

San Francisco Bay Area Rapid Transit District Triennial DBE Goal for FFY 2023-2025

Executive Summary

Pursuant to 49 CFR Part 26, the San Francisco Bay Area Rapid Transit District ("BART" or the "District") is required to establish an overall Triennial Disadvantaged Business Enterprise Goal (Triennial Goal) for its federally-assisted contracting activity and submit the applicable methodology to the Federal Transit Administration (FTA) for approval on August 1, 2022. Disadvantaged Business Enterprise (DBE) goals are set and managed on a Federal Fiscal Year (FFY) basis, and this document reflects activity planned for FFY23-25 (October 1, 2022, through September 30, 2025).

This document presents the District's Triennial Goal for FFY23-25 and the methodology used to establish the goal. The District's methodology follows a three-step process, consistent with the requirements contained in the regulations (49 CFR § 26.45 (c)):

1. Step One – Determine the Base Figure;
2. Step Two – Adjust the Base Figure;
3. Step Three – Project race/gender-neutral and race/gender-conscious DBE attainment.

The District proposes a Triennial DBE Goal for FFY23-25 of 23%, of which 8% is planned to be attained using race/gender-conscious (R.C.) means and 15% race/gender-neutral (R.N.) means.

1. Step One – Determination of the Base Figure (49 CFR § 26.45(c))

The first step of the goal-setting process is to determine the base figure. BART's methodology consists of three sub-steps:

- Project FTA funded contracting activity for FFY23-25
- Establish the total spend and FTA portion of the total spend
- Apply the established availability of DBEs in the appropriate market area

The Base Figure must be based on evidence of the availability of Ready, Willing, and Able DBEs relative to all businesses Ready, Willing, and Able to participate in District contracts. 49 CFR Part 26 contemplates five options for determining DBE availability:

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

In January 2017, the District's current Disparity Study findings were adopted by the District's Board of Directors. As part of this study, the consultant identified, among other things, the District's Market Area

and DBE Availability in the District's five major procurement categories (or Work Types): Construction, Procurement, Architecture and Engineering (A&E), Professional Services (non-engineering), and Other Services. The Disparity Study established DBE availability for the District for each of the above-referenced Work Types. DBE availability percentages, as well as the corresponding Market Areas identified in the Disparity Study, can be found in Table 1 below.

Table 1 - DBE Availability by Work Type

Work Type	Market Area	DBE Availability
Construction	9-county market area ¹	22.91%
Procurement	National	2.93%
Architecture and Engineering	5-county market area ²	29.82%
Professional Services (non-engineering)	State of California	11.89%
Other Services	State of California	7.22%

Base Figure - Project FTA funded contracting activity for FFY23-25

To calculate the "Step 1 Base Figure" (Base Figure), District staff compiled a list of projected FTA-funded contracts expected to be awarded in the period covering FFY23-25 (see Table 2). This list of projected contracting opportunities was received as of June 2022. It included the applicable procurement category, a brief description of the project scope, projected contract amount (in dollars), and the projected FTA funding amount (in dollars) for each contract planned for award during the applicable triennial period.

This list was obtained from internal project staff with direct knowledge of the District's contracting activities. A separate cross-functional team reviewed it, including an internal analytics group and contract compliance staff. Teams reviewed contract details for feasibility of award during the triennial period and accuracy of estimated FTA dollars. To further scrutinize the contract list, OCR continually reassessed the FTA-funded contracts list throughout the triennial goal-setting process.

Carry Over On-Call Agreements

The District identified 15 on-call agreements that have either already been advertised with an established contract goal or already been awarded; however, they will have FTA-funded task orders issued against them during FFY23-25. As a result, the 15 agreements have been included in the FFY23-25 contracts list and are identified as "Carry Over On-Call Agreements" on the contracts list in Table 2. Since the District already currently tracks actual DBE attainment for all of these carry over agreements, the District determined to account for them as a single entry (total value) when calculating the Base Figure and applying the current actual DBE attainment percentage for carry over on-call agreements. This

¹ The District's nine county market area includes the following counties: Alameda, Contra Costa, San Francisco, San Mateo, Santa Clara, Marin, Sonoma, Solano, Napa.

