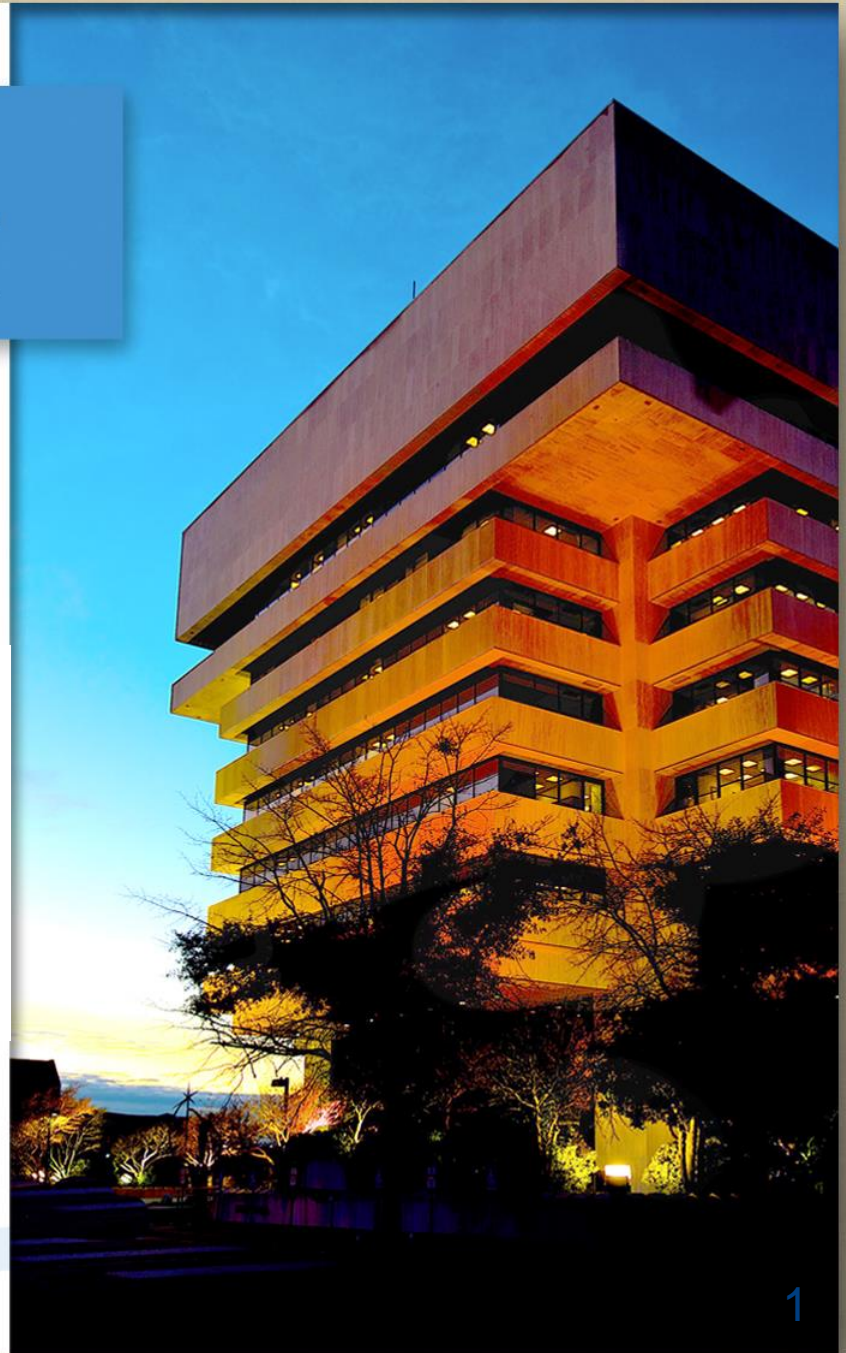


HAMPTON VA

**Minority Business Enterprise,
Women Business Enterprise
and the
Purchasing
and
Procurement Oversight Committee
(PPOC)
Monitoring Update**

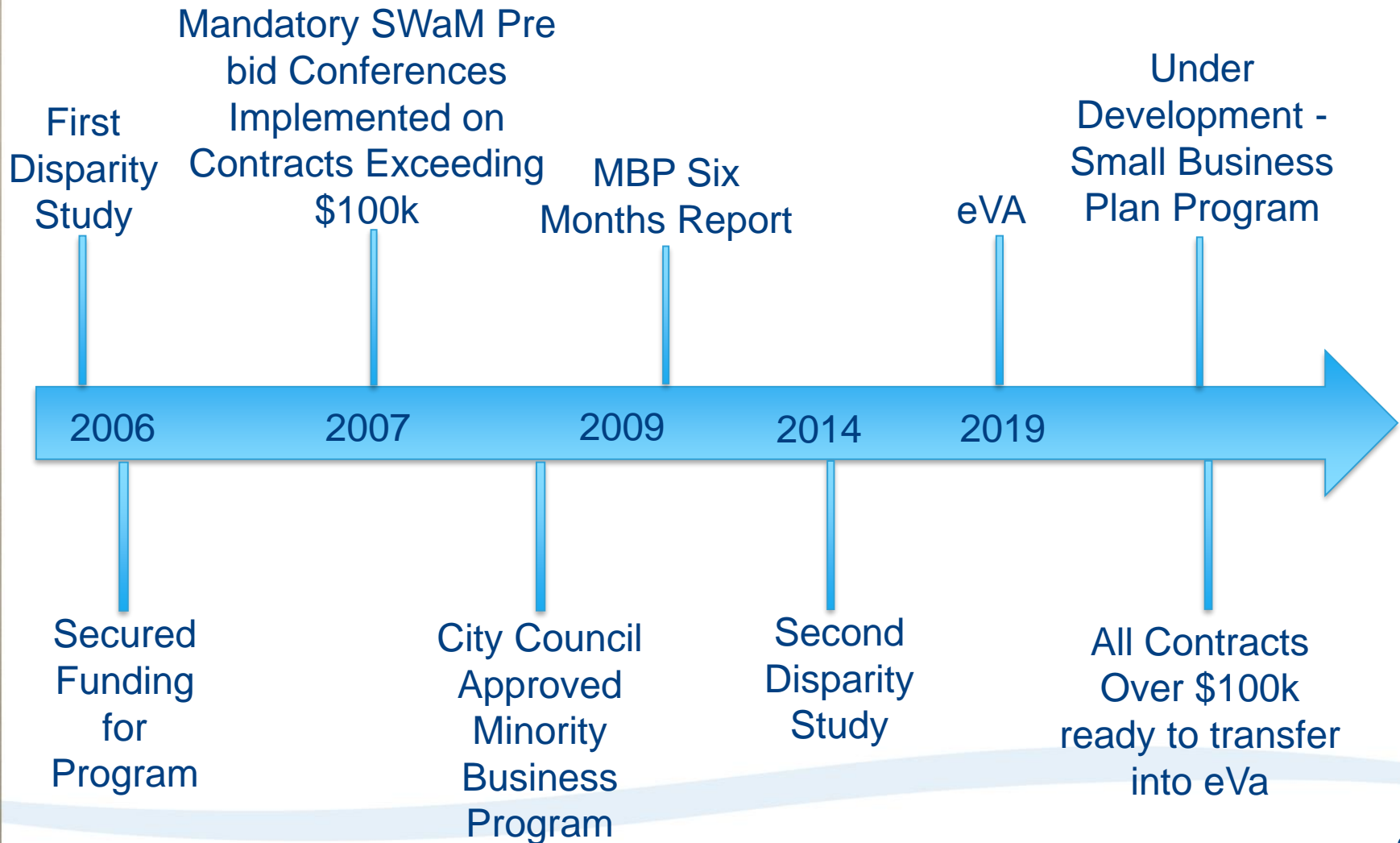
**City Council
Work Session Presentation
October 13, 2021**



