

# **CITY OF COMMERCE, TRANSPORTATION DEPARTMENT**



## **OVERALL DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL ANALYSIS REPORT FEDERAL FISCAL YEARS 2015/2016 – 2017/2018**

**Contracts Assisted by the Federal Transit Administration**

**FINAL REPORT UPDATED: January 11, 2017**

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## **SUMMARY**

The City of Commerce, Transportation Department has developed a 6.95% overall Disadvantaged Business Enterprise (DBE) goal applicable to Federal Fiscal Year (FFY) 2015/16, 2016/17, and 2017/18 contracting opportunities assisted by the Federal Transit Administration (FTA) in accordance with revisions to 49 CFR Part 26 published in the Federal Register on October 2, 2014.

The goal is applicable to a total of \$2,213,650 of FTA dollars that are budgeted for 8 contracts anticipated to be awarded from October 1, 2015, through September 30, 2018. It is understood that in the event of changed circumstances the City will evaluate such changes to determine whether the present goal continues to be realistic or whether mid-course adjustments will be necessary.

The DBE goals developed for FTA-assisted contracts identify the relative availability of DBEs, based on evidence of ready, willing and able DBEs in relationship to all comparable businesses that are likely to be available to compete for the City's FTA-assisted contracts. The three-year overall goal reflects the City's determination of the level of DBE participation that would be expected absent the effects of discrimination.

The steps taken in the development of the City's goal is in accordance with 49 Code of Federal Regulations (CFR) Part 26, issued by the U.S. City of Transportation (U.S. DOT). A narrative description accompanied by tables and calculations is contained in this report to provide a clear explanation of how the City developed its DBE goal for FFY 2015/2016 through 2017/2018.

## **RELEVANT AVAILABLE EVIDENCE**

The City examined all evidence in its jurisdiction to determine which sources might be considered for its DBE goal-setting methodology in the step one and step two process:

### **DATA CONSULTED**

- ✓ Census Bureau's County Business Pattern (CBP) Database

The City used the Census Bureau's County Business Pattern (CBP) database, updated as of April 2016, to obtain the number of all firms (DBEs and non-DBEs) ready, willing and able to bid for the City's FTA-assisted contracts. This data is used in Step One of the goal-setting process.

✓ **California Unified Certification Program (CUCP) Database**

The City used the California Unified Certification Program (CUCP) database to determine the number of certified DBEs ready, willing and able to bid for the City's FTA-assisted contracts. This data is used in Step One of the goal-setting process.

✓ **Actual DBE Participation in Past Race/Gender-Neutral Contracts**

Actual DBE participation in race/gender-neutral contracts in past years as well as other applicable analysis was used to determine whether adjustment to the Step One Base Figure is necessary. Where relevant, this data is used in Step Two of the goal-setting process.

✓ **Data from Disparity Studies Performed by Other Agencies**

Several Southern California transit agencies [Los Angeles County Metro Transit Agency (LACMTA), Riverside Transit Agency (RTA), Southern California Regional Rail Authority (SCRRA) and the California Department of Transportation (Caltrans)]; have completed disparity studies in the past. The local market areas of these agencies do overlap with that of the Department. However, the types of contracts (specifically marine contracts) and the size of contracts are not similar to the City and therefore limits the City's use to make a Step One Base figure or Step Two adjustment.

✓ **Bidders List**

The City maintains a bidders list as required under 49 CFR Part 26.11 of all bidders (DBEs and non-DBEs) on City contracts. Staff reviewed its list and determined the data was not comprehensive enough to solely determine the relative availability of DBEs in its local market area.

✓ **Goals of Other U.S. DOT Recipient**

The City considered the goals of other U.S. DOT recipients which have substantially similar contracting opportunities and/or marketplace as the Department.

✓ **Metropolitan Statistical Areas**

The Consolidated Metropolitan Statistical Area (CMSA) which closely matches the City's marketplace is Los Angeles-Long Beach. However, this area does not cover all the counties that are in the City's marketplace, and therefore, would be an incomplete source for the City's goal-setting process. The Census Bureau's CBP database is a more appropriate source to obtain data on the specific counties in the City's marketplace.