² The District's five county market area includes the following counties: Alameda, Contra Costa, San Francisco, San Mateo, Marin.

allows for a more accurate projection since this percentage reflects actual DBE attainment for these agreements.

Table 2: FTA Projects List

<u>Count</u>	<u>Project Name</u>	<u>Work Type</u>	<u>Estimate FTA Amount</u>
1	Sustaining Systems Engineering RFSOQ 3 @ \$6M (100% MSBE)	A&E	\$14,000,000
2	Sustaining CM RFSPQ 3 @ \$3M	A&E	\$14,000,000
3	Other - GECs	A&E	\$144,000,000
4	HMC 2 East Storage Yard	Construction	\$160,000,000
5	Switch Machine Cable and Train Control Power Supply Cable	Construction	\$11,274,157
6	Wheel Truing	Construction	\$7,165,450
7	Accessibility Improvement Program - Phase 1	Construction	\$500,000
8	Accessibility Improvement Program - Phase 2	Construction	\$3,400,000
9	15NU-150 Accessibility Improvement Program - Phase 3	Construction	\$3,450,000
10	15NU-155 Accessibility Improvement Program - Phase 4	Construction	\$3,500,000
11	P.A. System Improvements Lafayette and Powell Stations	Construction	\$1,500,000
12	Wayfinding Improvements Phase 4 (MacArthur and Ashby)	Construction	\$750,000
13	TBT CP Upgrade/Repl Equipment	Procurement	\$500,000
14	Facilities HVAC Equip Rep Ph.2	Procurement	\$1,000,000
15	Direct Fixation Pad Procurement	Procurement	\$2,641,979
16	Hayward Yard South End Connector	Procurement	\$200,000
17	Procurement and Replacement of Traction Power Equipment	Procurement	\$212,000
18	Construction of Storage for Portable Substations	Construction	\$14,500,102
19	TCCP EB TPSS Procu & Install	Construction	\$104,000,000
20	Elevator Renovation - Coliseum	Construction	\$4,745,812
21	Pitts/BP Elevator Renovation	Construction	\$6,000,000
22	REROOF FACILITIES BLDG SWD	Construction	\$1,600,000
23	REROOF FACILITIES BLDG SWD	Construction	\$800,000
24	ROW FENCING REPLACEMENT	Construction	\$560,000
25	Tunnel Waterproof R Line	Construction	\$483,000
26	Powered FlatCAR Maintenance Vehicle	Procurement	\$10,400,000
27	2 to 4 Locomotives	Procurement	\$18,720,000
28	Hi-Rail Water Truck	Procurement	\$640,000
29	1 Spot Tamper	Procurement	\$956,000
30	1 Rerail Crane	Procurement	\$1,160,000
31	Hi-Rail Combo Welding Truck	Procurement	\$480,000

32	Hi-Rail Vacuum Truck	Procurement	\$1,288,000
33	Hi-Rail Stakebed Truck	Procurement	\$220,000
34	Step Van with HI-Railer	Procurement	\$240,000
35	Assess and Repair Steel Bridge	Construction	\$320,000
36	VMware Disk Storage Array	Procurement	\$240,000
37	TRAIN CNTRL HUT REPLACE/IMP	Procurement	\$2,400,000
38	Wayside Coverboard Ant. Rplc	Procurement	\$2,516,858
39	PS/ID Antenna System	Procurement	\$825,111
40	Wayside Line Repl Unit Wayside	Procurement	\$320,000
41	MUX Cable Replacement Cable	Procurement	\$400,000
42	TRAIN CNTRL CROSSOVER REHAB	Procurement	\$480,000
43	BHU Cashbox	Procurement	\$2,799,000
44	BHU Mounting Hardware	Procurement	\$400,000
45	Next Gen Fare Gates	Procurement	\$7,098,400
46	Next Gen Fare Gates	Procurement	\$19,637,940
47	Fare Gate Renovation & Rehab	Procurement	\$240,000
48	BARTNET/CONTROL SYS HARDENING	Procurement	\$568,000
49	Tail Track Extensions-Millbrae	Construction	\$3,459,057
Carry Over On-Call Agreements			
50	Carry Over On-Call Agreements	Carry Over	\$213,845,970
		Total	\$790,436,836