Discussion Topics

1. Timeline Recap
2. Legal Overview
3. Procurement Overview Key Points
4. Contracting Efforts
5. Finance Reporting
6. Recent City Construction Contracts
7. eVA Update
8. Issues and Desired Outcomes
9. Next Steps for Improvement/Options
10. PPOC
11. Economic Development- Outreach

Timeline Recap



Code of Virginia & Federal Law

- **Code of Virginia provides that:**
 - Localities shall establish written programs to facilitate participation of small, women-owned (WBE), minority-owned (MBE), service disabled veteran owned business, & [disabled] employment services organizations.
- **Federal Law further informs us that:**
 - Race and gender neutral programs (i.e. aspirational goals, business development, or SWAM programs) do not require the same level of statistical evidence and are subject to rational basis analysis.
 - Race and gender conscious programs (i.e. set asides) must be narrowly tailored, based on statistical evidence demonstrating a disparity within the locality, and able to withstand strict scrutiny.

Statistical Evidence

- **Strict Scrutiny**

- Persuasive analysis documenting statistically significant disparity between the availability and use of WBEs & MBEs.
- Disparity studies are the primary way the Commonwealth and localities have satisfied this requirement.
 - Virginia has not enacted any statute or otherwise taken any legal action addressing a period of time for which a disparity study is valid.

- **Rational Basis**

- Reasonable relationship to achieving a legitimate government objective.
- Can be supported by locally compiled data regarding the use or non-use of small businesses, such as:
 - Statistics derived from purchasing data; or
 - Data gathered from the impacted population(s) through surveys, interviews, and focus groups.

Hampton City Code

- The Hampton City Code was amended and a Minority Business Program Plan was approved by Council in 2009, after the 2006 Disparity Study.
- The Program Plan implemented aspirational goals and minority business support.
- The City Code was amended to require quote requirements:
 - \$.01 - \$29,999: 1-2 Quotes from WBE or MBE, when feasible
 - \$30,000 or More: Forward Notice of Bids to at least 4 WBEs or MBEs
 - \$100,000 or More: Set individualized goals for participation as per the City's minority business program plan
 - Requires documentation of efforts to engage WBEs and MBEs

Recent Developments in the Law

- Micro-Business Programs – A locality may enact an ordinance to enhance micro-business participation. For this purpose, a micro-business is defined as a small, women-owned, or minority-owned business with no more than 25 employees.
 - A “small” business for SWAM purposes can have up to 250 employees.
- Expanded Opportunities for Purchasing Without Competitive or Sealed Bidding – A locality may establish written purchase procedures, subject to certain limitations, for single or term contracts for:
 - Goods and services other than professional services and non-transportation-related construction, if the aggregate or the sum of all phases is not expected to exceed \$200,000; and
 - Transportation-related construction, if the aggregate or sum of all phases is not expected to exceed \$25,000.
 - Professional services, provided the aggregate or the sum of all phases is not expected to exceed \$80,000.

Procurement Overview Key Points

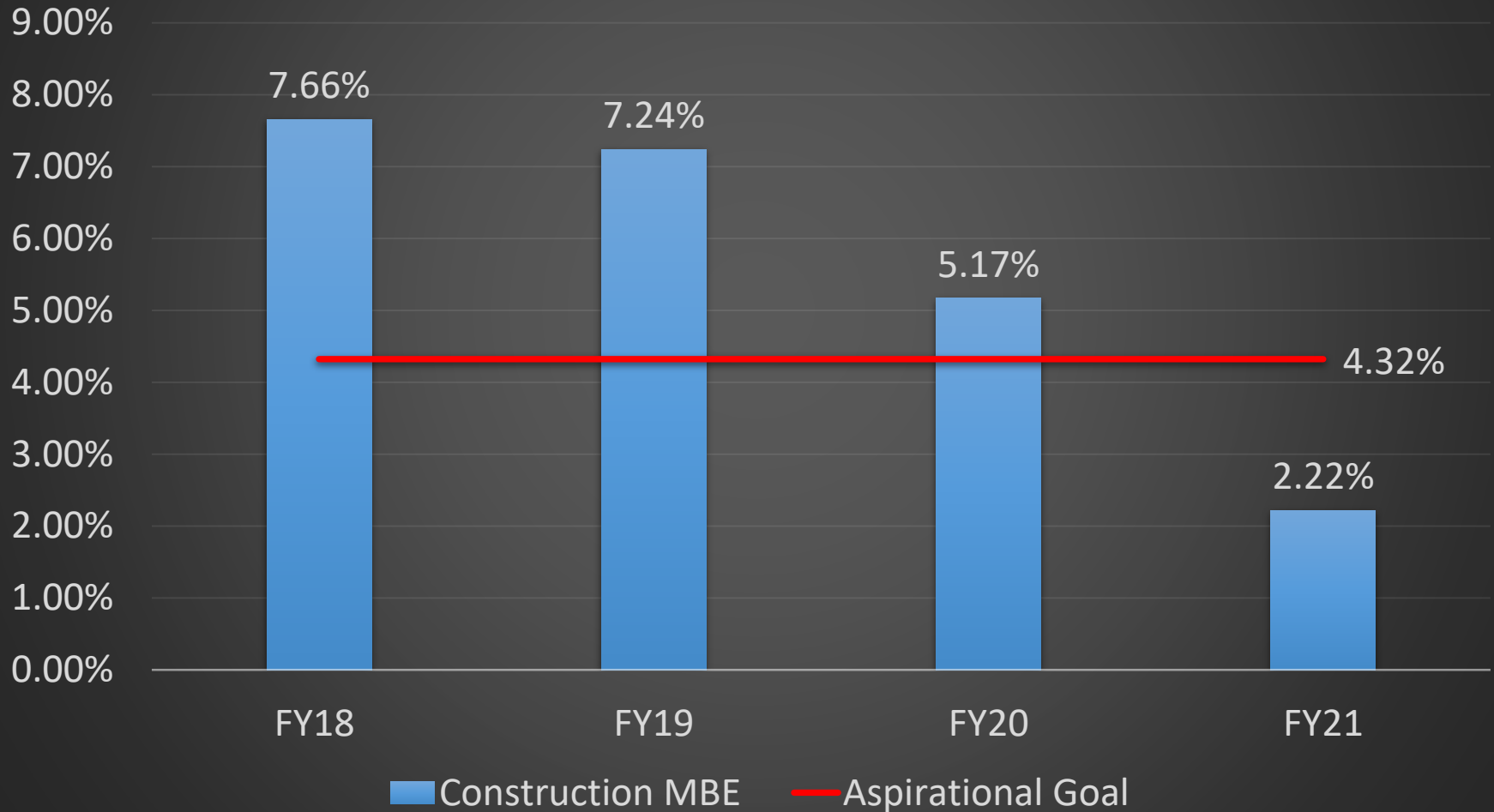
- All purchases, no matter the amount, require quotes, bids or offers.
 - For purchases under the small purchase threshold, a quote or quotes from Certified Minority and Women Owned businesses are required.
 - All awards of small purchases and competitive sealed bidding are awarded to the lowest responsible, responsive bidder pursuant to the Code of Virginia and Hampton City Code.
 - All awards for competitive negotiations are awarded to the highest ranking offeror pursuant to the Code of Virginia and Hampton City Code.