✓ Sources from Organizations and Institutions

The City did not receive information about past discrimination in public contracting; discrimination in private contracting; discrimination in credit, bonding or insurance; data on employment, self-employment, training or union apprenticeship programs; and/or data on firm formation which could be used to make adjustment to the base figure in Step Two of the goal-setting process.

**DETERMINING LOCAL MARKET AREA**

The following areas were considered in determining the City’s local market area: 1) the area in which the substantial majority of the contractors and subcontractors with which the City does business are located, and 2) the area in which the City spends the substantial majority of its contracting dollars.

The City identified the locations of all its contractors and subcontractors by examining its Bidders List, which includes business addresses for both successful and unsuccessful bidders. It has been determined that the majority of the contractors and subcontractors with which it does business are located in the counties of Los Angeles, Orange, Riverside and San Bernardino.

Based on the above, the boundaries of the City’s local market area include the four counties of Los Angeles, Orange, Riverside and San Bernardino. The City will use these counties to determine the number of DBEs and all firms in its local market area.

**CONTRACTS ASSISTED BY FTA**

A total of \$2,213,650 of FTA dollars is budgeted for 8 contracts to be awarded during Federal Fiscal Year 2015/2016 through 2017/2018. See Exhibit 1 below. A two-step process is used to determine the overall goal for these contracts.

Exhibit 1: Contracts subject to overall three-year goal.

A. Description of Contract	B. FTA Dollars
Anticipated for Award in FFY 2015/16	
Bus Expansion (FTA Grant ID CA-03-0593)	\$554,000
Anticipated for Award in FFY 2016/17 and 2017/18	
Bus Replacement (FTA Grant ID CA-03-0593)	\$554,000
ADA Equipment (FTA Grant ID CA-03-0593)	\$123,000
Asset Capital (FTA Grant ID CA-03-0593)	\$323,650
Bus Lift (FTA Grant ID CA-90-Y847)	\$120,000
Bus Washer (FTA Grant ID CA-90-Y847)	\$284,000
Paint Facility (FTA Grant ID CA-90-Y847)	\$90,000
ADP Software (FTA Grant ID CA-96-X072)	\$165,000
Totals	\$2,213,650

## **Step One. Determining Base Figures**

Base figures were calculated for contracts budgeted for award to determine the relative availability of DBEs in specific areas of expertise using the North American Industrial Classification System (NAICS) codes. The City identified 4 NAICS codes as pertinent areas of expertise for the contracts. The NAICS codes and descriptions are identified in Exhibit 2, Columns A and B on page FTA-12

**Number of DBEs:** To determine the number of DBEs in the City's four-county market area, the City searched the CUCP database for DBEs that are certified in the NAICS codes identified for the prime contracts and subcontracts. The numbers of DBEs identified are displayed in Column C of Exhibit 2. Businesses that were not relevant to the City's calculations were filtered out in the Step One process.

**Number of All Firms (DBEs and non-DBEs):** To determine the number of all firms (DBEs and non-DBEs) in the City's four-county market area, the City searched the Census Bureau's most recent CBP database for all firms specializing in the NAICS codes identified for the prime contracts and subcontracts. Numbers of all firms identified are displayed in Column D of Exhibit 2. To ensure percentages reflect "apples to apples", the City included the number of DBE firms in the denominator shown in Column E of Exhibit 2.

**Relative Availability of DBE Firms:** Relative availability is derived by dividing the number of DBEs available in a particular NAICS code by the number of all firms in that NAICS code. Exhibit 2 shows this equation carried out for the CUCP/County Business Pattern databases. The resulting relative availability figures are displayed in Column F of Exhibit 2.

**FTA Funds to be Expended in Each Specific Area and Calculating Base Figure:** To determine the FTA dollars that will be expended for each specific area of expertise, the FTA-assisted contracts and subcontracts identified by project managers were categorized according to their NAICS industry classifications. See Exhibit 3, Column B, on page FTA-12. Contract dollars of each industry classification were divided by the total contract dollars (\$2,213,650) resulting in percentage of total dollars per contract and classification, called the "weighted" percentage. The result is shown in Exhibit 3, Column D.

