



Item # 8

**DATE** September 2, 2015  
**TO** GCTD Board of Directors  
**FROM** Marlena Kohler, Purchasing Manager/DBE Officer  
**SUBJECT** **CONSIDER ADOPTION OF DISADVANTAGED BUSINESS ENTERPRISE (DBE) GOAL FOR FEDERAL FYs 2016-2018**

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### I. EXECUTIVE SUMMARY

In 1983 the Board of Directors adopted a Disadvantaged Business Enterprise (DBE) Program. Federal changes in program requirements have been implemented by the Board maintain compliance. In 1999, the U.S. Department of Transportation (DOT) issued major changes to 49 CFR 26 pertaining to the DBE Program. That regulation expanded the level of attention agencies must provide to meet requirements related to their DBE Programs to continue to be eligible receipt of FTA funds. Then in 2010, DOT changed the submission of the overall goal from annual to a three-year goal. The DBE program was most recently reauthorized by MAP-21, Moving Ahead for Progress in the 21st Century Act (P.L. 112-141).

The attached "Overall DBE Goal for FYs 2016-18" explains the process by which the proposed race-neutral DBE goal of 1.6% for Federal FYs 2016-18 was developed. It required analyzing census bureau data, providing for public participation, seeking input from DBE related groups and community organizations and using data from others.

The goal will be published in the local newspaper and the public will be invited to review the goal and methodology and provide comments within 30 days. Staff will review any comments and send them, if any, with the goal to FTA upon approval.

Although FTA has an overall national goal of 10%, there is no minimum goal that must be established or achieved by an agency.

**IT IS RECOMMENDED that the Board of Directors approve the attached DBE Participation report and adopt the race-neutral DBE goal of 1.6% for Federal FYs 2016-18, to be submitted to FTA and published for public comment.**

*Stephanie [Signature]*

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General Manager Concurrence

### GOLD COAST TRANSIT DISTRICT

# **Fiscal Years 2016-18**

## **Overall Goal for Disadvantaged Business Enterprise Participation in Federal Transit Administration Assisted Programs (Including Goal Setting Methodology)**

*Prepared by*

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*Adopted by*

GCTD Board of Directors

*Submitted to*

U.S. Department of Transportation  
Federal Transit Administration  
San Francisco, California

# **GOLD COAST TRANSIT DISTRICT OVERALL DBE GOAL FOR FYs 2016-18**

## **EXECUTIVE SUMMARY**

The U.S. Department of Transportation (DOT) prescribes its Disadvantaged Business Enterprise (DBE) program and requirements for recipients of Federal funds from DOT in the Code of Federal Regulations (CFR) Title 49, Part 26 (Regulations). Specific instructions are found in Section 26.45 entitled "How do recipients set overall goals."

As a recipient of DOT financial assistance via the Federal Transit Administration (FTA), Gold Coast Transit District (GCTD) has established a recommended overall race-neutral DBE goal for FYs 2016-18 of 1.6% based on all FTA-assisted contracting funds anticipated to be awarded between October 1, 2015 and September 30, 2018.

The 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 in our FTA-assisted contracts. The overall goal reflects GCTD's determination of the level of DBE participation expected to be achieved absent the effects of discrimination. GCTD intends to meet this goal through race-neutral measures and does not intend to establish race-conscious DBE goals for any contracts. GCTD may establish race-neutral DBE goals for one or more contracts, as specified herein.

## **METHODOLOGY FOR SETTING THE OVERALL DBE GOAL**

The recommended overall race-neutral goal of 1.6% is based on prior-year, current and anticipated FTA-assisted contracting opportunities in capital, capitalized maintenance and planning grants that GCTD plans to award during FYs 2016-18. This methodology includes an assessment of (a) the number, type and total dollar value of FTA-assisted contracting opportunities; (b) a two-step process prescribed in the Regulations consisting of an analysis of the availability of DBE contractors and subcontractors, relative to all businesses, that are ready, willing and able to participate; (c) the use of race-neutral and race-conscious methods to achieve the goal; (d) small business participation, and (e) public participation.

### **A. Contracting Opportunities in FTA-Assisted Contracts**

All services, supplies and equipment (except transit revenue vehicles) procured by GCTD using FTA funds constitute contracting opportunities. Budgets were reviewed for prior-year and anticipated grants with anticipated expenditures in FYs 2016-18 and it was determined that FTA-assisted contracting opportunities are as follow:

<b>Type of Funds</b>	<b>Type of Funds</b>
Capital Grants	\$8,980,000
Capitalized Maintenance Grants	\$3,221,169
Planning Grants	\$701,024

<b>Total</b>	<b>\$12,902,193.00</b>
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Attachment 1 provides a list of the projects and the method by which the amount with contracting opportunity was determined. The FTA-assisted amount for each project is listed. Notes are provided on the attachment to help clarify information.

**B. The Two-Step Process of DBE Goal Determination**

GCTD developed the overall DBE goal based on a two-step process. In Step 1, a base figure was calculated to determine the relative availability of certified DBEs in specific areas of expertise needed to satisfy FTA-assisted contracting opportunities. In Step 2, an assessment of relevant evidence available to GCTD was analyzed to determine what adjustments, if any, were needed to narrowly tailor the base figure to GCTD's contracting markets. Attachment 2 provides the results of analysis for both Steps 1 and 2.