Contracting Efforts

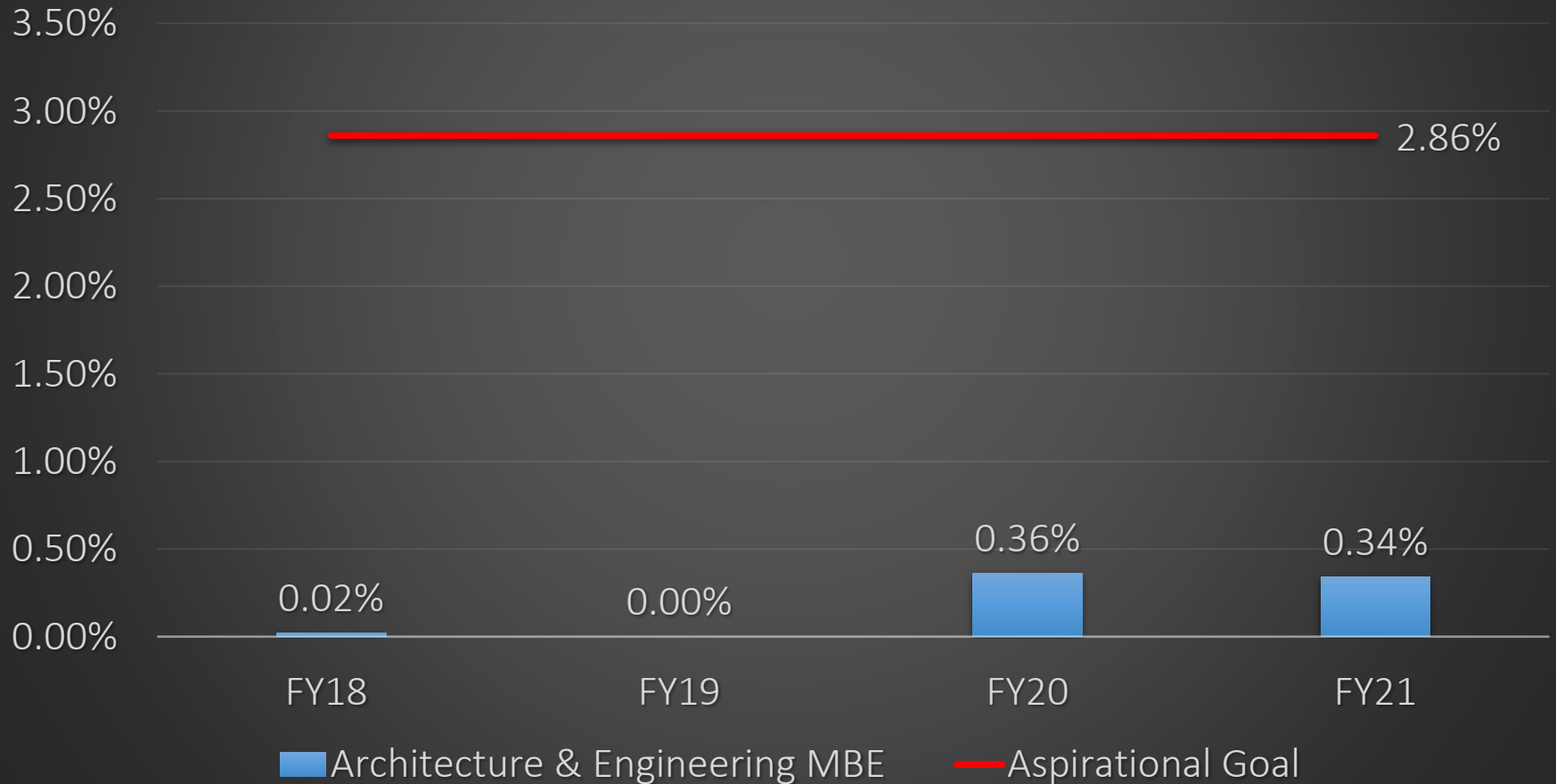
Contracts over \$100,000

Electronic Notifications	Yes
Resources for Notifications	eVA Daily Press/Legacy Hampton.gov/bids
Resource for SWaM Certified M/WBE Subcontractors	SBSD Directory Sbsd.virginia.gov/directory
M/WBE Goals Tracked	Yes
M/WBE Growth	Outreach trainings, and seminars to increase participation in low response areas to include companies not awarded contract

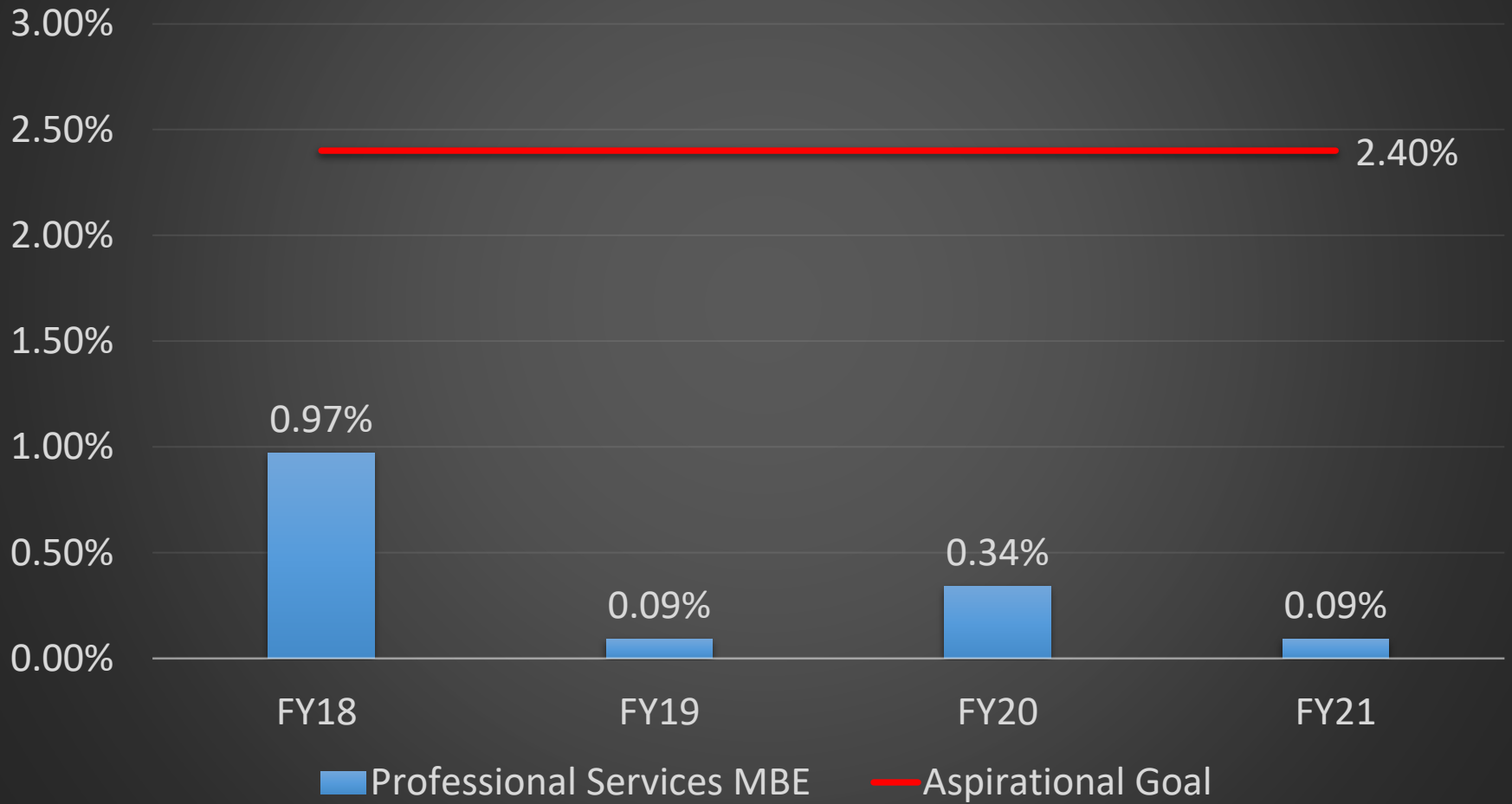
MBE Aspirational Goal vs Actual Utilization Prime Contractors for Construction Category Fiscal Years 2018-2021



