



Metropolitan
Transportation
Authority

One Gateway Plaza
Los Angeles, CA
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**SUBJECT: FEDERAL HIGHWAY ADMINISTRATION DISADVANTAGED
BUSINESS ENTERPRISE ANNUAL GOAL**

**ACTION: APPROVE DISADVANTAGED BUSINESS ENTERPRISE
ANNUAL GOAL**

RECOMMENDATION

Approve 7% as the Federal Highway Administration (FHWA) Disadvantaged Business Enterprise (DBE) Annual Goal For Federal Fiscal Year 2004 (FFY04) illustrated in Attachment 1.

ISSUE

In accordance with the Department of Transportation (DOT) requirements found in 49 Code of Federal Regulations (CFR) Part 26, FHWA recipients are required to establish an annual goal for the participation of DBE firms, expressed as a percentage of all federal-aid highway funds, that it will expend in FHWA-assisted contracts in the forthcoming year.

The annual goal is submitted to Caltrans, the authorized local FHWA Administrator, who is responsible for approving and overseeing FHWA DBE program and annual goal requirements. Recently, Caltrans changed its procedure to not accept annual DBE goals with combined FHWA and Federal Transit Administration (FTA) funds. As a result, MTA is, for the first time, recommending a separate FHWA annual goal for FFY04. The FFY04 FTA annual DBE goal was approved by the Board in July 2003.

POLICY IMPLICATIONS

The development of the FHWA annual goal was established as part of the Shared Responsibility Program. The Diversity & Economic Opportunity Department met with each Strategic Business Unit (SBU) to review the anticipated FHWA-assisted contracts budgeted for the upcoming fiscal year. This information was used to develop the FHWA annual goal and individual SBU goals where applicable, as shown in Attachment 2.

Anticipated FHWA-Assisted Contracting

In FFY04, MTA anticipates awarding five (5) FHWA-assisted contracts. This represents \$3.5 million in project FHWA funds with contracting opportunities.

MTA has reviewed the below FHWA-assisted contracts for DBE subcontracting opportunities in three major contracting categories:

Project Name	Contracting Category	Funding Source	FHWA Funds	Total Cost	% of FHWA Funds of Total Cost
Cal State LA & USC Busway Station Project	Construction	TEA ¹	\$1,239,420	\$ 1,400,000	88.53%
System Preservation Needs Assessment Study	Professional Services	FHWA / RSTP ²	\$ 35,412	\$ 40,000	88.53%
Routes 57/60 Interchange Improvement Major Investment Study (MIS)	Professional Services	FHWA	\$ 221,856	\$ 250,600	88.53%
Rideshare Project	Professional Services/Materials and Supplies	CMAQ ³	\$ 1,239,420	\$ 1,313,000	88.53%
State Route (SR) 2 Freeway Terminus Improvement Project	Professional Services	FHWA	\$ 35,412	\$ 1,059,300	80.00%
Total			\$3,506,527	\$4,062,900	

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 to best reflect the market area involves adjustments from 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 solicits participation from contractors and subcontractors from 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 the work in various North American Industry Classification System (NAICS) codes are matched with 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 in the same NAICS codes in which MTA contracts.

To calculate the 6.6% base figure shown in Attachment A, the number of available DBEs was divided by the number of available businesses in the geographic procurement market and weighted against the percentage of FY04 projected FHWA federal funds. The base figure was rounded to the nearest percent, resulting in a 7% annual goal.

¹ TEA – Transportation Equity Act

² RSTP- Regional Surface Transportation Program

³ CMAQ- Congestion Management Air Quality

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 7% base figure was not adjusted based on limited number of FHWA contract opportunities. Based on the data and analysis conducted by the MTA, staff proposes a 7% overall annual goal for FFY04.

Achieving Annual Goal

The recommended 7% annual goal represents the number of ready, willing, and able DBEs identified as available to participate on FY04 FHWA-assisted contracts subcontracting opportunities. The annual goal must be split into two components: race-neutral and race-conscious. 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. The remaining 5% DBE participation will be achieved race consciously, i.e. applying DBE participation goals on applicable contracts.

DISCUSSION

The draft annual goal, methodology for calculating goal and break out of race-conscious and race-neutral participation was required to be submitted to Caltrans for preliminary comments by June 1, 2003. MTA submitted its proposed 7% annual goal and methodology to Caltrans in May 2003. Caltrans approved the proposed goal in June 2003 and instructed MTA to proceed with advertisement of the annual goal for public participation.

