



Metro

**EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
SEPTEMBER 18, 2008**

SUBJECT: DEPARTMENT OF TRANSPORTATION OVERALL GOALS

**ACTION: APPROVE DEPARTMENT OF TRANSPORTATION
OVERALL GOALS**

RECOMMENDATION

- A. Approve 7% as the Federal Transit Administration (FTA) Disadvantaged Business Enterprise (DBE) Overall Goal for Federal Fiscal Year 2009 (FFY09); and
- B. Approve 12% as the Federal Highway Administration (FHWA) Annual Anticipated DBE Participation Level (AADPL) for Federal Fiscal Year 2009 (FFY09).

ISSUE

In accordance with the Department of Transportation (DOT) Disadvantaged Business Enterprise Program requirements found in 49 Code of Federal Regulations (CFR) Part 26, grant recipients of the Federal Transit Administration (FTA) and Federal Highway Administration (FHWA) who reasonably anticipate awarding \$250,000 or more in prime contracts (excluding transit vehicle purchases) for the upcoming fiscal year, are required to develop an overall goal for the participation of DBEs in Federal-assisted contracts.

FTA recipients are required to submit their FTA DBE overall goal by August 1, 2008. FHWA requires its recipients to submit our Annual Anticipated DBE Participation Level to the California Department of Transportation (Caltrans), the authorized FHWA local assistance agency, by June 1, 2008. We notified both FTA and FHWA of a request for extension to submit our recommended FFY09 goal submittals by October 1, 2008 to FTA and August 1, 2008 to FHWA.

POLICY IMPLICATIONS

As part of the overall goal development process, recipients are required to review projected Federal-assisted dollars that are programmed to be expended in the upcoming fiscal year. The Diversity & Economic Opportunity Department (DEOD) conducted a review of our Fiscal Year 2009 (FY09) budget to determine

the projected number of contracts, type of work, and dollar amounts of contracting opportunities that will be funded, in whole or in part, with FTA-assistance.

The list of projected FTA and FHWA assisted contracts with potential DBE opportunities is shown in Attachment 2.

Overall Goal Methodology

The overall 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 our FTA- and FHWA-assisted contracts. We followed the two-step goal setting methodology prescribed in 49 CFR 26.45. The first step was to develop a base figure for the relative availability of DBEs. The relative availability of DBEs is the total number of ready, willing and able DBE firms divided by the total number of all firms for the types of contracts we anticipate 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 our geographic procurement market revealed that we solicit participation from eight counties, including Los Angeles, Orange, Riverside, San Bernardino, Ventura, Alameda, San Diego, and Santa Clara. The geographic procurement market was used for both the numerator (DBEs) and denominator (all businesses) within the area from which we draw the substantial majority of the contract competition.

DBE Availability

We conducted an analysis to determine the number of certified 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 California Unified Certification Program (CUCP) database of certified firms. The certified firms identified as available to perform work in various North American Industry Classification System (NAICS) work categories were matched with potential subcontracting opportunities. The total number of certified available DBE firms, totaling 1,834 FTA and 1,173 FHWA as shown in Attachment 1, was used in the goal setting formula used to arrive at the base figure.

Total Business Availability

In addition, we conducted a similar analysis to determine availability of all businesses within the same geographic market area. The U.S. Census Bureau 2006 County Business Pattern (CBP) was used to determine availability of all

businesses within the NAICS categories in which we contract. The denominator of 44,752 FTA and 49,750 FHWA was 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 5% FTA and FHWA 2% base figures 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 FY09 projected FTA and FHWA funds. After calculating the base figure, the DBE capacity and historical annual goal attainment was examined to determine what adjustment, if any, is needed to the base figure in order to arrive at the annual goal.

