



EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
July 15, 2004

SUBJECT: FEDERAL HIGHWAY ADMINISTRATION DISADVANTAGED BUSINESS ENTERPRISE OVERALL ANNUAL GOAL

ACTION: APPROVE DISADVANTAGED BUSINESS ENTERPRISE OVERALL ANNUAL GOAL

RECOMMENDATION

Adopt 4% as the Federal Highway Administration (FHWA) DBE Annual Goal For Federal Fiscal Year 2005 (FFY05) shown in Attachment #1.

ISSUE

In accordance with the Department of Transportation (DOT) requirements found in 49 Code of Federal Regulations (CFR) Part 26, recipients are required to establish an overall annual goal, on a fiscal year basis, for participation of Disadvantaged Business Enterprises (DBEs) in DOT-assisted contracts. Recipients are required to submit their annual goals to the FHWA by June 1. The recommended annual goal is for FHWA-assisted contracts only.

The proposed overall goal was submitted to Caltrans, the authorized FHWA local assistance agency, for approval on May 21, 2004. Metro received Caltrans approval of the draft annual goal methodology on May 25, 2004, and instructed Metro to move forward with their public participation and comments phase of the process. After public comments, the final overall goal is submitted to Caltrans by September 1 of each year.

POLICY IMPLICATIONS

The annual goal is based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on Metro FHWA-assisted contracts. The Diversity & Economic Opportunity Department (DEOD) conducted a review of Metro's Fiscal Year (FY) 2005 proposed budget to determine the projected number, type of work, and dollar amounts of contracting opportunities that will be funded, in whole or in part, with FHWA-assistance.

DEOD also met with the Metro Strategic Business Units (SBUs) as part of the Shared Responsibility Program to obtain information needed to establish the annual goal and their respective individual goals.

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In FY05, Metro anticipates awarding three (3) FHWA-assisted projects, totaling approximately \$2.0 million. Of this amount, Metro anticipates awarding \$81,000 with potential DBE prime and subcontracting opportunities. The three FHWA-assisted projects are carryover projects that were not awarded in FY04. As such, there were no “new” FHWA-assisted projects identified in the FY05 budget. Metro anticipates expending funds in the following two contracting categories: Construction and Professional Services.

The annual goal calculation and list of projected FHWA-assisted projects is shown in Attachments #1 and #2.

Goal Methodology

Metro followed the two-step goal setting methodology prescribed in 49 CFR Part 26.45. The first step was to develop a base figure for the relative availability of DBEs. The relative availability of DBEs was the total number of ready, willing and able DBE firms divided by the total number of all firms for the type of contracts Metro anticipates awarding within its geographic procurement market. The second step required an examination of all evidence available in the market area to determine what adjustment, if any, was needed to the base figure to arrive at an overall goal.

Geographic Procurement Market

An analysis of Metro’s geographic procurement market revealed that Metro solicits participation from the Los Angeles, Orange, Riverside, San Bernardino, and Ventura Counties Consolidated Metropolitan Statistical Area (CMSA). The geographic procurement market was used for both the numerator (DBEs) and denominator (all businesses) within the area from which Metro draws the substantial majority of its contract competition.

DBE Availability

Metro conducted an analysis to determine the number of DBEs that were available to participate as contractors and subcontractors in the projected contracting opportunities. The data source used for establishing availability of ready, willing and able DBE firms was derived from the Unified Certification Program (UCP) Southern California Cluster group database of certified firms. The availability was also supplemented with the census database of minority and women certified firms. The certified firms identified as available to perform work in various North American Industry Classification System (NAICS) work categories were matched with Metro subcontracting opportunities. The total DBE availability of 736 firms shown in Attachment #1 represents the numerator in the goal setting formula used to arrive at the base figure.

All Business Availability

Metro conducted a similar analysis to determine availability of all businesses within the same geographic market area. The U.S. Census Bureau 2001 County Business Pattern (CBP) was used to determine availability of all businesses within the NAICS categories in which Metro contracts. The denominator of 16,903 used to arrive at the base figure, shown in Attachment #1, represents the total number of businesses available in the market area.

Calculation and Adjustment of Base Figure

To calculate the 4.20% base figure shown in Attachment #1, the number of available DBEs per Work Category was divided by the number of all available businesses in the geographic market and weighted against the percentage of FY05 projected FHWA funds. After calculating the base figure, DBE capacity and historical annual goal attainment was examined to determine what adjustment, if any was needed to the base figure in order to arrive at the annual goal. It was determined that an adjustment was not warranted to the base figure based on the level of current contract activity and limited data on FHWA DBE capacity to date. As such, a rounded 4% FHWA annual DBE goal is recommended.

Breakout Of Estimated Race-Neutral And Race-Conscious Participation

Metro will attempt to meet its 4% annual goal by utilizing race-neutral and race-conscious measures. Metro proposes to obtain 2% from race-neutral means and 2% through race-conscious means.