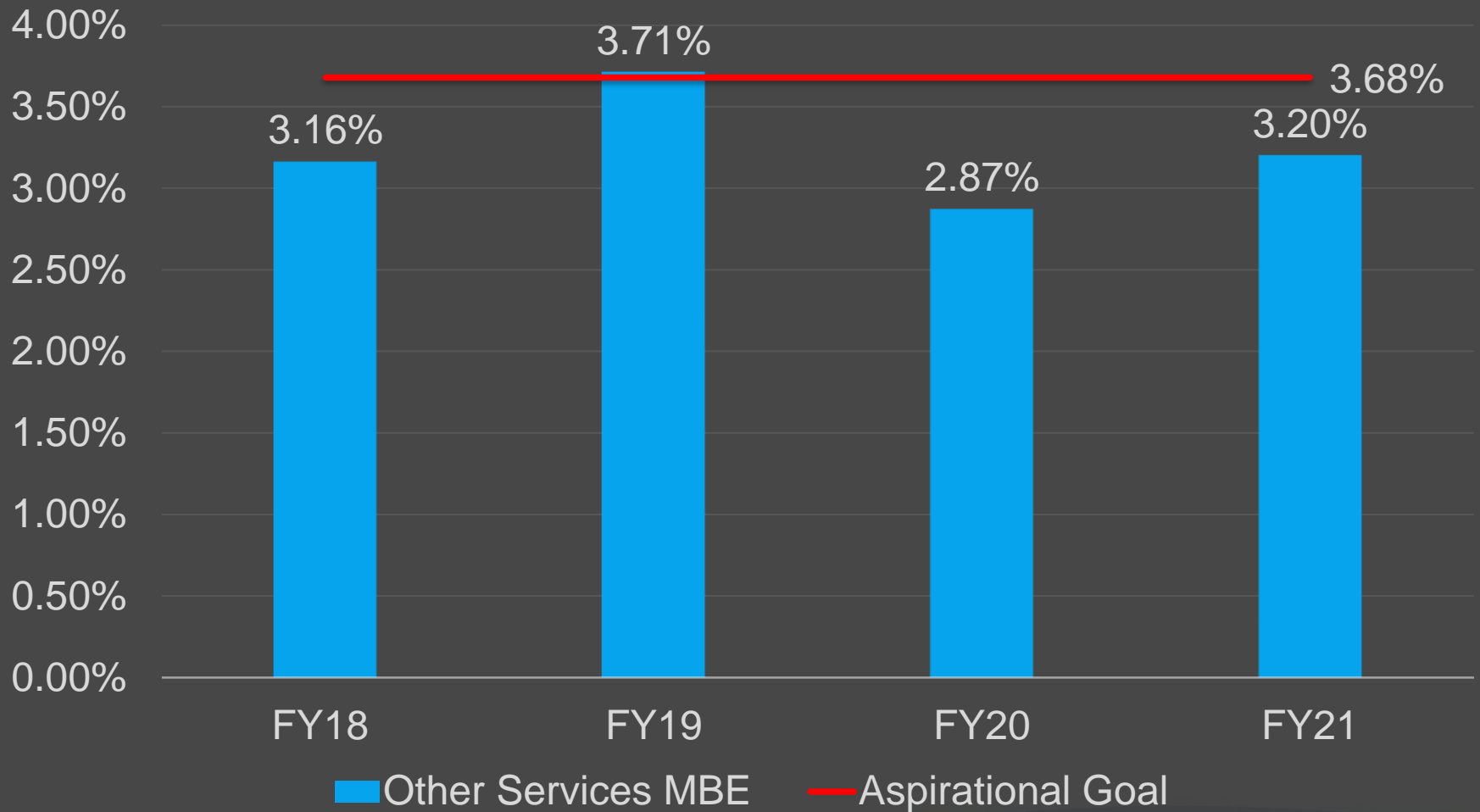
MBE Aspirational Goal vs Actual Utilization Prime Contractors for Architecture & Engineering Category Fiscal Years 2018-2021



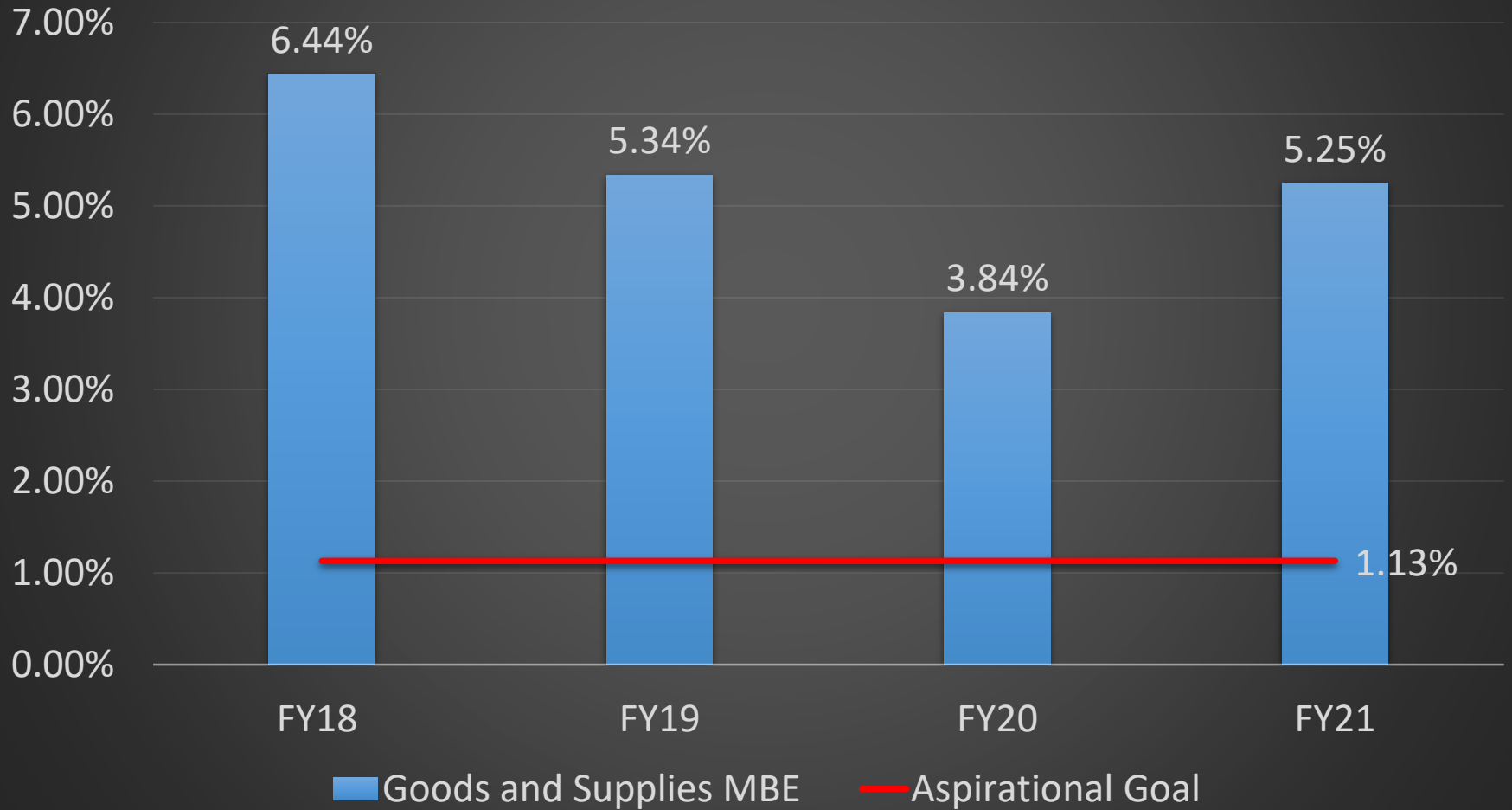
MBE Aspirational Goal vs Actual Utilization Prime Contractors for Professional Services Category Fiscal Years 2018-2021



