



King County

DBE Goal Methodology

Federal Transit Administration

**King County Metro Transit
Triennial DBE Goal**

Federal Fiscal Years 2021, 2022, and 2023

October 1, 2021 – September 30, 2023

Department of Executive Services

Finance & Business Operations Division

Business Development & Contract Compliance Office

King County Proposed FTA Triennial DBE Goal for Federal Fiscal Years 2021, 2022, and
2023

Section 26.45: Overall Goal Calculation

King County’s proposed overall FTA FFY 2021 – 2023 Disadvantaged Business Enterprise (DBE) goal is 10%. Based on the Ninth Circuit Court Decision in Western States Paving Company v. Washington State Department of Transportation, King County has determined that it is appropriate to use a race-neutral goal. King County encourages all bidders to take active race-neutral steps to include DBEs in its FTA assisted contracts. King County will award its FTA assisted contracts without the lowest responsive bidder meeting the DBE goal or demonstrating good faith effort to meet the goal.

Amount of Goal

King County’s overall DBE goal for the period FFY 2021 – 2023 is the following: 10% of the Federal financial assistance the county will expend in FTA-assisted contracts.

\$131,768,784 is the estimated dollar amount of FTA-assisted contracts that King County expects to award during FFY 2021 – 2023. This means that King County has set a goal of expending \$13,319,688 with DBEs during the 2021 – 2023 fiscal years.

For purposes of this analysis, Washington State is the designated market area. This area represents the area from which a substantial majority of the bidders and subcontractors come and contains the geographic area in which King County spends all its contracting dollars. Availability data is pulled from the U.S. Census available online at www.data.census.gov and from the Washington State Office of Minority and Women’s Business Enterprises at www.omwbe.wa.gov.

The following projects are identified for FTA grant funding:

**Projects Identified for FTA Grant Funds
King County Department of Transportation
FTA FFY 2021 – 2023**

Year	Project Name	Estimated Value
2021	1134326 Atl. Base Wash & Vacuum Replacement PE/Preliminary Design P	\$ 498,972
2022	1134326 Atl. Base Wash & Vacuum Replacement Construction Phase	\$ 2,153,568
2021	1129634 Atlantic Base HVAC replacement Design	\$ 3,175,612
2022	1129634 Atlantic Base HVAC replacement Construction	\$ 12,702,448
2023	1134242 South Base Vehicle Maintenance HVAC replacement Design	\$ 2,277,923
2021	1134243 South Facilities HVAC replacement Design	\$ 1,365,143
2022	1134243 South Facilities HVAC replacement Construction	\$ 5,460,573
2022	1134237 RapidRide I Line Construction	\$ 64,800,000
2021	Central Base Yard Lighting Design	\$ 314,392
2021	South Base Yard Lighting Design	\$ 314,392
2021	Ryerson Base Yard Lighting Design	\$ 267,353
2021	Bellevue Base Yard Lighting Design	\$ 265,139
2022	North Base Yard Lighting Design	\$ 60,269
2021	1134240 Atlantic Bus Base Pavement Replacement Phase 2 Design	\$ 5,700,000
2021	New Project 527005 - TDC ST DR LINK PSGR IMP	\$ 1,080,000
2021	New Project 527006 - TDC ST EAST LINK PSGR IMP	\$ 4,155,500
2021	New Project 527007 - TDC ST LYNWD LINK PSGR IMP	\$ 1,327,500
2021	1134246 TDC Atl Base VM PH2 BUS LIFTS Phase 3 Design	\$ 1,300,000
2021	1134246 TDC Atl Base VM PH2 BUS LIFTS Phase 4 Design	\$ 200,000
2021	1134246 TDC Atl Base VM PH2 BUS LIFTS Construction	\$ 12,350,000
2021	Rt. 48 Eletrification Design	\$ 2,400,000
2022	Rt. 48 Eletrification Construction	\$ 9,600,000
	Total	\$ 131,768,784

Step 1 – Determine the weight of each type of work by NAICS code:

