

Motion by Director Molina

In moving to further implement MTA's small business programs, we need to further examine ways to increase small business participation in technical areas of work on MTA contracts.

The most effective manner to ensure that firms doing business with the MTA develop teams utilizing small businesses is to implement a SMALL BUSINESS TECHNICAL PARTICIPATION INITIATIVE. This initiative will provide additional weighting for the use of small businesses in the technical portion of work, when evaluating teams as part of the solicitation evaluation process.

I THEREFORE MOVE that this Board instruct the CEO and the Staff to examine the procurement process and develop recommendations and written procedures on how to implement a SMALL BUSINESS TECHNICAL PARTICIPATION INITIATIVE in an effort to ensure small businesses are included in a wide variety of technical work. Staff is to report back to the Board with their recommendations and implementation plan in January 2004.



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EXECUTIVE MANAGEMENT AND AUDIT COMMITTEE
JULY 18, 2003

**SUBJECT: FEDERAL TRANSIT ADMINISTRATION DISADVANTAGED
BUSINESS ENTERPRISE ANNUAL OVERALL GOAL**

**ACTION: APPROVE THE FEDERAL TRANIST ADMINISTRATION
DISADVANTAGED BUSINESS ENTERPRISE ANNUAL
OVERALL GOAL**

RECOMMENDATION

Approve 11% as the Federal Transit Administration (FTA) Disadvantaged Business Enterprise (DBE) Annual Overall Goal For Federal Fiscal Year 2004 (FFY04) as shown in Attachment 1.

ISSUE

In accordance with the Department of Transportation (DOT) requirements found in 49 Code of Federal Regulations (CFR) Part 26, DOT recipients are required to establish an overall annual goal, on a fiscal year basis, for the participation of Disadvantaged Business Enterprise (DBE) on DOT-assisted contracts. The DBE Program requires recipients to submit its annual goal to the applicable Operating Administration by August 1.

The recommended annual goal is for FTA-assisted contracts only. MTA is also required to establish a separate annual goal for contracts awarded with Federal Highway Administration (FHWA) funds. The FFY04 annual goal for FHWA-assisted contracts is scheduled for Board approval in August 2003.

POLICY IMPLICATIONS

The development of the FFY04 annual goal was established as part of the Shared Responsibility Program (SRP). The SRP was successfully rolled out as a Chief Executive Officer (CEO) initiative to develop individual DBE goals for each MTA Strategic Business Unit (SBU). The purpose of the SRP is to share responsibility in meeting DBE Program objectives and in improving MTA's performance in meeting its annual goal agency-wide.

The Department of Diversity & Economic Opportunity Department (DEOD) met with each SBU to review its projected Fiscal Year 2004 (FY04) budget to identify projected number, types of work and dollar amounts of contracting opportunities that will be funded, in whole or in part, with FTA funds. DEOD reviewed these contracts to identify

ready, willing and able DBE firms available to participate on such contracts. This information was used to establish the SBU individual goals as shown in Attachment 2. The SBU goals differ based on the amount of FTA funds budgeted and the varied number of contracts with DBE opportunities projected to be procured within each respective SBU. The individual SBU goals were used to calculate MTA's annual goal using the DOT prescribed methodology. Shared Responsibility Program results will be tracked and reported to the CEO semi-annually. The head of each SBU will be accountable for driving the shared responsibility and DBE program objectives throughout their respective organizations. DEOD will provide support to the SBUs in conducting targeted outreach in specialized areas to increase DBE participation on their respective contracts.

Anticipated FTA-Assisted Contracting

MTA anticipates awarding a total of 66 FTA-assisted contracts with potential DBE opportunities in FFY04. This represents a total of approximately \$66.8 million in FTA funds. In that 49 CFR Part 26.49 requires Transit Vehicle Manufactures (TVMs) to report directly to FTA and to set their own goals based on the same principles followed by all federal recipients, bus and rail acquisitions are excluded from the above figure and are not included in the annual goal calculation.