Adjustments were made to the FTA and FHWA base figures by reviewing our median past DBE FTA and FHWA overall goal attainment over the last four years. This resulted in a calculated average of 7.25% FTA and 21.13% FHWA. This average capacity was added to the 5% FTA and 2% FHWA base figures, and divided by two, resulting in an upward adjustment to the base figures by 2.25% FTA and 9.57%. The FTA and FHWA base figures were rounded to the nearest percent resulting in 7% FTA and 12% FHWA overall participation.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

In accordance with 49 CFR 26.35(f) (3), we are required to breakout the portion of our FTA and FHWA overall goal that we project to meet through race-neutral and race-conscious means. Effective October 1, 2006, the use of race-conscious (contract goals) was suspended because of a federal 9th Circuit Court decision affecting the new evidentiary standards recipients must now meet to support the use of race-conscious goals. Currently, the primary method to achieve our overall goal is through the use of race-neutral measures, pending the completion of the Disparity Study.

OPTIONS

There is no viable option to FTA and FHWA DBE overall goals. In accordance with 49 CFR 26.21, FTA and FHWA grantees receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) exceeding \$250,000 in FTA or FHWA funds in a Federal fiscal year, must implement a DBE Program and establish an overall goal for DBE participation.

FINANCIAL IMPACT

Funding to support DBE Program staffing is included in the FY09 budget for multiple capital and non-capital projects. For activity that impacts capital projects, funding has been included in the life of project for each project.

DISCUSSION

Public Participation

In accordance with 49 CFR 26.45(g), we must provide for public participation when establishing our overall goal. The FTA overall goal must be made available for public inspection for a period of 30 days and made available for public comment for 45 days. A public notice was posted announcing the recommended overall goal and methodology on the Metro Doing Business webpage and was distributed to the Transportation Business Advisory Council for public comment. The overall goal and methodology was also advertised August 25 – 29, 2008, in the following minority and women focused media and general newspapers: LA Times, Daily News, La Opinion, Eastern Group Publications, Rafu Shimpo, Chinese Daily, LA Watts Times, Small Business Exchange, and the APTA Passenger Transport. The public comment period began on August 25, 2008, and will end on October 8, 2008. DEOD will review comments received through the public participation process and will evaluate if they warrant any amendments to the overall goal, and will provide an information update to the Board via a Board Box.

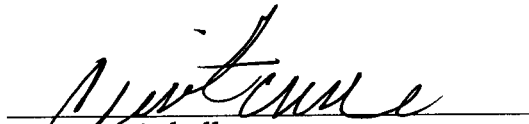
NEXT STEPS

The recommended FFY09 DBE overall goals will be effective October 1, 2008 through September 30, 2009.

ATTACHMENT(S)

1. FFY09 FTA and FHWA Goal Methodology Calculation
2. FFY09 FTA and FHWA Projected Contracting Opportunities by SBU

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**Los Angeles County Metropolitan Transportation Authority
Attachment 1 – FFY2009 Methodology for Calculating FTA Annual DBE Goal**

Goal Methodology

Work Category	Description of Work	NAICS	Projected FTA \$ with contracting opportunities in each category	Weighted % of FTA Funding by Work Category
A	Professional Services	NAICS 54	\$ 4,156,881	73.60%
B	Construction	NAICS 23	\$ 975,000	17.26%
C	Materials/Supplies	NAICS 52, 54	\$ 515,887	9.13%
Total			\$ 5,647,768	100%

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

Base Figure = $\frac{(73.60\%) \text{ DBEs in A}}{\text{Firms in A}} + \frac{(17.26\%) \text{ DBEs in B}}{\text{Firms in B}} + \frac{(9.13\%) \text{ DBEs in C}}{\text{Firms in C}}$

Base Figure = $\frac{(73.60\%) \cdot 1,431}{28,483} + \frac{(17.26\%) \cdot 365}{7,504} + \frac{(9.13\%) \cdot 38}{8,765}$

Base Figure = $(.7360)(.0502) + (-.1726)(.0486) + (-.0913)(.0043)$

Base Figure = $.0369 + .0084 + .0004 +$

Base Figure = $.0457 \times 100 = 4.57$

Base Figure = 5%*

Annual Goal Components

Annual Goal = **Base Figure + Adjusted Figure**

Annual Goal = 5% + 2.75% = 7.25% = 7%*

Race Conscious = 0% DBE participation achieved through contract-specific goals

Race Neutral = 7% DBE participation achieved through race-neutral measures

LEGEND	
CBP	2006 County Business Pattern (Census)
DBE	Disadvantaged Business Enterprise
NAICS	North American Industry Classification System

* Rounded to the nearest percent.



