

San Francisco Bay Area Rapid Transit District



## Triennial DBE Goal for FFY17-FFY19 for the Federal Transit Administration



Prepared by the  
BART Office of Civil Rights  
August 1, 2016

## San Francisco Bay Area Rapid Transit District (BART) Triennial DBE Goal for FFY 2017-2019

### Executive Summary

Pursuant to 49 CFR 26.45, BART sets an overall triennial DBE goal every three years. BART's DBE attainment each year is judged against the overall goal by the FTA. This document presents BART's triennial DBE goal for FFY17-19 as well as the methodology used to establish the goal. There were 8 stages involved in establishing the triennial goal.

1. Projecting BART's contracts to be funded by the FTA from FFY17-FFY19
2. Establishing the type of spending (Construction, Procurement, A&E) of each projected contract
3. Defining BART's market area
4. Availability of DBEs in BART's market area within each type of spending
5. Step One: Calculation of BART's base figure DBE goal
6. Step Two: Adjusted Triennial DBE goal based on DBE attainment in past 3 years
7. Public Comment
8. Race Neutral and Race Conscious Components of the Overall DBE Goal

**BART has determined that its triennial goal for FFY17-19 will be 17%, with a race/gender conscious goal of 4% and a race/gender neutral goal of 13%.**

#### 1. Projecting BART's contracts to be funded by the FTA from FFY17-FFY19

BART's Planning, Development and Construction (PD&C) Department and Maintenance and Engineering (M&E) Department were asked to project their FTA funded contracts for the next three years. The two departments provided the following list of projected contracting opportunities and projected dollar amounts. In the case of the M&E projected contracts, M&E provided the estimated contract amount and OCR multiplied that amount by 80% to estimate the FTA amount. PD&C provided both the estimated contract amounts and the FTA amounts.

**Table 1 – Projected FTA-Funded Projects FFY17-19**

Procurement Type	Project Name or Description	Estimated Amount	Estimated FTA Amount
M&E			
Construction	15TC000 Water Intrusion at Aerial Stations	\$5M to \$7M	4,800,000
Construction	15CQ-001 Track Joint Removal (Holland Welder)	Approx. \$2M	1,600,000
80% Construction / 20% Procurement	15CQ-001 At-Grade Interlocking Replacements	Approx \$10M	8,000,000
60% Construction / 40% Procurement	15EK-120A San Leandro Substation Replacement	\$3.5M	2,800,000
60% Construction / 40% Procurement	New substations (2 ea up to 5 ea @ \$4M/ea)	\$8M to \$20M	11,200,000
Procurement	20CE-001 Yard Switch Machine Replacements	\$4M to \$8M	4,800,000
Procurement	20LT000 Station MUX Replacements	\$3M to \$5M	3,200,000
Procurement	SFOx Train Control Room Logic Equip Replacement	\$2M to \$4M	2,400,000
Procurement	Replace Mainline Switch Machine Power and Control Cables	Approx \$2M	1,600,000
Procurement	#10 Turnout Speed Reduction	Approx \$1M	800,000
Procurement	Remote Prohibits/Remote Speed Restrictions	Approx \$1M	800,000

