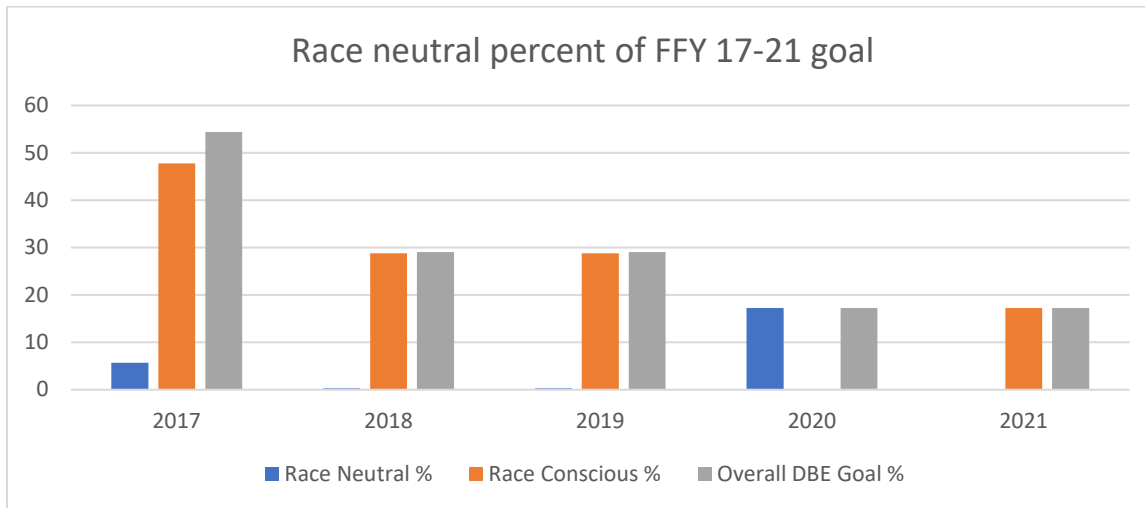
	Utilization	Availability	Disparity Index
African American	0.11%	0.65%	18
Asian Pacific American, Native Hawaiian or Pacific Islander	31.50%	26.05%	121
Hispanic American	1.10%	2.53%	44
American Indian or Alaska Native	0.00%	0.00%	0
Subcontinent Asian American	0.69%	6.20%	11
Total MBE	33.41%	38.71%	88
WBE (White women-owned)	1.06%	14.80%	7
Total MBE/WBE	34.47%	52.97%	65

Source: Keen Independent disparity analysis for HDOT and local government contracts – based on data from FFY 2011-16.

1. Multiply the DBE goal by Disparity Study Index to determine race conscious projection:
 - DBE goal of 12.18% x 0.65 = 7.92 race conscious percentage
2. Subtract race conscious percentage from DBE goal to determine race neutral projection:
 - DBE goal of 12.18% - 7.92% (race conscious percentage) = 4.26 race neutral percentage

The race neutral-race conscious split would be 4.26% / 7.92% respectively.

Method Three - Utilize the mean race neutral percent of FFY 2017-2021 goal as the race neutral percentage.



FY 2017: 5.67% + FY 2018: 0.26% + FY 2019: 0.26% + FY 2020: 17.26% + FY 2021: 0.00% = 23.45% / 5 years = 4.69% race neutral goal.

- Relying on the above data, if this method is utilized, the race neutral goal would be 4.69%.
- Relying on the above data, if this method is utilized, the race conscious goal would be 7.94%.
- Relying on the above data, if this method is utilized, the race neutral/race conscious split would be 4.69% / 7.94% respectively.

Based on Method One, Method Two and Method Three, as stated above, it appears that utilizing Method Three provides the most compelling race neutral option that affords HDOT an opportunity to meet the maximum feasible portion of the annual goal through race-neutral means.

Method Three:

- 1) Is larger (4.69%) than the average of the race neutral attainment for FFY 2017-2021 of 0.02% (FY 2017: 0.03% + FY 2018: 0.00% + FY 2019: 0.07% + FY 2020: 0.00% + FY 2021: 0.00% = 0.10% / 5 years = 0.02%).
- 2) Is larger (4.69%) than the Disparity Study Index from the 2019 HDOT Availability and Disparity Study and race neutral and race conscious methodology of 4.26%.
- 3) Yields a higher race neutral percentage (4.69%) than Method One (0.02%) or Method Two (4.26%).
- 4) Utilizes more current and relevant data, whereas Method Two relied on less contemporary data.
- 5) Provides HDOT an opportunity to meet the maximum feasible portion of the annual goal through race-neutral means.

Based on the data presented, the proposed overall DBE goal is 12.18% with a 4.69% / 7.49% race neutral-race conscious split respectively.

The proposed FHWA goal has been narrowly tailored and illustrates the following:

- Overall goal: 12.18%
- Race Neutral goal: 4.69%
- Race Conscious goal: 7.49%

Based on HDOT's internal Road Map for federally funded projects, HDOT is anticipating approximately at least \$386,260,000 worth of projects during FFY 2023-2025. These large dollar amount projects have numerous potential subcontracting opportunities and available DBEs to be utilized.

The proposed goal of 12.18% is challenging, yet attainable and pragmatic, and above the 10% national average. Based on the Annual Uniform Report data, HDOT has been closing the attainment gap in recent years. Therefore, a 12.18% goal presents a great opportunity that will permit HDOT to continue that trend. HDOT will continue its outreach efforts to attract more eligible firms to participate in the DBE program and will begin to set contract goals on federally funded Request for Proposals (RFPs) to capture DBE participation more broadly and accurately. A proposed goal 12.18% provides more meaningful opportunities for DBE utilization by prime contractors for DBE goal attainment and reduces the potential for waste, fraud, and abuse.

Additionally, HDOT now has a mechanism to ensure that DBE goals will be part of RFPs for federally funded projects. This will provide more opportunities for DBEs to have meaningful participation in a variety of federally funded projects across the state.

HDOT may refine this goal and the race-neutral and race-conscious projections, if necessary.

Should HDOT determine that refinements are warranted, the revised DBE goal will be posted on HDOT's Office of Civil Rights website at <http://www.hidot.hawaii.gov/administration/ocr/dbe/>.