Goal Setting Methodology Applied

Under DOT guidelines, recipients are to establish a baseline figure from the relative availability of ready, willing, and able DBEs in each geographic procurement market. The second step is to make adjustments to the baseline figure, relying on an examination of additional evidence, past experience, local expertise and anticipated changes in DOT-assisted contracting over the coming year. An analysis of MTA's geographic procurement market revealed that MTA does business with contractors and vendors primarily located in the Los Angeles, Orange, San Bernardino, Riverside, and Ventura Counties. The geographic procurement market is used for both the numerator (DBEs) and denominator (all businesses) within the area from which the MTA draws the substantial majority of its contract competition.

The data source used for establishing availability of ready, willing, and able firms was derived from the Unified Certification Program (UCP) Southern California Cluster Group database of certified DBE firms. The certified DBEs listed as available to perform work in various North American Industry Classification System (NAICS) codes are matched with MTA contracting opportunities. The DBE availability represents the numerator in the goal setting formula used to arrive at the base figure (Attachment 1). The denominator used in the formula was derived from the U.S. Census Bureau's County Business Pattern (CBP) database. The CBP was used to determine availability of all businesses within the same NAICS codes identified above.

To calculate the 11.1% base figure shown in Attachment 1, the number of available DBEs is divided by the number of available businesses. This is weighted against the percentage of FFY04 projected FTA-assisted contracts MTA anticipates expending funds in the following five designated contracting categories: Construction, Professional Services, Materials/Supplies, Equipment, and Other.

MTA expanded the formula used in the measurement of current availability to ensure that the overall goal truly and accurately reflects the level of DBE participation expected. The 11.1% base figure was not adjusted based on the limited level of contracting opportunities in FY04 as result of budget constraints. Therefore, staff proposes an 11% overall annual DBE goal for FFY04.

Achieving The Annual Goal

MTA will attempt to meet its annual goal by using race-neutral means of facilitating DBE participation. Race-neutral DBE participation includes any time when a DBE wins a prime contract through customary competitive procurement procedures; when DBE participation is awarded a subcontract on a prime contract that does not have a DBE goal, and when DBE participation on a prime contract exceeds a contract goal.

MTA may use contract goals to meet any portion of its annual goal that is not met through race-neutral measures. MTA is not required to set contract goals on every DOT-assisted contract. MTA reviews all procurements over \$25,000 for construction, and all procurements for professional services and goods and commodities over \$40,000 to determine the extent of subcontracting opportunities and DBE availability.

Staff estimates that 2% of the annual goal will be obtained race neutrally through aggressive outreach, providing technical assistance and training, and ensuring prompt payment to DBE firms. It is anticipated that the remaining 9% DBE participation will be achieved race consciously, i.e. DBE goals on FTA-assisted contracts with subcontracting opportunities.

If during the course of the fiscal year in which MTA is using contract goals, and MTA determine that it will exceed the annual goal, MTA must reduce or eliminate the use of contract goals to the extent necessary to ensure that the use of contract goals does not result in exceeding the overall goal. If MTA determine that we will fall short of the annual goal, the MTA must make appropriate modifications in the use of race-neutral and or contract goals to meet the annual goal.

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, FTA recipients who project awarding more than \$250,000 in prime contracts in a Federal fiscal year from FTA assistance are required to implement a DBE program and must submit an annual DBE goal to FTA for approval.

FINANCIAL IMPACT

There is no financial impact in implementing this action.

DISCUSSION

The DBE Program requires that the recommended annual goal and methodology is advertised in minority and women focused media and general newspapers. The 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 9, 2003, in the Daily News, La Opinion, Chinese Daily and the LA Watts Times publications. The comment period ends July 24, 2003. 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 annual goal will be submitted to FTA by August 1. The annual goal for FFY04 will be effective October 1, 2003 – September 30, 2004.