Base Figure: Work Types

To establish the Base Figure, BART consolidated the projected FTA-funded contracts by Work Type to identify the total estimated FTA spend amount. By doing this, BART can apply each Work Type's DBE availability during the Base Figure weighting process, creating a more accurate projection of DBE attainment for FFY23-25. BART consolidated these contracts into three Procurement Categories (A&E, Construction, and Procurement).

As stated, the District's list of projected contracts has been consolidated by procurement type to conduct Base Figure weighing. It is important to note that the remaining FTA-funded balances of the 15 carry over on-call agreements were summed and listed as a single line item. These on-call agreements have either already been advertised with an established contract goal or have already been awarded; however, they will have FTA-funded task orders issued against them during FFY23-25. This is due to the nature of on-call agreements that continue to issue/award task orders after the original date of the Master Agreement award.

Base Figure: "Carry Over On-Call Agreement" Work Type

Actual DBE Attainment

The Carry Over Agreements were not included in the three Work Type categories. These Carry Over Agreements contracts are identified as "Carry Over On-Call Agreements" in the consolidated contract list below (Table 3). To calculate the Base Figure more accurately, the District replaced the "DBE

Availability" percentage for these contracts with the "Actual DBE Attainment" for these contracts based on the historical DBE attainment of the District's on-call agreements for the current Federal Fiscal Year (FFY22). Using actual historical DBE attainment provides a more accurate projection of future DBE attainment on these agreements since the contracting environment is expected to continue forward. The "Actual DBE Attainment" can be found in Table 3 below (26.89%).

Estimate FTA Amount

The estimated FTA amount for contracts identified as Carry Over Agreements were determined as follows:

- **Carry Over On-Call Agreements:** These are carry over on-call agreements that will have task orders issued against them throughout FFY23-25. BART reviewed burn rates for these on-call agreements to calculate the rate at which dollars were awarded and used this rate to calculate the total amount expected to be awarded during FFY23-25.

Table 3: Work Type by DBE Availability/Attainment

Work Type	Estimate FTA Amount	DBE Availability / Actual DBE Attainment
A&E	\$172,000,000	29.82%
Construction	\$328,007,578	22.91%
Procurement	\$76,583,288	2.93%
Carry Over On-Call Agreements	\$213,845,970	26.89%
Total	\$790,436,836	

Weighted Base Figure

As shown below in Table 4, to determine Work Type weights (percent of all work), the District summed the projected contracts by Work Type to identify the total "Estimate FTA Amount" by Work Type.

Next, the District divided each Work Type total by the total estimated FTA amount, resulting in the Percent of All Work for each Work Type as detailed below.

The Weighted Availability/Attainment was calculated by multiplying the Percent of All Work by the corresponding DBE Availability/Attainment percentage.

Example Calculation for A&E (as shown in Table 4):

- **Percent of All work:** $\$172,000,000 / \$790,436,836 = \underline{21.8\%}$
- **DBE Availability:** Based on availability identified in the Disparity Study, 29.82%
- **Weighted Availability:** $21.8\% \times 29.82\% = \underline{6.5\%}$

Table 4: Weighted Base Figure

Work Type	Estimate FTA Amount	Percent of All Work	DBE Availability³ / Actual DBE Attainment	Weighted Availability / Attainment
A&E	\$172,000,000	21.8%	29.82%	6.5%
Construction	\$328,007,578	41.5%	22.91%	9.5%
Procurement	\$76,583,288	9.7%	2.93%	0.3%
Carry Over On-Call Agreements	\$213,845,970	27.1%	26.89%	7.3%
Total	\$790,436,836			23.6%