1. Step 1, Determining the Base Figure

The Regulation provides examples of approaches to use as a starting point for the goal setting process. The one among those listed which seemed most appropriate for GCTD was use of DBE directories and Census Bureau data. Although GCTD maintains records of past contracts and DBE participation, the database is not perceived to be sufficiently large to indicate all the businesses ready willing and able in our market. While disparity studies were conducted in other areas of the State in the past few years, they either did not relate to the same types of contracting opportunities as GCTD or took into consideration different market areas. Use of another DOT recipient's goal is not appropriate because GCTD's contracting marketplace and opportunities do not mirror closely enough those of another agency.

Use of DBE databases and Census Bureau data provides the best means for GCTD to develop a base figure for its DBE goal. Once contracting opportunities were identified, applicable North American Industry Classification System (NAICS) codes (2012 version) were related to each one.

The Census Bureau County Business Patterns (CBP) database provides a breakdown by the entire nation, by state, by county, by zip or by metropolitan statistical area of firms within the specified area that are identified by particular NAICS codes. This data is accurate as of 2013 and considered sufficient for this analysis. Since the majority of DBEs indicating willingness to do business in Ventura County are located in California and the majority of our purchases are from California firms, it seems reasonable to use the number of firms in the State as the denominator in Step 1 DBE percentage calculation.

The numerator comes from the database of all certified DBEs maintained for the California Unified Certification Program (CUCP) by the California Department of Transportation (Caltrans). It indicates for specific NAICS codes whether DBEs state they are willing and available to conduct business in Ventura County. This database is updated frequently and is considered current as of the time of this analysis.

On Attachment 2, the Step 1 percent in column E equals column D divided by column C multiplied by 100. This provides a base DBE percentage for each listed project and, when summarized and averaged, provides the base DBE goal percentage for the period.

2. Step 2, Adjusting the Base Figure.

Attachment 2 provides the results of further analysis by considering the factors such as those addressed in the Regulation. The primary adjustment to the Step 1 percent calculation considers the impact of the different dollar values of each contracting opportunity to properly weight the base figure results calculated in Step 1. The following example shows the impact of weighting:

Assume two projects as follows:

<u>Project</u>	<u>NAICS</u>	<u>Total Firms</u>	<u>DBE Firms</u>	<u>Project Base %</u>
Construction	236220	4,310	105	2.44
Vans	441110	<u>2,017</u>	<u>1</u>	0.05
Totals		6,327	106	

$$\text{Total Base Percent} = (106 \div 6,327) \times 100 = 1.68\%$$

Taking into consideration the dollar amount of each project provides a different result shown as follows:

<u>Project</u>	<u>Project Size</u>	<u>Multiplied By</u>	<u>Weighted Amount</u>
Construction	\$19,800,000	2.44%	\$482,367
Vans	<u>\$ 63,507</u>	.05%	<u>\$ 31</u>
Totals	\$19,863,507		\$482,398

$$\text{Total Weighted Percent} = (\$482,398 \div \$19,863,507) \times 100 = 2.43\%$$

This weighting adjustment was made for all projects. Notes in column K of Attachment 2 indicate the use of weighting and the rationale for any other adjustments resulting in the Step 2 Percent. The calculations on attachment 2 with reference to the alphabetically listed columns are as follows:

- E = D ÷ C
- G = E x F
- H = G ÷ Total F for each applicable section: Capital, Capitalized Maintenance, Planning
- I = G unless there is an adjustment as explained in the notes in column K
- J = I ÷ Total F for each applicable section: Capital, Capitalized Maintenance, Planning

In summary, the total impact of the adjustments made in step 2 of the goal-setting process results in the base figure goal and the adjusted goal being the same at 1.6%. Anticipated contract award of FTA funds to certified DBEs during FYs 2016-

18 is \$205,684 compared to expected overall contract award of FTA funds in the amount of \$12,902,193. An Overall DBE Goal of 1.6% is recommended for FYs 2016-18.

### **C. Use of Race-Neutral and Race-Conscious Methods**

The Regulations require that the maximum feasible portion of the DBE overall goal be met by using race-neutral methods. In the past, GCTD emphasized race-neutral methods and GCTD's consistent ability to meet its DBE goal using only race-neutral methods. In addition to the Regulations, the 9th circuit *Western States Paving v. State of Washington* court decision prohibits the use of race and gender-conscious goals unless a finding of significant statistical disparity has been made for the ethnic and gender groups to be included in race and gender-conscious goals. GCTD has not completed a disparity study, and therefore may not use race-conscious goals.

GCTD does plan to establish one (1) contract-specific race-neutral DBE goal on the contract to be awarded for the construction of the New Operations and Administration. GCTD anticipates issuing a 2% race-neutral DBE Goal for this requirement.

GCTD does not anticipate any issues in achieving 100% of the expected overall DBE Goal of 1.6% using race-neutral measures.

### **D. Small Business Participation**

In accordance with 49 CFR Part 26.39 GCTD has established a Small Business Element to its existing DBE Program to include actions which should encourage small business participation in GCTD contracting efforts. Among those actions are the following:

- Assess procurements for unbundling possibilities
- Assist prime contractors to identify viable small business subcontractors
- Participate in public outreach events
- Provide a certification requirement in solicitations to help capture utilization of small business firms

### **E. Public Participation**

To provide for public participation in this goal-setting process, letters were sent to minority, women and general contractor groups and to community organizations seeking input and/or consultation in establishing the overall goal. Most of the diverse groups included on the list of several organizations are or should be knowledgeable about the availability of disadvantaged and nondisadvantaged businesses and the effects of discrimination in contracting opportunities for DBEs.

Regulations also require GCTD to publish a notice in general circulation and DBE-oriented media announcing the proposed overall goal for FYs 2016-18 contracts assisted by FTA. The notice will be published in the *Ventura County Star*, the local newspaper with the widest circulation.