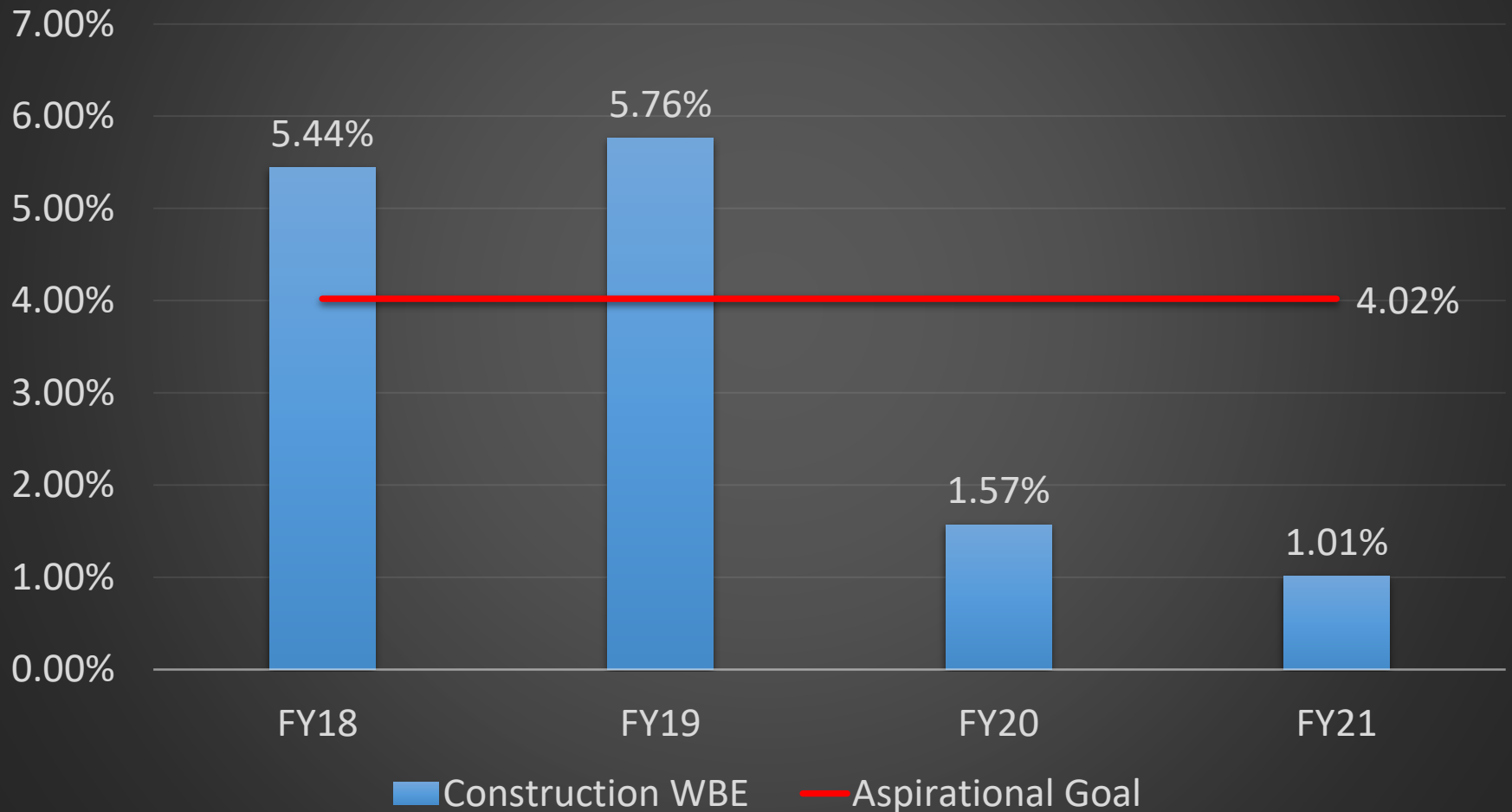
MBE Aspirational Goal vs Actual Utilization Prime Contractors for Other Services Category Fiscal Years 2018-2021



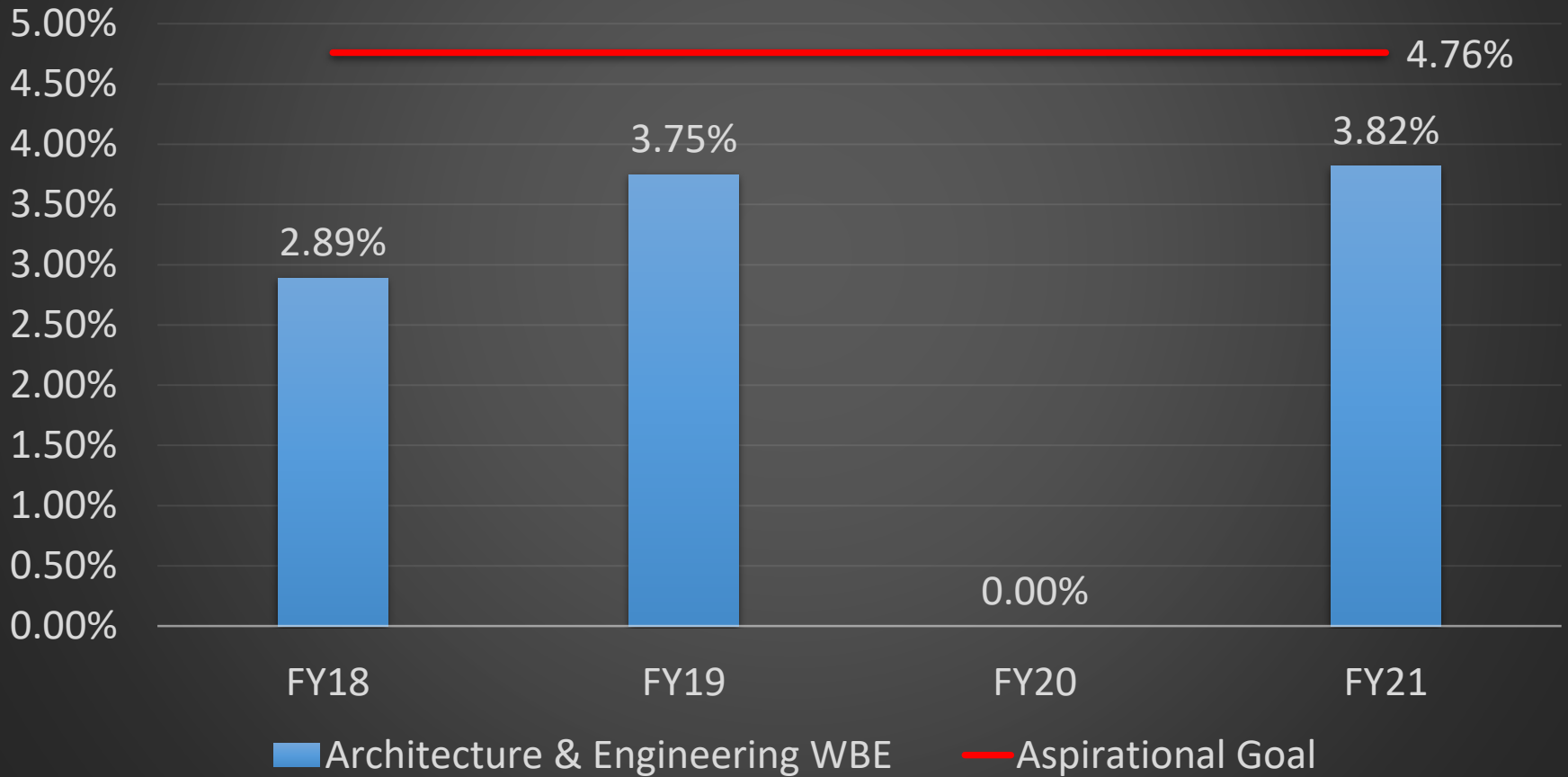
MBE Aspirational Goal vs Actual Utilization Prime Contractors for Goods and Supplies Category Fiscal Years 2018-2021