Procurement Type	Project Name or Description	Estimated Amount	Estimated FTA Amount
Procurement	Migrate A50 MUX Track Circuits to A60 Control Zone	Under \$1M	640,000
Procurement	Station Platform Antenna Replacement	Approx \$200k	160,000
Procurement	Two Wayside Signals at C57 Interlocking	Approx \$100k	80,000
Procurement	School Street Equipment Replacement	Approx \$100k	80,000
30% Construction / 70% Procurement	Destination Sign System (DSS) Replacement	\$5M to \$7M	4,800,000
20% Construction / 80% Procurement	Trunked Radio	\$30M	24,000,000
<b>PD&amp;C</b>			
A&E	On Call General Engineering Consultants	\$120,000,000	\$40,000,000
A&E	On Call Construction Management Consultants	\$90,000,000	\$30,000,000
Construction	Hayward Maintenance Complex: Central Warehouse	\$25,000,000	\$2,500,000
Construction	Hayward Maintenance Complex: Maintenance & Engineering Shop	\$66,000,000	\$6,600,000
Construction	Hayward Maintenance Complex: Vehicle Overhaul & Heavy Repair	\$136,000,000	\$13,600,000
Procurement	Train Control Modernization Program	\$5,000,000,000	\$100,000,000
Construction	BART ADA Pilot Projects, Hearing Loop	300,000	240,000
Construction	Accessibility Improvements at Various BART Stations	1,000,000	800,000
Construction	BART Elevator Area LED Lighting Improvements	300,000	240,000
Construction	PA System Improvements	1,000,000	800,000
Construction	Accessibility Improvement Program – Phase 1	8,000,000	6,400,000

**2. Establishing the spending type of each projected contract**

BART did not divide its construction activities into 6-digit NAICS codes, instead categorizing spending activities into 2-digit NAICS or Construction, Procurement (from either Manufacturers or Wholesalers), and Engineering (Engineering and Construction Management). This was done because the bidders lists, the source for the availability measure, are categorized in that way and not be scopes of work which could be assigned a 6-digit NAICS industry code. Trucking was considered part of Construction since it is defined that way in BART’s contract compliance process. Some of the M&E contracts involve both Construction and Procurement. M&E and PD&C personnel categorized projects as either Construction, Procurement (or both), or Engineering.

**3. Defining BART’s market area**

BART’s market area for construction has traditionally been its 4-county service area: Alameda, Contra Costa, San Francisco, and San Mateo counties, which contained the substantial majority of BART bidders. The market area has been slowly expanding. When looking at prime and subcontractor bidders from 2011 to 2014 – the years of BART’s in-process disparity study – 69% are from the 4-county service area, below the threshold of 70%. This led the Disparity Study team, Miller3, to look at a broader market area for construction: the traditional 9-county Bay Area region. For this report BART followed the lead of Miller3, augmenting five additional counties, in order to be well above the 70% threshold. Santa Clara especially makes sense since BART service is expanding to Santa Clara County in partnership with VTA in the next few years.

86% of BART bidders on construction contracts are from the 9 counties. More impressively, 91% of DBE bids (M/WBEs on non-federal contracts) are from the 9-county area.

**Table 2 - Market Area for Construction**

<b>BART's Market Area for Construction Contracts</b>	<b>Percent of Construction Bidders (Prime and Subcontractor)</b>	<b>Percent of DBE or MWBE Bidders</b>
Alameda	35%	38%
Contra Costa	10%	6%
San Francisco	17%	26%
San Mateo	6%	5%
Santa Clara	8%	11%
Marin	2%	1%
Sonoma	3%	1%
Solano	4%	3%
Napa	1%	0%
<b>Total</b>	<b>86%</b>	<b>91%</b>

For other types of procurement for this process, BART is also utilizing the market area as defined by the in-process Disparity Study. For Architecture and Engineering this is the Metropolitan Statistical Area (MSA): BART's original four-county service area: Alameda, Contra Costa, San Francisco, and San Mateo counties, plus Marin County. For Professional Services (non-engineering) and Other Services the market areas are the state of California. For Procurements, the market area is national (US).

**4. Availability of DBEs in BART's market area within each type of spending**

The FTA lists five options for determining DBE availability:

- DBE Directories and Census Bureau data
- Bidders list
- Use data from a disparity study
- Use the goal of another DOT recipient
- Alternative methods

BART utilized a combination of the 2<sup>nd</sup> and 3<sup>rd</sup> options. BART compiled bidders lists and a small purchase vendor list to the Disparity Study team, Miller3. Miller3 then created DBE availability rates by combining bidders lists with lists of BART vendors on smaller-size procurements. For this Triennial Goal report, availability is defined as the ratio of the number of ready, willing, and able (RWA) Disadvantaged Business Enterprises (DBEs), i.e. bidders on BART projects, for a particular type of spending and the number of all RWA firms, i.e. bidders on BART projects, for the same type of spending. DBEs are certified by one of several public agencies in California, with a centralized list called the California Unified Certification Program (CUCP), maintained by CALTRANS.