Race-neutral DBE participation includes, but is not limited to, the following: when a DBE wins a prime contract through customary competitive procurement procedures; when DBE participation is achieved on a contract that does not carry a DBE goal; when DBE participation on a contract exceeds a contract goal; and when DBE participation is achieved through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

The remaining race-conscious portion of the annual goal will be achieved by establishing contract-specific goals for particular projects that have subcontracting opportunities. Contract goals are established to meet any portion of the overall goal that Metro does not expect to meet through race-neutral measures. Establishing reasonable contract-specific goals requires an examination of individual project requirements for subcontracting opportunities (including estimated dollar value, material content, etc.), as well as consideration of the apparent capacity and availability of DBEs to participate on specific contracts. This process also requires recognizing that there may be limits related to the actual interest level, capacity, and/or availability of DBEs that may impact the attainment of goals established on a particular project. While unknown factors preclude precise quantification of DBE goals, Metro will carefully review individual contracts prior to solicitation to ensure that established goals appear to be reasonably attainable in view of the DBE firms ready, willing, and able to compete for contracting opportunities.

OPTIONS

There is no viable option as this action is required as a condition of receiving federal funds. In accordance with 49 CFR Part 26, FHWA recipients who reasonably anticipate awarding in excess of \$250,000 (excluding transit vehicle purchases) FHWA funds in prime contracts in a Federal fiscal year, are required to develop overall goals for that fiscal year.

FINANCIAL IMPACT

There is no financial impact in implementing this action.

DISCUSSION

The DBE Program requires that the recommended annual goal and methodology be advertised in minority and women focused media and general newspapers. The FHWA annual goal and methodology must be made available for inspection for a period of 30 days and must be available for public comment for a period of 45 days from the date of advertisement. The annual goal was advertised on June 2-3, 2004, in the Daily News, La Opinion, Chinese Daily, Eastern Group Publications, LA Watts Times and the APTA Passenger Transport.

The annual goal methodology was also provided to the Metro Transportation Business Advisory Council (TBAC) for public comment. The comment period ends July 19, 2004. Based on historical information and aggressive outreach in the small business community, it is anticipated that no comments will be received during this period. However, staff will review any comments received and will provide an update, if warranted, at the July Board meeting.

NEXT STEPS

Following Board approval, the FHWA annual goal will be submitted to Caltrans for final approval. The FFY05 FHWA annual goal will be effective from October 1, 2004 – September 30, 2005.

ATTACHMENT(S)

1. Methodology for Calculating the DBE Annual Goal
2. FFY05 FHWA-Assisted Projects by SBU

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Methodology for Calculating FFY05 FHWA DBE Annual Goal

Work Category	Description of Work	Industry Codes	Estimated FHWA \$ with contracting opportunities in each category	Weighted % of FHWA Funding by Work Category
A	Construction	WCC C06 or NAICS 23	\$ 1,217,288	0.60
B	Professional Services	WCC C87 or NAICS 54	\$ 828,400	0.40
			\$ 2,045,688	

Goal Methodology

Base Figure = $\frac{\text{Number of Ready, Willing, and Able DBEs (WCC, NAICS)}}{\text{Number of All Ready, Willing, and Able Firms (CBP)}}$

Base Figure = $(.60) \frac{\text{DBEs in A}}{\text{Firms in A}} + (.40) \frac{\text{DBEs in B}}{\text{Firms in B}}$

Base Figure = $(.60) \frac{224}{5,660} + (.40) \frac{512}{11,243}$

Base Figure = $(.60) (0.040) + (.40) (0.046)$

Base Figure = $.024 + .0184$

Base Figure = $0.0424 \times 100 = 4.24$

Base Figure = 4%*

Annual Goal Components

Annual Goal = Base Figure + Adjusted Figure

Annual Goal = 4% + 0% = 4%

Race Conscious = 2% DBE participation achieved through contract-specific goals

Race Neutral = 2% DBE participation achieved through race-neutral measures

LEGEND	
CBP	County Business Pattern (Census)
DBE	Disadvantaged Business Enterprise
NAICS	North American Industry Classification System
WCC	Caltrans' Work Category Codes



Metro

* Base Figure was rounded to the nearest percent.

Attachment 2

FFY05 FHWA-Assisted Projects by Strategic Business Unit

SBU - Project Title	Task Description	FHWA Funds with Potential Contracting Opportunities
9994 - Cal State and L.A. County USC Busway Station Enhancement	CAL STATE LA, COUNTY/USC HOSPITAL BUSWAY STATION ENHANCEMENT	\$ 1,217,288
9994 - TRANSIT OPERATIONS BUSINESS UNIT Total 2% Organizational Goal		\$ 1,217,288
9995 - ROUTE 57/60 INTERCHANGE MIS	ROUTE 57/60 MIS - PROFSVCS	\$ 88,530
TRE 2 TERMINAL PSR-GLENDALE BLVD/RTE 2FWY TERMINUS	TRE 2 TERMINAL PSR-GLENDALE BLVD/RTE 2FWY TERMINUS - PROFSVCS	\$ 739,870
9995 - COUNTYWIDE PLANNING & DEV. BUSINESS UNIT Total 2% Organizational Goal		\$ 828,400
FHWA Funds with Potential Contracting Opportunities		\$ 2,045,688