NAICS Code	Scope of Work	Cost	Percent of Total Funds
236220	Commercial and Institutional Building Construction	\$ 8,611,361.20	6.54%
237110	Water and Sewer Line and Related Structures Construction	\$ 2,000,000.00	1.52%
237310	Highway, Street, and Bridge Construction	\$ 48,620,000.00	36.90%
238110	Poured Concrete Foundation and Structure Contractors	\$ 3,168,000.00	2.40%
238130	Framing Contractors	\$ 1,089,781.25	0.83%
238210	Electrical Contractors and Other Wiring Installation Contractors	\$ 12,407,562.49	9.42%
238220	Plumbing, Heating, and Air-Conditioning Contractors	\$ 4,336,021.87	3.29%
238290	Other Building Equipment Contractors	\$ 10,668,986.66	8.10%
238310	Drywall and Insulation Contractors	\$ 90,815.10	0.07%
238330	Flooring Contractors	\$ 363,260.42	0.28%
238910	Site Preparation Contractors	\$ 960,000.00	0.73%
332311	Prefabricated Metal Building and Component Manufacturing	\$ 4,300,000.00	3.26%
333921	Elevator and Moving Stairway Manufacturing	\$ 2,729,350.00	2.07%
541310	Architectural Services	\$ 1,903,055.65	1.44%
541320	Landscape Architectural Services	\$ 69,000.00	0.05%
541330	Engineering Services	\$ 22,401,849.53	17.00%
541340	Drafting Services	\$ 4,125.00	0.00%
541370	Surveying and Mapping (except Geophysical) Services	\$ 917,000.00	0.70%
541512	Computer Systems Design Services	\$ 37,240.00	0.03%
541611	Administrative Management and General Management Consulting Services	\$ 19,125.00	0.01%
541620	Environmental Consulting Services	\$ 8,250.00	0.01%
541820	Public Relations Agencies	\$ 36,000.00	0.03%
561730	Landscaping Services	\$ 1,548,000.00	1.17%
561990	All Other Support Services	\$ 5,480,000.00	4.16%
	Total FTA-Assisted Contract Funds	\$ 131,768,784.16	100.00%

Step 2 – Determine the relative availability of DBEs by NAICS Code:

NAICS	Scope of Work	Number of DBEs Available to Perform Work	Number of All Firms Available to Perform Work	Relative Availability
236220	Commercial and Institutional Building Construction	79	894	0.0884
237110	Water and Sewer Line and Related Structures Construction	66	298	0.2215
237310	Highway, Street, and Bridge Construction	132	258	0.5116
238110	Poured Concrete Foundation and Structure Contractors	37	786	0.0471
238130	Framing Contractors	12	748	0.0160
238210	Electrical Contractors and Other Wiring Installation Contractors	48	1946	0.0247
238220	Plumbing, Heating, and Air-Conditioning Contractors	23	2197	0.0105
238290	Other Building Equipment Contractors	7	140	0.0500
238310	Drywall and Insulation Contractors	9	760	0.0118
238330	Flooring Contractors	8	788	0.0102
238910	Site Preparation Contractors	80	1393	0.0574
332311	Prefabricated Metal Building and Component Manufacturing	0	12	0.0000
333921	Elevator and Moving Stairway Manufacturing	0	5	0.0000
541310	Architectural Services	33	734	0.0450
541320	Landscape Architectural Services	39	109	0.3578
541330	Engineering Services	160	1673	0.0956
541340	Drafting Services	37	87	0.4253
541370	Surveying and Mapping (except Geophysical) Services	37	183	0.2022
541512	Computer Systems Design Services	63	1474	0.0427
541611	Administrative Management and General Management Consulting Services	215	1811	0.1187
541620	Environmental Consulting Services	89	353	0.2521
541820	Public Relations Agencies	36	202	0.1782
561730	Landscaping Services	47	2917	0.0161
561990	All Other Support Services	51	349	0.1461
	Combined Totals	1308	20117	0.0650

Step 3 – Project Funds Weight X Relative DBE Availability = Weighted Base Figure

NAICS	Scope of Work	Project Fund Weight	Relative DBE Availability	Weighted Base Figure
236220	Commercial and Institutional Building Construction	0.065	0.088	0.0058
237110	Water and Sewer Line and Related Structures Construction	0.015	0.221	0.0034
237310	Highway, Street, and Bridge Construction	0.369	0.512	0.1888
238110	Poured Concrete Foundation and Structure Contractors	0.024	0.047	0.0011
238130	Framing Contractors	0.008	0.016	0.0001
238210	Electrical Contractors and Other Wiring Installation Contractors	0.094	0.025	0.0023
238220	Plumbing, Heating, and Air-Conditioning Contractors	0.033	0.010	0.0003
238290	Other Building Equipment Contractors	0.081	0.050	0.0040
238310	Drywall and Insulation Contractors	0.001	0.012	0.0000
238330	Flooring Contractors	0.003	0.010	0.0000
238910	Site Preparation Contractors	0.007	0.057	0.0004
332311	Prefabricated Metal Building and Component Manufacturing	0.033	0.000	0.0000
333921	Elevator and Moving Stairway Manufacturing	0.021	0.000	0.0000
541310	Architectural Services	0.014	0.045	0.0006
541320	Landscape Architectural Services	0.001	0.358	0.0002
541330	Engineering Services	0.170	0.096	0.0163
541340	Drafting Services	0.000	0.425	0.0000
541370	Surveying and Mapping (except Geophysical) Services	0.007	0.202	0.0014
541512	Computer Systems Design Services	0.000	0.043	0.0000
541611	Administrative Management and General Management Consulting Services	0.000	0.119	0.0000
541620	Environmental Consulting Services	0.000	0.252	0.0000
541820	Public Relations Agencies	0.000	0.178	0.0000
561730	Landscaping Services	0.012	0.016	0.0002
561990	All Other Support Services	0.042	0.146	0.0061
			Total	0.2312
			Expressed as a % (x 100)	23.12%
			Rounded, Weighted Base Figure	23%