**Los Angeles County Metropolitan Transportation Authority
Attachment 1 – FFY2009 Methodology for Calculating FHWA Annual DBE Goal**

Work Category	Description of Work	NAICS	Projected FHWA \$ with contracting opportunities in each category	Weighted % of FHWA Funding by Work Category
A	Professional Services	NAICS 54	\$ 2,087,324	11.58%
B	Construction	NAICS 23	\$117,000,000	88.42%
Total			\$ 119,087,324	100%

Goal Methodology

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

Base Figure = $(11.58\%) \frac{\text{DBEs in A}}{\text{Firms in A}}$ (88.42%) $\frac{\text{DBEs in A}}{\text{Firms in A}}$

Base Figure = $(11.58\%) \frac{769}{22027}$ (88.42%) $\frac{404}{27,723}$

Base Figure = $(.1158)(.0349) + (.8842)(.0145)$

Base Figure = $.0040 + .0128$

Base Figure = $.0168 \times 100 = 1.68\%$

Base Figure = 2%*

Annual Goal Components

Annual Goal = Base Figure + Adjusted Figure

Annual Goal = 2% + 10% = 12%

Race Conscious = 0% DBE participation achieved through contract-specific goals

Race Neutral = 12% DBE participation achieved through race-neutral measures

LEGEND	
CBP	2006 County Business Pattern (Census)
DBE	Disadvantaged Business Enterprise
NAICS	North American Industry Classification System

*Rounded to the nearest percent.





Los Angeles County Metropolitan Transportation Authority
Attachment 2 – FFY09 New DOT-Assisted Contracts by Strategic Business Unit

Metro

Metro SBU	Project #	Project Name	Projected # of DOT-Assisted Contracts	Projected Contracts with FTA-Assisted \$	Projected Contracts with FHWA-Assisted \$
Financial Services	100003	PTSC Overhead	1	42,500	\$0
	100030	Administration-Bus Ops	1	10,000	
	100040	Administration-Rail Ops	1	10,000	
Financial Services Business Unit Total			3	\$62,500	\$0

Construction	405523	1405 CAR POOL LANE	1	\$0	\$117,000,000
Construction Project Management Business Unit Total			1	\$0	\$117,000,000

Countywide Planning & Dev	405511	Transit Planning	2	\$480,000	\$0
	405514	Wilshire Bus Lane Project	2	\$675,000	\$0
	405598	Metro Rapid Bus	1	\$800,000	\$0
	500002	Regional Grantee - FTA	2	\$1,250,000	\$0
	400229	Harbor Subdivision	1	\$0	\$2,087,324
Countywide Planning & Dev Business Unit Total			8	\$3,205,000	\$2,087,324

Communications	300022	Rail Operations - Blue Line	7	\$137,103	\$0
	300033	Rail Operations - Green Line	5	\$120,384	\$0
	300044	Rail Operations - Red Line	5	\$133,417	\$0
	405547	Rideshare Services	1	\$502,812	\$0
	420004	MTA Sponsored CFP	2	\$768,421	\$0
	800088	Eastside Light Rail Transit	2	\$175,336	\$0
	202166	Metro Art Enhancements	1	\$144,690	\$0
	202249	Metro Orange Line Enhancements	1	\$398,105	\$0
	Communications Business Unit Total			24	\$2,380,268

Administrative Services Business Unit Total			0	\$0	\$0
Economic Development Business Unit Total			0	\$0	\$0
Management Audit Services Business Unit Total			0	\$0	\$0
Metro Bus Operations Business Unit Total			0	\$0	\$0
Metro Rail Operations Business Unit Total			0	\$0	\$0
Agency-wide			Total DOT-Assisted	FTA-Assisted	FHWA-Assisted
Projected Number and Dollars of DOT-Assisted Contracting			36	\$5,647,768	\$119,087,324