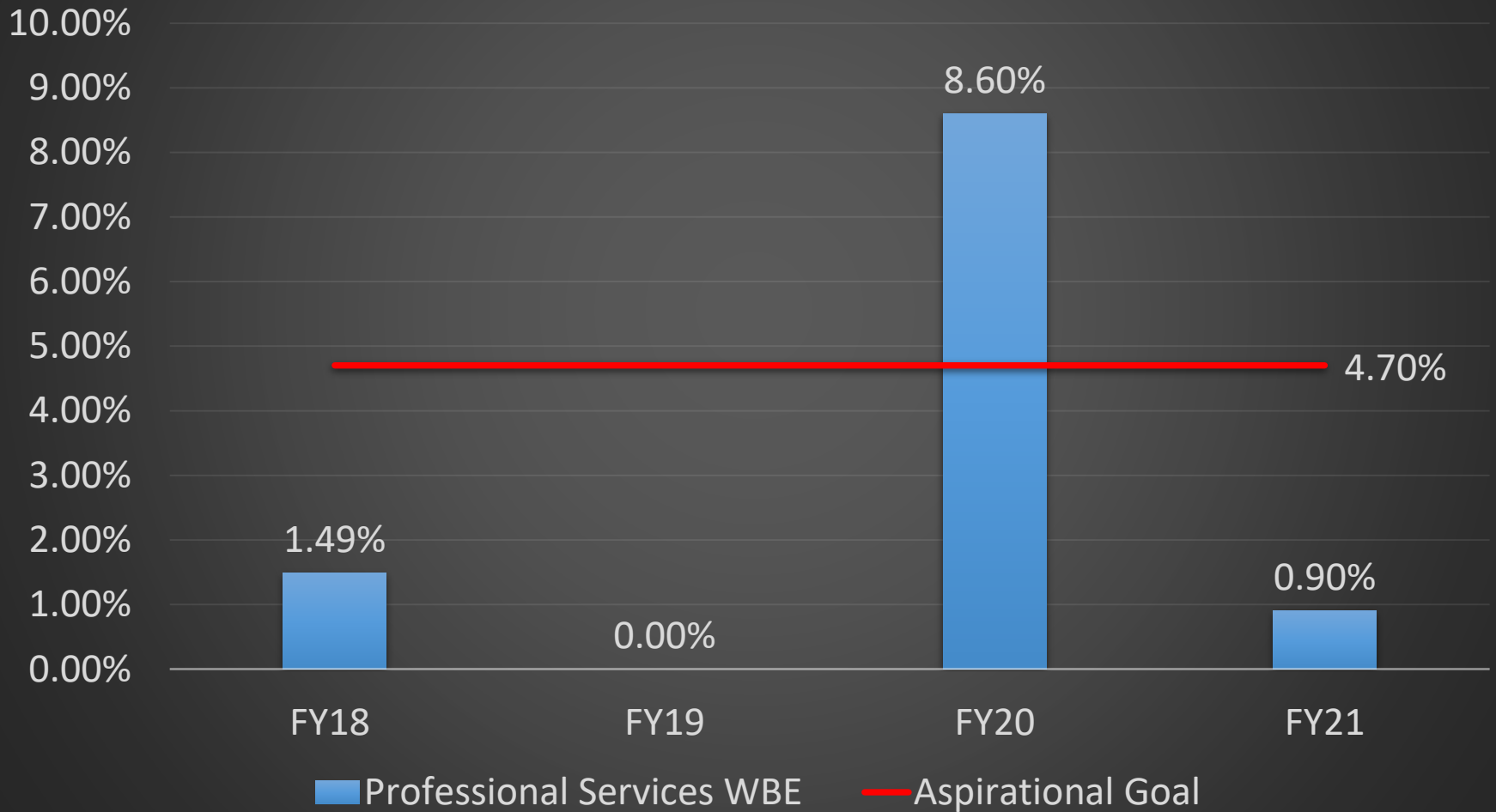
WBE Aspirational Goal vs Actual Utilization Prime Contractors for Construction Category Fiscal Years 2018-2021