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Upon further review of the scopes of work included in the base figure calculation, King County identified a line item that appeared to be skewing the calculation higher. NAICS code 237310 Highway, Street, and Bridge Construction represented 37% of the total funds, and had by far the highest relative availability in the state, at roughly 51%.

Most of the work in this category is concrete work included in the RapidRide I Line Construction Project. The concrete work includes street, sidewalk, and station location improvements. The size and scale of the work at \$46.7 million would make it difficult for a small DBE firm to undertake. King County reviewed the list of 132 DBE firms in the state certified under NAICS code 237310 and identified only 41 firms that conduct relevant commercial or residential concrete work. Using this number, the base figure is as follows:

NAICS	Scope of Work	Project Fund Weight	Relative DBE Availability	Weighted Base Figure
236220	Commercial and Institutional Building Construction	0.065	0.088	0.0058
237110	Water and Sewer Line and Related Structures Construction	0.015	0.221	0.0034
237310	Highway, Street, and Bridge Construction	0.369	0.159	0.0586
238110	Poured Concrete Foundation and Structure Contractors	0.024	0.047	0.0011
238130	Framing Contractors	0.008	0.016	0.0001
238210	Electrical Contractors and Other Wiring Installation Contractors	0.094	0.025	0.0023
238220	Plumbing, Heating, and Air-Conditioning Contractors	0.033	0.010	0.0003
238290	Other Building Equipment Contractors	0.081	0.050	0.0040
238310	Drywall and Insulation Contractors	0.001	0.012	0.0000
238330	Flooring Contractors	0.003	0.010	0.0000
238910	Site Preparation Contractors	0.007	0.057	0.0004
332311	Prefabricated Metal Building and Component Manufacturing	0.033	0.000	0.0000
333921	Elevator and Moving Stairway Manufacturing	0.021	0.000	0.0000
541310	Architectural Services	0.014	0.045	0.0006
541320	Landscape Architectural Services	0.001	0.358	0.0002
541330	Engineering Services	0.170	0.096	0.0163
541340	Drafting Services	0.000	0.425	0.0000
541370	Surveying and Mapping (except Geophysical) Services	0.007	0.202	0.0014
541512	Computer Systems Design Services	0.000	0.043	0.0000
541611	Administrative Management and General Management Consulting Services	0.000	0.119	0.0000
541620	Environmental Consulting Services	0.000	0.252	0.0000
541820	Public Relations Agencies	0.000	0.178	0.0000
561730	Landscaping Services	0.012	0.016	0.0002
561990	All Other Support Services	0.042	0.146	0.0061
			Total	0.1011
			Expressed as a % (x 100)	10.11%
			Rounded, Weighted Base Figure	10%

Rounded, Weighted Base Figure: 10%

Examination of Available Evidence to Determine Adjustment to the Base Figure.

- a. **Historical DBE Participation** - Past DBE participation is based on the analysis of annual FTA DBE semiannual Uniform Reports of Awards and Commitments. Adjustments based on historical DBE participation are analyzed as follows:

Median Past Performance:

Past Achievement		Sorted	
2019	11%	2016	16%
2018	14%	2018	14%
2017	6%	2019	11%
2016	16%	2017	6%

Median Past:	12.5%
Base Figure:	10%
Sum:	22.5%
Average:	11.3%

The median annual DBE participation for the past four years is 12.5%. When averaged with the Step 1 base figure, the resulting rounded value is 11%. This number is not significantly different than the Step 1 base figure, and thus the county did not make an adjustment for this reason.