Next, the Base Figure for the Overall Goal was calculated by multiplying the weighted percentage of funds to be expended for each NAICS (Exhibit 3, Column D) by DBE relative availability for each NAICS (carried forward from Exhibit 2 and shown in Exhibit 3, Column E). Base Figure per NAICS is shown in Exhibit 3, Column F. Finally, Base Figures for all NAICS were totaled, resulting in a 6.8% Overall Base Figure.

**Calculating Base Figure per Individual Contract:** To determine the base figure for each contract, the percentage of work (prime and sub) identified by project managers was multiplied by the DBE relative availability (carried forward from Exhibit 2), and totaled for each contract. See Exhibit 4 on page.

### **Step Two. Adjusting Step One Base Figures**

In adjusting the City's Step One Base Figure of 6.8%, the City examined past participation as considerable evidence of DBE participation it expects in the absence of discrimination. The City also considered other data that would help better measure the percentage of work that DBEs would be likely to obtain in the absence of discrimination to make the Step One Base Figure as precise as possible.

#### **Past Participation**

In accordance with the U.S. DOT Tips for Goal Setting, as of December 22, 2014, the City examined DBE participation (based on awards and commitments) on FTA-assisted projects for FFY 2013/2014 – 2015/2016.

FFY 2012-2013: Awards/Commitments 0%

FFY 2013-2014: Awards/Commitments 100%

FFY 2014-2015: Awards/Commitments 7.94%

In adjusting the Step One Base Figure, the City determined DBE historical past participation percentage is 8%. The City calculated its past participation percentage and Step One Base Figure to determine the Step Two adjustment of 7.4%.

#### **Calculations:**

FFY 2015/2016- 2017/2018 Base Figure: 6.8%

Historical Median Past Participation: 8%

Adjustment: (base figure 6.8%) + (median of past participation 8%) divided by 2 = 7.4%.

In evaluating the adjusted Step Two figure, the City did not exercise this option due to the contracting opportunities not being similar. Therefore, the City considered other data and information that is more relevant to the contracting opportunities included in the triennial goal.

#### **Overall Goal**

To determine FTA dollars projected for DBEs on each contract, the FTA dollars budgeted for each contract (from Exhibit 1, Column B) was multiplied by the adjusted availability per contract.

The total of the projected DBE participation dollars was then divided by the total of the budgeted FTA dollars for all contracts, resulting in a 6.95% overall goal. See Exhibit 5 below.

**Exhibit 5: Overall Triennial DBE Goal**

A. Description of Contract	B. FTA Dollars	C. DBE Availability	FTA \$ Projected for DBEs
Anticipated for Award in FFY 2016/17			
Bus Expansion (FTA Grant ID CA-03-0593)	\$554,000	5.7%	\$31,578
Anticipated for Award in FFY 2017/18 and 2018/19			
Bus Replacement (FTA Grant ID CA-03-0593)	\$554,000	5.7%	\$31,578
ADA Equipment (FTA Grant ID CA-03-0593)	\$123,000	5.7%	\$7,011
Asset Capital (FTA Grant ID CA-03-0593)	\$323,650	5.7%	\$18,448
Bus Lift (FTA Grant ID CA-90-Y847)	\$120,000	5.7%	\$6,840
Bus Washer (FTA Grant ID CA-90-Y847)	\$284,000	5.7%	\$16,188
Paint Facility (FTA Grant ID CA-90-Y847)	\$90,000	4.5%	\$1,350
ADP Software (FTA Grant ID CA-96-X072)	\$165,000	24.8%	\$40,920
	<b>\$2,213,650</b>		<b>\$153,913</b>

**STEP 2 GOAL= 6.95%**

**Race/Gender-Neutral Measures**

**Summary of Race Neutral Methods of Achieving DBE Participation**

Regulations require that the maximum feasible portion of the overall DBE goal be achieved through race-neutral measures. Neutral efforts are programs and other initiatives that assist small businesses in general and are not limited to minority- or women-owned firms. In the past 15 years, with four exceptions, the City has consistently met its DBE participation goals on FTA-assisted contracts using race-neutral measures. See Table 1 for DBE achievement from 2012 to current.