The DBE Program requires that the recommended annual goal and methodology be 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 18 - 19, 2003 in the Daily News, La Opinion, Chinese Daily and the LA Watts Times publications. The comment period ended August 2, 2003. No public comments were received during this period.

OPTIONS

There is no viable option as this action is required as a condition of receiving FHWA funds. In accordance with 49 CFR Part 26, recipients who project awarding more than \$250,000 in prime contracts in a federal fiscal year with FHWA assistance are required to implement a DBE program and must submit an annual DBE goal for approval. Caltrans will verify compliance with this requirement prior to approving "Request for Authorization" to proceed with a federal-aid project.

FINANCIAL IMPACT

There is no financial impact in implementing this action.

NEXT STEPS

Following Board approval, the FHWA annual goal will be submitted to Caltrans for final approval. The FFY04 FHWA annual goal will be effective from October 1, 2003 through September 30, 2004.

ATTACHMENT

1. Methodology for Calculating the DBE Annual Goal
2. FHWA Shared Responsibility Annual 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 FHWA \$ with contracting opportunities in each category	% of FHWA \$ with contracting opportunities
A	Construction	WCC C06 or NAICS 23	\$ 1,239,420	0.35
B	Professional Services	WCC C87 or NAICS 54	\$ 2,242,761	0.64
C	Materials/Supplies	WCC C86 or NAICS 33	\$ 24,346	0.0069

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 = $(.35) \frac{\text{DBEs in A}}{\text{Firms in A}} + (.64) \frac{\text{DBEs in B}}{\text{Firms in B}} + (.0069) \frac{\text{DBEs in C}}{\text{Firms in C}}$

Base Figure = $(.35) \frac{383}{7,548} + (.64) \frac{1,860}{24,817} + (.0069) \frac{12}{880}$

Base Figure = $(.35) (0.051) + (.64) (0.075) + (.0069) (0.014)$

Base Figure = $.0179 + .0479 + 0.0001$

Base Figure = $0.0660 \times 100 = 6.60$

Base Figure = 7%*

Annual Goal Components

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

Annual Goal = 7.00% + 0.00% = 7.00%

Race Conscious = 5.00% DBE participation achieved through contract-specific goals

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

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

*Base Figure was rounded to the nearest percent.

**Los Angeles County Metropolitan Transportation Authority
Attachment 2 - FHWA Shared Responsibility Annual Goal Matrix**

MTA Annual DBE Goal

MTA Annual DBE Goal	Construction	Prof. Services	Mat./Supplies	Equipment	Other	TOTAL
Projected Federal \$ Expenditures	\$1,239,420	\$2,242,761	\$24,346	\$0	\$0	\$3,506,527
Federal \$ with DBE contracting opportunities	\$63,210	\$168,092	\$370	\$0	\$0	\$231,672
						7% = Overall Goal

Level of Projected Federal Contracting Opportunities by Strategic Business Unit

Chief of Staff Business Unit	Construction	Prof. Services	Mat./Supplies	Equipment	Other	
Federal \$ with DBE contracting opportunities	\$0	\$0	\$0	\$0	\$0	\$0
Support Services Business Unit	Construction	Prof. Services	Mat./Supplies	Equipment	Other	
Federal \$ with DBE contracting opportunities	\$0	\$0	\$0	\$0	\$0	\$0
Communications Business Unit	Construction	Prof. Services	Mat./Supplies	Equipment	Other	
Federal \$ with DBE contracting opportunities	\$0	\$85,296	\$370	\$0	\$0	\$85,666 = Level of Projected Contracting Opportunities
						7% = Organization Goal
Countywide Planning Business Unit	Construction	Prof. Services	Mat./Supplies	Equipment	Other	
Federal \$ with DBE contracting opportunities	\$0	\$82,796	\$0	\$0	\$0	\$82,796 = Level of Projected Contracting Opportunities
						7% = Organization Goal
Construction Business Unit	Construction	Prof. Services	Mat./Supplies	Equipment	Other	
Federal \$ with DBE contracting opportunities	\$0	\$0	\$0	\$0	\$0	\$0
Transit Operations Business Unit	Construction	Prof. Services	Mat./Supplies	Equipment	Other	
Federal \$ with DBE contracting opportunities	\$63,210	\$0	\$0	\$0	\$0	\$63,210 = Level of Projected Contracting Opportunities
						5% = Organization Goal

(FHWA funds only)