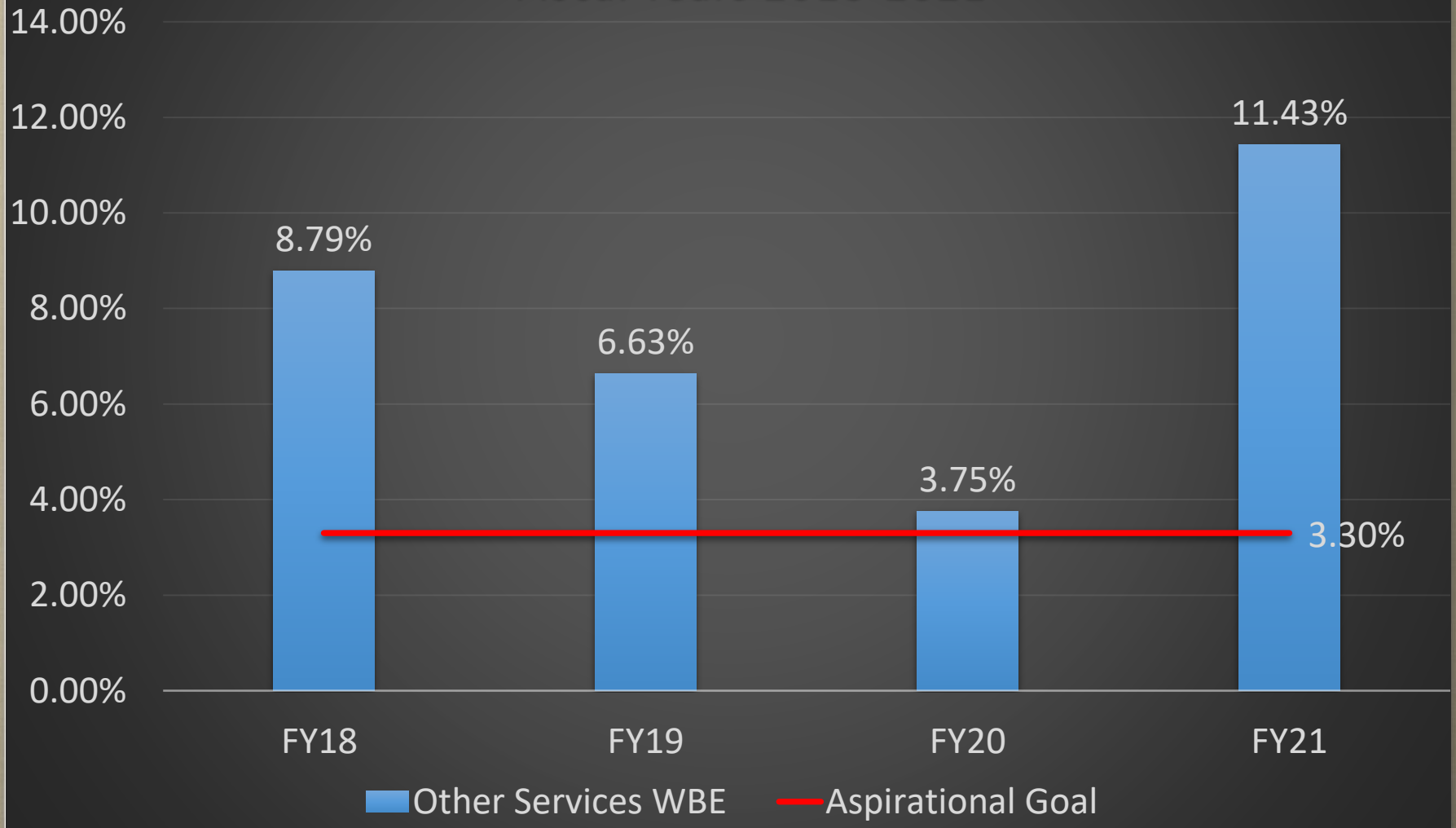
WBE Aspirational Goal vs Actual Utilization Prime Contractors for Architecture & Engineering Category Fiscal Years 2018-2021



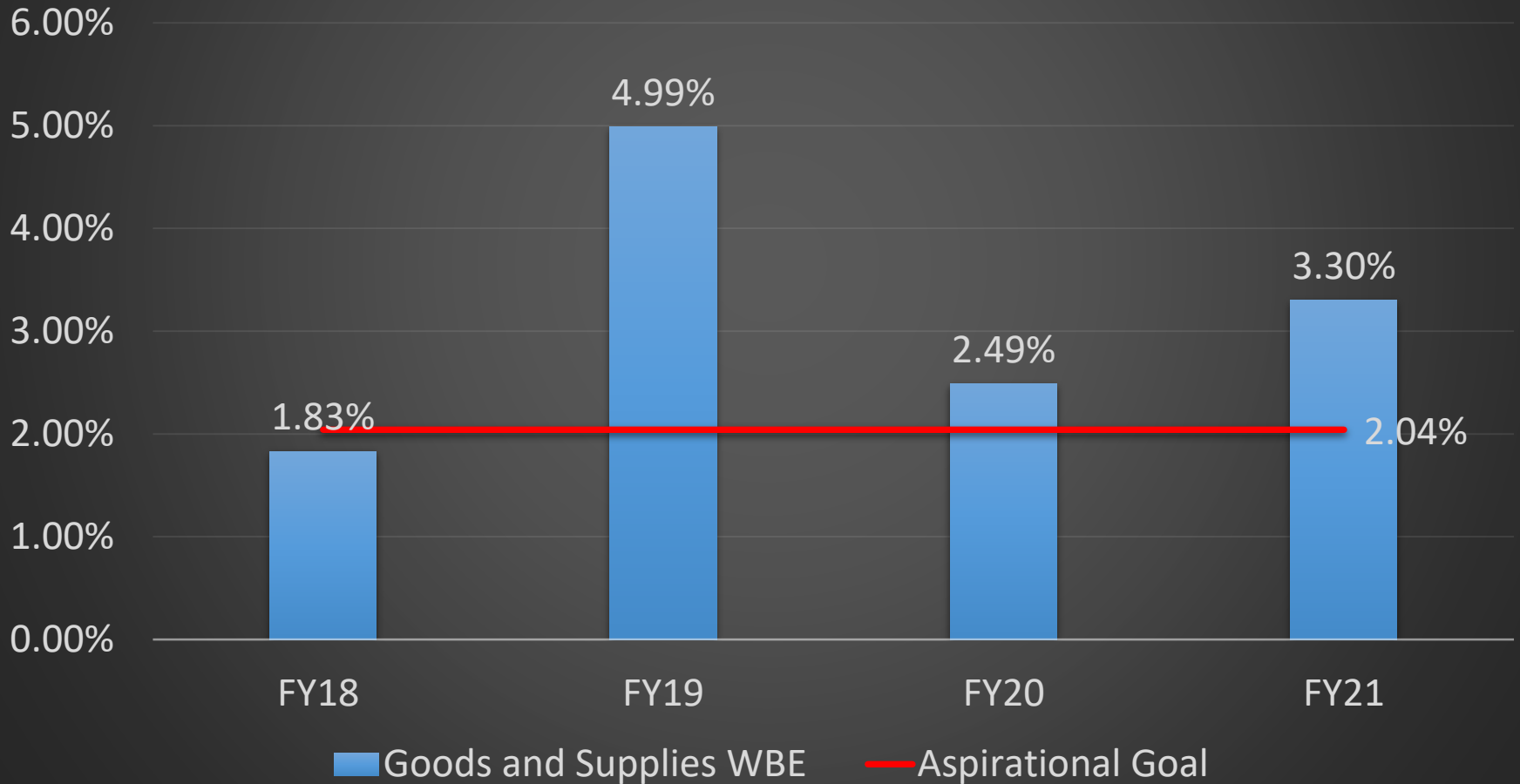
WBE Aspirational Goal vs Actual Utilization Prime Contractors for Professional Services Category Fiscal Years 2018-2021