**Table 3 - DBE Availability by Category of Spending**

Area of Spending	Market Area	DBE Availability
Construction	9-county Bay Area	22.91%
Procurement	National	2.93%
Architecture and Engineering	5-county MSA	29.82%

**Goal Setting Methodology, Section 26.45**

**5. Step One - Calculation of BART’s Base Figure, Section 26.45**

The overall DBE goal – called Step 1 by the FTA – is found by finding the dollar amount and percent of work for each type of spending and multiplying this by the availability of DBEs for each type of spending. The results for each procurement type are added to obtain a weighted average (the Step 1 goal). The Amount of Work and the Percent of All Work are drawn from Table 1 while the DBE Availability comes from Table 3.

**Table 4: Step One Calculation**

Type of Spending	Amount of Work (FTA)	Percent of All Work	DBE Availability	Percent of Work by DBE Availability
Construction	58,620,000	21.5%	22.91%	.0492
Procurement	144,320,000	52.9%	2.93%	.0155
Engineering (CM/GEC)	70,000,000	25.6%	29.82%	.0765
TOTAL	272,940,000			.1412

**The Step 1 DBE goal for BART is 14.12% for the FFY17-19 period.**

**6. Step Two: Adjust Base Figure, if necessary**

Step 2 makes adjustments to the Step 1 goal. The primary adjustment is to take into account the level of DBE attainment over the past three years, using a median which eliminates extremes, whether high or low.

The nature of Procurements and A&E does not change substantially from year to year, so past DBE attainment is a good predictor for future DBE attainment within those types of spending. The nature of FTA-funded construction spending for FFY 2017-19 is expected to be sufficiently similar to that of FFY2014-16 in order to utilize the DBE attainment from FFY2014-16 to make this Step 2 adjustment.

BART determined its DBE attainment for the past three fiscal years based on the uniform reports submitted to FTA:

**Table 5: BART DBE Attainment FFY14-16**

Reporting Period	DBE Attainment
FFY14	33.40%
FFY15	17.82%
Semi-annual 1, FFY16	20.08%

The median of 3 items is calculated by taking the middle of the three. This results in a median DBE attainment of 20.08% for FFY14-16. BART concludes that 20.08% is sufficiently different from the Base Figure of 14.12% that a Step 2 adjustment is necessary.

The Step 2 adjustment is obtained by averaging the Step 1 goal, 14.12%, with the median of past DBE attainment, 20.08%. This results in an initial Step 2 DBE goal of 17.10%. BART prefers to have an integer Triennial Goal, so the initial Step 2 goal was rounded to 17%.

BART FFY17-19 Proposed Triennial DBE Goal	17%
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**7. Public Comment**

*A. Consultation with minority, women’s and general contractor groups, community organizations, and other officials or organizations.*

BART consulted with minority, women’s and general contracting groups through its Business Advisory Council (BAC), which also includes community organizations. BART presented the proposed Triennial Goal and Methodology at the face-to-face BAC meeting June 29. A lengthy discussion followed. BART also sent all BAC members an email with a link to the full study and goal.

BART consulted by email with all DBE firms from the BART service area (4-county service area plus new county to be served Santa Clara). We did this by downloading the list of California-certified DBE firms from the CUCP website. Then we sorted by zip code to select only those firms with a zip code within the 5 counties. This resulted in a list of 897 DBE firms. BART composed an email that referenced the Triennial Goal study. The email was sent to the 897 DBEs on July 1, 2016.

