

FFY23-25 Triennial DBE Goal – BART Vendor Public Participation

June 3, 2022



Joseph Towner – Office of Civil Rights

Objectives

- **Vendor focused public participation event**
 - BART vendors have first-hand knowledge of pain points and can provide a unique perspective on BART contracting and the market
- Compliance with requirements in 49 CFR Part 26 (26.45)
- The District is a recipient of US DOT grant funds and therefore must establish a DBE Program which includes:
 - **Setting an overall DBE goal every three Federal Fiscal Years** on DOT-assisted contracts (Oct 1, 2022 to Sept 30, 2025)
- Consult with stakeholders on proposed DBE goal and methodology
 - Goal setting is a two-step process
 - Adjustments can be made to the proposed goal

Base Figure

Determine Base Figure of Relative DBE Availability

- The first step in setting an overall DBE goal is to determine a Base Figure
- The goal must be based on evidence of the availability of Ready, Willing, and Able (RWA) DBEs relative to all businesses RWA to participate on District contracts
- The Base Figure represents the relative availability of DBEs in the District's relevant geographic market area

Number of RWA DBEs

_____ = Base Figure %

Number of **All** RWA Firms

- BART's Base Figure incorporates previously established contract goals with DBE availability

DBE Availability

The FTA provides the following examples as methods that may be used to establish a Base Figure:

- DBE directories/census
- **Bidders list**
- **Disparity study**
- Goal from similar jurisdiction
- Other alternative methods (based on demonstrable evidence of local market conditions)

The District's 2017 Disparity Study identified three key data points:

1. Work Categories
2. Market Areas
3. DBE Availability (by Work Category)

Market Areas and DBE Availability

<u>Disparity Study Availability</u>		
Work Category	Market Area	Availability
Construction	Alameda	22.91%
	Contra Costa	
	San Francisco	
	San Mateo	
	Santa Clara	
	Marin	
	Sonoma	
	Solano	
	Napa	
A&E	Alameda	29.82%
	Contra Costa	
	San Francisco	
	San Mateo	
	Marin	
Professional Services (nonengineering)	State of California	11.89%
Other Services	State of California	7.22%
Procurement	US	2.93%

Contracts Types

- Work Categories vs Contracts with Goals
- BART's Base Figure calculation includes upcoming contracts broken up by Spending Type.
- Some contracts were identified to already have an advertised contract goal. Therefore, they were listed separately for Base Figure calculation purposes.
- These contracts are identified as "Existing Agreement" and have "Expected DBE Attainment" in place of DBE "Availability"
- Availability for these contracts could not be used since goals have already been set

Step One: Base Figure

Weighted Base Figure calculation:

- FFY23-25 spending estimated
- Expected DBE Attainment

Spending Types	Sum of Estimated FTA Amount	Weights	Availability/ Expected Attainment	Weighted Availability
A&E	\$ 172,000,000	25.1%	29.82%	7.5%
Construction	\$ 257,991,819	37.6%	22.91%	8.6%
Existing Agreement	\$ 213,845,970	31.2%	26.89%	8.4%
Procurement	\$ 40,459,008	5.9%	2.93%	0.2%
Professional Service	\$ 1,000,000	0.1%	11.89%	0.0%
Grand Total	\$ 685,296,796			25%

Step One: Base Figure

Weigh each spending type

- A&E Example: $\$172\text{M} / \$685\text{M} = 25.1\%$

Spending Types	Sum of Estimated FTA		Availability/ Expected Attainment	Weighted Availability
	Amount	Weights		
A&E	\$ 172,000,000	25.1%	29.82%	7.5%
Construction	\$ 257,991,819	37.6%	22.91%	8.6%
Existing Agreement	\$ 213,845,970	31.2%	26.89%	8.4%
Procurement	\$ 40,459,008	5.9%	2.93%	0.2%
Professional Service	\$ 1,000,000	0.1%	11.89%	0.0%
Grand Total	\$ 685,296,796			25%