**Table 1: Goals and DBE Achievement 2012 through Current:**

<b>Fiscal Year</b>	<b>Overall Goal</b>	<b>Achievement</b>	<b>% of Goal Achieved</b>
2012-2013	5.8%	0%	0%
2013-2014	5.8%	0%	0%
2014-2015	5.8%	100.00%	1,724%
2015-2016	7.55%	7.94%	105%

\* Shortfall Analysis and Corrective Action plan completed.

The City has been successful in meeting their DBE goal in recent years. However, staff identified a few reasons for shortfalls in FY 2012-2013 and 2013-2014. In these years, the City did not award any FTA-funded capital improvement projects. In FY 2014-2015, the City successfully completed a bus shelter improvement project which provided safety and convenience for transit riders by installing bus shelters city-wide. This project was performed entirely by the prime contractor, a DBE firm, CPO Enterprise, Inc. Furthermore, the City has completed the 26<sup>th</sup> Street transit station improvements in FY 2015-2016 which included 7.94% DBE participation ensuring that the City met the DBE participation goal.

The City will do the following, as specified in 49 CFR Part 26.47, to provide corrective actions and implement the DBE program in good faith:

1. Analyze in detail the reasons for the difference between the overall goal and awards and commitments in that fiscal year;
2. Establish specific steps and milestones to correct the problems identified in analysis and to enable that City meet fully the goal for the new fiscal year;
3. Continually update the DBE Program and DBE Directory
4. Improve the DBE guidance provided to contractors in bid documents and post-award.
5. Improve the tracking of awards and completed contracts

The City will continue its regular race/gender-neutral activities, including:

- ✓ Ensuring that bidding and contract requirements facilitate participation by DBEs and other small businesses by including DBE language throughout City bid documents:
- ✓ The City's DBE Program Policy
- ✓ A nondiscrimination assurance from the contractor (and each subcontract the prime contractor signs with a subcontractor).
- ✓ A statement that encourages prime contractors to use financial institutions owned and controlled by socially and economically disadvantaged individuals in the community.

- ✓ The website address for the DBE directory identifying all firms eligible to participate as DBEs in the City's program.
- ✓ A section that provides the DBE certification standards.
- ✓ A section providing areas for possible subcontracting, and of the availability of ready, willing and able subcontractors, including DBE firms, to perform such work.
- ✓ Ensuring contracts are accessible to small businesses, and if not, making efforts to unbundle large contracts to make them more accessible.
- ✓ Encouraging prime contractors to subcontract portions of the work that they might otherwise perform themselves.
- ✓ Providing technical assistance and other support services to facilitate consideration of DBEs and other small businesses.
- ✓ Advertising contracts in Small Business Exchange, a minority-owned small business-focused publication.
- ✓ At pre-bid conferences, providing prospective contractors/consultants the following:

#### **Applicable Small Business/DBE Requirements**

- ✓ Areas for possible subcontracting opportunities.
- ✓ A helpful guide to navigate through the CUCP database to create lists of the ready, willing and able small businesses, including DBE firms, to perform such work.
- ✓ Bidder request for small business/DBE assistance form.
- ✓ Small business/DBE database websites.
- ✓ Regularly notifying certified DBEs and minority- and women-focused organizations by e-mail of newly-posted contracting opportunities on the City's website.
- ✓ Regularly notifying certified DBEs and non DBEs about networking events.
- ✓ Providing lists of plan holders to DBE subcontractors, sub consultants and suppliers and urging them to contact and introduce their services to potential prime bidders or proposers.
- ✓ On a quarterly basis, reminding and encouraging officers, division managers, department heads, purchasers and buyers to utilize the City's DBE database.

#### **Public Participation**

The City published a Public Notice in general circulation media, women/minority focused media, announcing the City's proposed overall annual goals, for the FY 2016-2018 contracts assisted by FTA. Such Notice informed the public that the proposed goals and their rationale were available for inspection at the City during normal business hours for 30 days following the date of the Public Notice and that the City would accept comments on the goals for 45 days from the date of the Public Notice.