Two DBE firms responded to the email:

OCR Public Comments, BART Triennial DBE Goal Setting, 2016

Date	Name	Company	Email	Telephone	Comment
7/1/16	Ken Castle	Ojo Technology	Ken.castle@ojotech.com	510-257-1804	1) Net worth limit not realistic in California. 2) DOT provides no advice or training to grantees on net worth. 3) Each agency interprets net worth in a different way.
7/6/16	Miles Stevens	Stevens and Associates	mstevens@stevens-arch.com	415-397-6500	Wanted to know the goal setting process and BART utilization rates. Requested reports.

*B. A published notice announcing your proposed overall goal before submission to the operating administration on August 1.*

BART published a notice regarding its overall goal on the main landing page of the Office of Civil Rights, <http://www.bart.gov/about/business/ocr>, (see Exhibit A), from July 1, 2016, up until the present.

BART also published its proposed overall DBE goal in the following publications:

- The Oakland Post
- AsianWeek
- Contra Costa Times
- San Francisco Chronicle
- Oakland Tribune

OCR received no responses from the public notice on its website and on the newspaper.

Based on the consultation and the published notice, BART does not believe that further adjustments need to be made to its Triennial Goal based on public comment. **Following the Public Comment period, BART concludes that its FFY17-19 DBE Goal is 17%.**



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### Disadvantaged Business Enterprise (DBE) Program

#### FFY 2017- 2019 Proposed Triennial DBE Goal:

We are seeking public comments on BART proposed FFY 2017- 2019 Triennial DBE goal. Proposed Goal is 18%.

We also seek comments on availability of DBEs or non-DBEs in BART's market area. If you think the availability differs from our Report, we want to know why that availability may differ for the next years from what is discussed in the Report.

Please include the following information with your comments:

- Your name
- Name of your business or organization
- Comment regarding BART's Triennial goal or the Methodology used to obtain the goal.
- Other relevant comment

The goal methodology report will be made available during regular business hours of 8:15 a.m. – 5 p.m., Monday through Friday, at BART Office of Civil Rights, 300 Lakeside Drive – 16th Floor, Oakland CA 94612 for public review and comments for 30 days from July 1, 2016 through July 29, 2016. Comments may be made to Tim Lohrenz by email: [tohren@bart.gov](mailto:tohren@bart.gov), or mail your written comments to the address above or fax your comments to (510) 464-7585.

[DBE Policy Statement](#)

[Changes to DBE Federal Regulations and BART DBE Program](#)

[BART DBE Program](#)

[BART DBE Program Appendices](#)

[Denial and Removal Procedure](#)



**8. Race Neutral and Race Conscious Components of the Overall DBE Goal**

It is important to determine the race neutral and race conscious portions of the goal. It is incumbent upon BART to attain as much of the goal by race neutral means as possible.

The methodology for obtaining the race neutral portion of the goal is to find the DBE attainment by race neutral means over the past three years and to adjust this number to the overall DBE goal.

**Race-Neutral DBE Attainment**

Reporting Period	Total FTA Contracts	Race-Neutral DBE Attainment	Race-Neutral Percentage
FFY14-FFY16 (semi-annual 1)	\$148,343,510	\$22,774,327	15.4%

The race neutral percentage of 15.4% is adjusted for the scopes of work expected for the FFY17-19 period. The primary means of race-neutral attainment for BART is in Architecture and Engineering. For the FFY17-19 period, more Procurements and less A&E are expected, compared to FFY14-16, thus the need to adjust the race neutral goal lower. The adjustment is:

Step 2 Triennial DBE goal / Median DBE Attainment past 3 years

Or, = 17% / 20.08%

= 84.66%%

For the FFY17-19 period BART proposes a Race Neutral goal of 15.4% x 84.66% or 13.00%. The Race Conscious goal is Triennial DBE Goal – Race Conscious Goal, 17% - 13.00% or 4.00%

Race-Neutral Goal	13%
Race-Conscious Goal	4%