- b. **Disparity Studies** – In 2019, the Washington State Department of Transportation published a disparity study conducted by Colette Holt & Associates (CHA) targeting airport contracting in the State of Washington. The NAICS codes examined in the report were not an exhaustive list, and thus did not reflect all the NAICS codes included in King County’s three-year transit project estimates. Further, CHA compiled its own database of firms in order to calculate availability. King County does not have access to this database. The availability figure in the report is a measure of all disadvantaged, minority, and women owned businesses as defined by CHA, without regard to DBE certification. For these reasons, King County did not utilize the 2019 Washington State Airports Disparity in its Step 2 Adjustment.
- c. **Other Factors** – Other information about barriers to entry to past competitiveness of DBEs on projects include:

The decision on the *Western States Paving Co. v. United States & Washington State Department of Transportation* case requires that in order for federal recipients to establish DBE race-conscious goals it must be able to demonstrate evidence of discrimination or its effects and establish goals only for those groups demonstrated to have suffered discrimination. In response to the Court decision, and written guidance from the USDOT that requires affected recipient agencies to use race-neutral measures as the primary method to meet their DBE goals in the absence of adequate evidence of discrimination within its transportation contracting industry. Race-neutral measures must be used until sufficient evidence is obtained. King County uses race-neutral measures to achieve its overall DBE goal. King County has reviewed its DBE program and the goal-setting process and has determined that it does not have sufficient evidence of discrimination or its effects to support the use of race-conscious DBE contract goals. Therefore, King County will use race-neutral means to achieve DBE participation on its FTA assisted projects.

The new regulations under 49 CFR Part 26, change the enforcement posture of the DBE program. The use of voluntary DBE goals may influence the DBE results for DOT-assisted contracts.

Breakout of Estimated Race-Neutral & Race Conscious Participation

King County will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The County uses the following race-neutral means to increase DBE participation:

1. Distributing information on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors);
2. Convening and facilitating technical assistance workshops in partnership with other public agencies, to help DBEs, and other small businesses to increase their competitiveness, increase opportunities to participate in a variety of kinds of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
3. Establishing a small contractor and suppliers program to assist new, start-up firms, particularly in fields in which DBE participation has historically been low;
4. Arranging solicitations in ways that facilitate DBE, and other small businesses participation (e.g., unbundling large contracts to make them more accessible to small businesses, encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces);
5. Partnering with resource agencies who provide assistance in over-coming limitations such as inability to obtain bonding or financing (e.g., by such means as simplifying the bonding process, and providing services to help DBEs, and other small businesses obtain bonding and financing);
6. Partnering with resource agencies who provide technical assistance and other services;
7. Disseminating information on contracting procedures and specific contract opportunities (e.g., ensuring the inclusion of DBEs, and other small businesses, on recipient mailing lists for bidders; ensuring the dissemination to bidders on prime contracts of lists of potential subcontractors);

The overall DBE goal for King County is 10% for FFY 2021 – 2023. Based on the Ninth Circuit Court Decision in *Western States Paving Company v. Washington State Department of Transportation*, King County has determined that it is appropriate to use a race/gender neutral goal. King County encourages all bidders to take active race-neutral steps to include DBE's its USDOT assisted projects. Race-neutral steps include: unbundling large contracts, subcontract work the prime contractor may self-perform, provide information about resources for bonding or financing assistance, provide technical assistance, etc. King County FTA-assisted projects will be awarded without the lowest responsive bidder meeting the goal or demonstrating good faith effort to meet the goal.

For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to the following:

- DBE participation through a prime contract a DBE obtains through customary competitive Procurement procedures;
- DBE participation through a subcontract on a prime contract that does not carry a DBE goal;
- DBE participation on a prime contract exceeding a contract goal; and,
- DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

Process:

King County will survey and consult with individuals, organizations, and others to obtain information on the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs and King County's efforts to establish a level playing field for the participation of DBEs. King County will distribute a survey to both DBE firms and other small disadvantaged firms, certified and non-certified to obtain comments on the County's DBE program and the proposed triennial DBE goal. Based on the responses received, the county will make further adjustments to the Step 2 calculation as necessary.

King County will publish a notice of the proposed overall DBE goal to inform the public that the goal and its rationale are available for inspection on the Business Development and Contract Compliance website at: <https://www.kingcounty.gov/depts/finance-business-operations/business-development-contract-compliance/programs/DBE.aspx>. King County will publish a 30-day notice and inform the public that the county and the USDOT will accept comments on the goals for 45 days from the date of the notice. King County will place online advertisements with the following minority focused agencies and trade associations:

Washington State Office of Minority and Women's Business Enterprises

www.omwbe.gov

National Association of Minority Contractors – WA

www.namcwa.com

Tabor 100

www.tabor100.org