The required public participation provisions were fully satisfied prior to submitting the City's DBE Program and Overall Annual DBE Goal for Final Review and Approval.

The circulation of this public notice allows the City's DBE goal analysis to be reviewed by minority, women, local business chambers, community organizations, and other FTA recipients in accordance with Public Participation Regulatory Requirements of 49 CFR Part 26.45. Through the circulation of this public notice, these entities are knowledgeable about the availability of disadvantaged and non-disadvantaged businesses and the effects of discrimination on contracting opportunities for DBEs within the City's marketplace.

In addition, the following concerns have been addressed to staff by the business community during pre-bid and pre-construction conferences:

- ✓ How goals are set and is there a standard amongst all agencies?
- ✓ How valid is the number of available DBEs and how can you be sure the database you are using to collect DBE information is correct?
- ✓ The availability data may be skewed. How do you monitor that?
- ✓ How are local funds being used towards the DBE community?

#### **Adjustments Made Based on Comments from Various Groups, Organizations, and Officials**

Since the comments received at the public participation sessions do not specifically address the City's contracting opportunities projected for FY 2015/2016 through 2017/2018, no additional adjustments will be made to the DBE availability figures. However, the information gathered will be used by the City to focus on the areas requiring special attention in its race/gender-neutral efforts in the DBE Program.

#### **Publication of Goal**

On January 12, 2017, the City published the overall goal on its official website.

#### **Conclusion**

The overall DBE goal for FTA-assisted contracts for FY 2016/2017 through 2018/2019 is 6.95% with DBE participation sought on a race/gender neutral basis.

**Exhibit 2: DBE Availability by NAICS Code**

A. NAICS Code Number	B. NAICS Description	C. CUCP DBEs	D. All Firms in Local Market Area	E. All Firms (Including DBEs)	F. Relative DBE Availability
485113	Bus and Other Motor Vehicle Transit Systems	4	66	70	5.7%
238320	Painting and Wall Covering Contractors	60	1,262	1,322	4.5%
541519	Other Computer Related Services	179	544	723	24.8%

**Exhibit 3: Calculating Weighted FTA Dollars and Base Figures**

- Col C/Total FTA Dollars=Col D
- Col D X Col E = Col F

A. NAICS Code	B. NAICS Description and Associated Contracts	C. FTA Dollars	D. Weighted % of Total FTA Dollars	E. DBE Availability	F. Base Figure
485113	Bus and Other Motor Vehicle Transit Systems				
	Bus Expansion	\$554,000	25.03%	5.7%	1.4%
	Bus Expansion	\$554,000	25.03%	5.7%	1.4%
	ADA Equipment	\$123,000	5.56%	5.7%	0.3%
	Asset Capital	\$323,650	14.62%	5.7%	0.8%
	Bus Lift	\$120,000	5.42%	5.7%	0.3%
	Bus Wash	\$284,000	12.82%	5.7%	0.7%
238320	Painting and Wall Covering Contractors				
	Paint Facility	\$90,000	4.0%	4.5%	0.1%
541519	Other Computer Related Services				
	ADP Software	\$165,000	7.45%	24.8%	1.8%
Total FTA-Assisted Contracts		\$2,213,650	100.00%	Overall Base Figure	6.8%

**Exhibit 4: Base Figure Breakdown per Individual Contract**

Description of Contract	NAICS Code and Description for Prime and Subcontracting Opportunities	% of Individual Contract Dollars	Relative Availability	DBE	Base Figure per Contract
Bus Expansion	485113	100%	5.7%		1.4%
Bus Expansion	485113	100%	5.7%		1.4%
ADA Equipment	485113	100%	5.7%		0.3%
Asset Capital	485113	100%	5.7%		0.8%
Bus Lift	485113	100%	5.7%		0.3%
Bus Wash	485113	100%	5.7%		0.7%
Paint Facility	238320	100%	4.5%		0.1%
ADP Software	541519	100%	24.8%		1.8%