ATTACHMENT(S)

- A. Methodology for Calculating the DBE Annual Goal
- B. Shared Responsibility Goal Matrix

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**Los Angeles County Metropolitan Transportation Authority
Attachment 1 - Methodology for Calculating the DBE Annual Goal**

Work Category	Description of Work	Industry Codes	Estimated FTA \$ with contracting opportunities in each category	% of Federal Funding by Work Category
A	Construction	NAICS 23	\$ 55,566,452	83.1%
B	Professional Services	NAICS 54	\$ 8,015,935	12.0%
C	Materials/Supplies	NAICS 45	\$ 107,221	0.2%
D	Equipment	NAICS 51	\$ 2,856,430	4.3%
E	Other	NAICS 56	\$ 290,066	0.4%

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 = $(.831) \frac{\text{DBEs in A}}{\text{Firms in A}} + (.12) \frac{\text{DBEs in B}}{\text{Firms in B}} + (.002) \frac{\text{DBEs in C}}{\text{Firms in C}} + (.043) \frac{\text{DBEs in D}}{\text{Firms in D}} + (.004) \frac{\text{DBEs in E}}{\text{Firms in E}}$

Base Figure = $(.831) \frac{630}{5,350} + (.12) \frac{1,638}{20,220} + (.002) \frac{62}{2,552} + (.043) \frac{13}{155} + (.004) \frac{61}{1,451}$

Base Figure = $(.831)(.118) + (.12)(.081) + (.002)(.024) + (.043)(.084) + (.004)(.042)$

Base Figure = $.0979 + .0097 + .00004 + .0036 + .0002$

Base Figure = $.111 \times 100 = 11.1$

Base Figure = 11%*

Annual Goal Components

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

Annual Goal = 11.00% + 0.00% = 11.00%

Race Conscious = 9.00% DBE participation achieved through contract-specific goals

Race Neutral = 2.00% DBE participation achieved through race-neutral measures

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

*Base Figure was rounded to the nearest percent.

**Los Angeles County Metropolitan Transportation Authority
Attachment 2 - FTA Annual DBE Goal For Federal Fiscal Year 2004**

MTA Annual DBE Goal

MTA Annual DBE Goal	Construction	Prof. Services	Mat./Supplies	Equipment	Other	TOTAL
Federal \$ with DBE contracting opportunities	\$55,566,452	\$8,015,935	\$107,221	\$2,856,430	\$290,066	\$66,836,104
						11% = Overall Goal

Level of Projected Federal Contracting Opportunities by Strategic Business Unit

Chief of Staff Business Unit	Construction	Prof. Services	Mat./Supplies	Equipment	Other	TOTAL
Federal \$ with DBE contracting opportunities	\$0	\$316,516	\$104,265	\$0	\$95,000	\$515,781
						8% = Organization Goal

Support Services Business Unit	Construction	Prof. Services	Mat./Supplies	Equipment	Other	TOTAL
Federal \$ with DBE contracting opportunities	\$0	\$0	\$0	\$294,172	\$195,066	\$489,238
						3% = Organization Goal

Communications Business Unit	Construction	Prof. Services	Mat./Supplies	Equipment	Other	TOTAL
Federal \$ with DBE contracting opportunities	\$0	\$600,000	\$0	\$0	\$0	\$600,000
						4% = Organization Goal

Countywide Planning Business Unit	Construction	Prof. Services	Mat./Supplies	Equipment	Other	TOTAL
Federal \$ with DBE contracting opportunities	\$0	\$0	\$800	\$0	\$0	\$800 *
						2% = Organization Goal

Construction Business Unit	Construction	Prof. Services	Mat./Supplies	Equipment	Other	TOTAL
Federal \$ with DBE contracting opportunities	\$41,079,160	\$4,373,800	\$192	\$0	\$0	\$45,453,152
						15% = Organization Goal

Transit Operations Business Unit	Construction	Prof. Services	Mat./Supplies	Equipment	Other	TOTAL
Federal \$ with DBE contracting opportunities	\$14,487,292	\$2,725,619	\$1,964	\$2,562,258	\$0	\$19,777,133
						4% ** = Organization Goal

* Majority of projects with opportunities are calculated in the FHWA annual goal. This figure represents contracting opportunities in the materials/supplies category.

** Low DBE availability in specialized transit procurements impacts this percentage.

(FTA funds only)