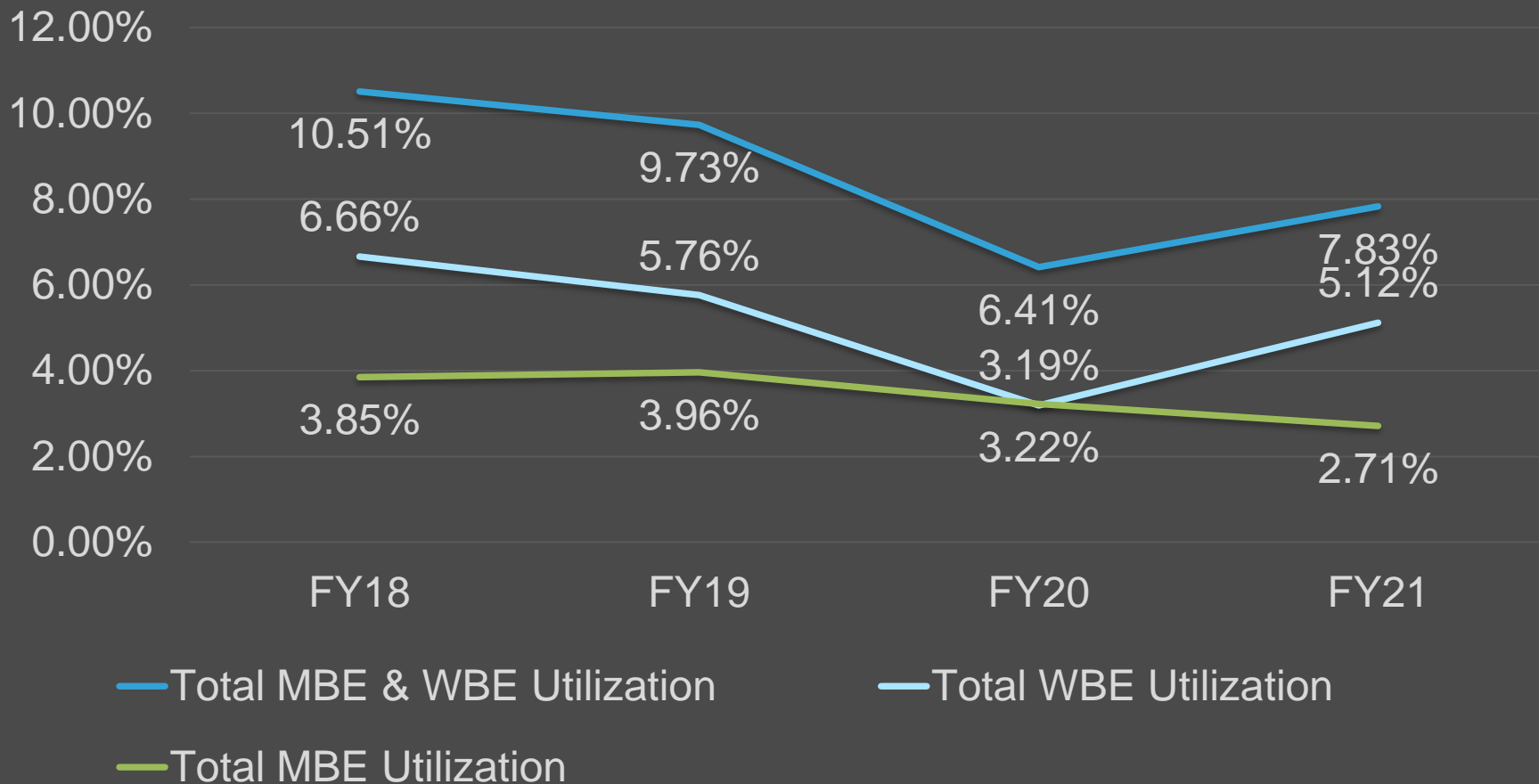
WBE Aspirational Goal vs Actual Utilization Prime Contractors for Other Services Category Fiscal Years 2018-2021



WBE Aspirational Goal vs Actual Utilization Prime Contractors for Goods and Supplies Category Fiscal Years 2018-2021



Actual Total Utilization for MBE and WBE Prime Contractors Fiscal Years 2018-2021



★ 3.2% spent with M/WBEs during FY99 - FY03

Examples of Recent City Construction Contracts

- Adequate good faith efforts mean that the **bidder took all necessary and reasonable steps to** achieve the goal which, by their scope, intensity, and appropriateness, could reasonably be expected to obtain sufficient MBE/WBE participation.

Project	Awarded To	Total Contract Amount	Good Faith Commitment	% of Good Faith Commitment
Fox Hill Neighborhood Center	Heartland Construction, Inc (SWaM Certified)	\$2,734,000.00	\$632,000.00	23%
Mary W. Jackson Community Center	Associated Contracting Services (SWaM Certified)	\$3,393,000.00	\$684,256.00	20%
Aquatics Center	Clancy & Theys	\$30,000,000.00	\$7,500,000.00	25%

eVA Update

- All 80 contracts over \$100k awarded from the City since July 1, 2019 have now been entered into the initial spreadsheet for transfer into eVA contract module.
- eVA is transitioning to a new platform that will go live on January 3, 2022.

1. Steps: Initial training of eVA team (approximately 25 staff from impacted departments) is being arranged. eVA will roll out training modules to each contract administrator through the end of the year. Development will take lead on scheduling and handling of the training classes.

2. eVA will go live for all contacts of \$100k+ effective January 2022.

3. When fully implemented, this will allow us to track subcontractor usage/spend more effectively.

Issues and Desired Outcomes

- **Issue:** Formalized process of accountability on primes to ensure completed applications and good faith effort documentation
- **Desired Outcome:** Increase in M/WBE firms
- **Desired Outcome:** Improved process confirming use of M/WBE
- **Desired Outcome:** Increased response rate from M/WBE firms.

Next Steps

- Loading/transfer of contracts \$100,000+ into eVA Contract Management Module
 - Completion date: November 2021, with live release January 2022
- Update subcontracting forms and bid package requirements to reflect stronger review guidelines and adherence by bidders to fully complete bid packages.
- Training, monitoring and evaluation:
 - Initial training with eVA team prior to release of system
 - Completion date: December 2021
- Tracking through eVA will provide for real time, accurate and one source data

Next Steps For Improvement

- Annual employee training on our procurement rules and SWaM business process (Economic Development and Procurement).
- Monitor and maintain complete electronic storage of documents.
- Provide updated reports to Purchasing and Procurement Oversight Committee (PPOC) quarterly to monitor compliance.
- Annual review to measure performance and areas for improvement.
- Update of Minority Business Plan

Moving Forward: PPOC

- Update reporting to Executive Summary to include text and graphs that highlight how we are doing against the benchmarks, where our weaknesses are and steps to address the weaknesses.
- Focus PPOC meetings on plans and programs to address areas as identified as not meeting aspirational goals.
- Cover related topics of interest, (i.e. best practices, legal overviews, business success stories).
- Review updated small business plan program, and report feedback to Council

Moving Forward: PPOC (cont'd)

- Conduct Market Validation Study
- Align with Commonwealth: Tracking “Small” designation spend
 - The SWaM Procurement Initiative was established to enhance business opportunities for small, women-and minority-owned businesses and to ensure a level playing field for all small businesses in the Commonwealth of Virginia.
 - A spend report is accessible at all times via <https://dashboard.sbsd.virginia.gov/report/expenditure>.
 - Adopt an overall spend goal to include small, women, minority and serviced disabled veterans.
- Explore options for increasing SWAM procurement:
 - Micro business program that would award focus purchases to a certified SWaM business (as long as one is available, and price is fair and reasonable).
 - Increase competitive bidding dollar amount, to require fewer ITB's or RFP's.

Economic Development Outreach

August 2020 – June 2021

Economic Development outreach efforts through June 30, 2021 include:

- Hiring Small Business Coordinator
- SWaM Certification Sessions (SBSD)
 - 8 (2 per quarter)
- Seminars:
 - Government Contracting – (PTAC)
 - Bonding – (District Bonding)
 - How to Bid – (PTAC)
- Events (27 events/2,000 attendees):
 - Bonding Education Program (U.S DOT)
 - Bridging the Connection Joint Procurement/ w City of Norfolk
 - Small Business Academy (SBSD)

Economic Development Outreach

SWaM Reporting used for additional outreach efforts:

- On the 1st of each month, Economic Development receives reports from the Commissioner of Revenue's office with new businesses and from the Department of Small Business and Supplier Diversity of SWaM certified businesses
- As of September 1st, there are 257 SWaM/DBE certified businesses in Hampton.

Discussion and Questions

CERTIFIED

SWaM Small,
Women and
Minority-Owned

Supplier Diversity Strengthens the Commonwealth

by the Virginia Department of Small Business & Supplier Diversity

Certified

WBE

Women's Business Enterprise