Step One: Base Figure

Calculate the Weighted Availability

- A&E Example: 25.1% x 29.8% = 7.5%

Spending Types	Sum of Estimated FTA Amount	Weights	Availability/ Expected Attainment	Weighted Availability
A&E	\$ 172,000,000	25.1%	29.82%	7.5%
Construction	\$ 257,991,819	37.6%	22.91%	8.6%
Existing Agreement	\$ 213,845,970	31.2%	26.89%	8.4%
Procurement	\$ 40,459,008	5.9%	2.93%	0.2%
Professional Service	\$ 1,000,000	0.1%	11.89%	0.0%
Grand Total	\$ 685,296,796			25%

Step One Base Figure

Step Two: Base Figure Adjustment

- Once the Step One Base Figure is calculated, we must examine all evidence to determine if any adjustments should be made to the Base Figure. For example:
 - Evidence from disparity studies from local agencies
 - Past DBE participation
 - Public outreach/comment
 - i.e., are there any barriers keeping DBE's from being able to form, grow and compete?
 - Other relevant data

Step Two: Base Figure Adjustment

- Past Participation Method

Past DBE Attainment		Median
FFY17	24%	24%
FFY18	30%	
FFY19	30%	
FFY20	6%	
FFY21	16%	

Step Two: Base Figure Adjustment

- Carryover Procurement Contracts
- As of April 2022, there are approx. \$124M in federal procurement contracts pending to be awarded in FFY22.
- Failure to award these contracts in FFY22 could negatively impact the District's future DBE attainment if they are rolled over. We have incorporated a “worst-case” scenario to further adjust our base figure.

Spending Type	Sum of Estimated FTA		Weights	Availability/ Expected Attainment	Weighted Availability
	Amount				
A&E	\$	172,000,000	21.3%	29.82%	6.3%
Construction	\$	257,991,819	31.9%	22.91%	7.3%
Existing Agreement	\$	213,845,970	26.4%	26.89%	7.1%
Procurement	\$	40,459,008	5.0%	2.93%	0.1%
Professional Service	\$	1,000,000	0.1%	11.89%	0.0%
Carryover Procurement	\$	123,512,191	15.3%	2.93%	0.4%
Grand Total	\$	808,808,987			21.4%

Step Two: Race-Neutral Goal

- Race-Neutral Goal Calculation
- Pursuant to 49 CFR 26.51, the District,
- “must meet the maximum feasible portion of your overall goal by using race-neutral means of facilitating race-neutral DBE participation.”
- The District calculated its projected race-neutral attainment by determining past median race neutral attainment.

Race-Neutral Calculation

- Historically Attainment
- OCR calculated the past RN attainment on OCR contracts
 - DBE attainment on past contracts
 - 15% (Median RN Attainment) / 24% (Median DBE Attainment) = 64% of goal to be achieved RN

Past Race-Neutral Attainment		Median
FFY17	22%	15%
FFY18	15%	
FFY19	22%	
FFY20	1%	
FFY21	13%	

Proposed DBE Goal

Proposed DBE Goal for FFY 2023-2025 (October 1, 2022 – September 30, 2025)

- **23%**
 - 15% Race-Neutral
 - 8% Race-Conscious

*Adjusted base figure and RC/RN goals were rounded to whole numbers

Consultation with Stakeholders

- Proposed goal will be publicized for public comment on www.bart.gov
- Email notifications on the goal and requests for comment to be sent to vendors and agencies:
 - This includes small and disadvantaged businesses, government agencies, Chamber of Commerce, etc.
- Proposed goal will be publicized at upcoming outreach events
 - BART Sponsored Public Participation – 6/8/2022 10-11:30 am
<https://us06web.zoom.us/j/2301294458>
- Goal to be publicized via local publications
- The District will consider comments on DBE goals before August 1, 2022 submission

Questions/Comments

Is there anything else the District can consider in its DBE methodology?

Do you have any other comments on the DBE goal?

Other questions?

Please submit any additional comments the following:

<https://forms.office.com/g/EhrzixH3q5>

or

Jtowner@bart.gov

General Discussion