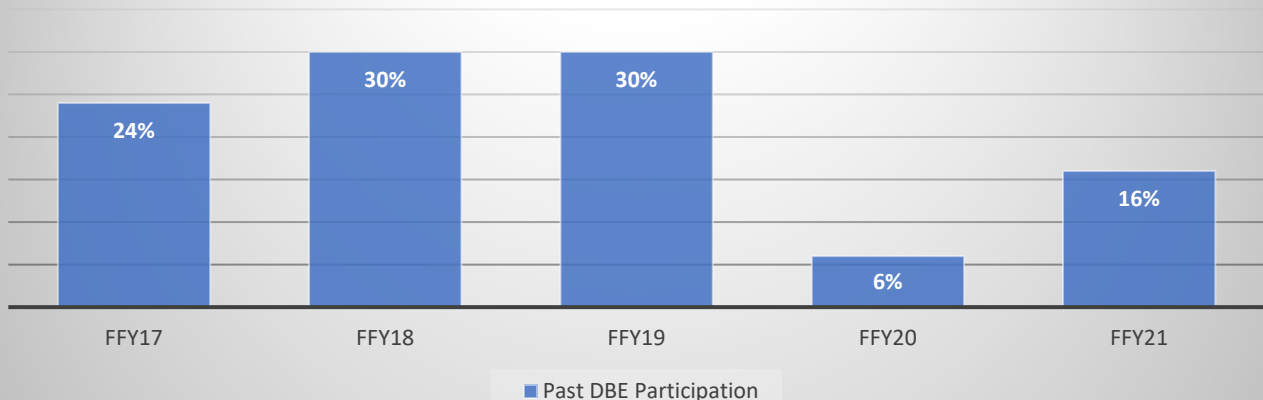
The Weighted Availability/Attainment for each Work Type was summed to obtain a Weighted Base Figure of **23%** (the percent was rounded as the District prefers an integer goal).

2. Step Two – Adjustment of the Base Figure (49 CFR § 26.45(d))

Step 2 adjustment using "Past Participation method"

The District used the Past Participation method to determine if an adjustment to the FFY23-25 Base Figure was necessary. As mentioned, the District reviewed the contracting environment for previous years and identified many similar scopes of work projected to be awarded during FFY23-25. As shown in Table 5, over the past five federal fiscal years (FFY17-21), the median past participation was 24% (FFY17) which indicates that the District's base figure (23.6%) aligns with past DBE participation. As a result, no adjustment was necessary.

Table 5: Past DBE Participation FFY17-21



Evidence from disparity studies conducted anywhere within your jurisdiction, to the extent it is not already accounted for in your base figure (49 CFR § 26.45(d)(2)(ii))

The District reviewed Disparity Studies produced by other local transportation agencies (including CalTrans, SFMTA, VTA/SamTrans/Caltrain). The review found that the jurisdictions did not have as many Procurement Types as the District or the same relevant geographic market areas as the District. No evidence was identified in these studies that were not accounted for in the District's Study. Therefore, the District determined not to make adjustments based on the Disparity Studies completed by other jurisdictions.

Public Comment (49 CFR § 26.45(g)(1)(i))

Consultation with minority, women's and general contractor groups, community organizations, and other officials or organizations (49 CFR § 26.45(g)(1)(i))

Pursuant to the regulations, the District conducted extensive outreach and public participation seeking:

1. Any information that any entity may possess that would aid in the setting of the District's Triennial Goal
2. Input from minority, women's, general contractor groups, community organizations, and other officials or organizations.

To engage the community and receive public comment regarding the District's Triennial DBE goal and methodology, the District conducted four virtual events open to the public via Zoom. The District sought to receive information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and efforts to establish a level playing field for the participation of DBEs. One of the four virtual events included a BART vendor-focused public participation meeting where District could speak openly about any challenges and opportunities they face on federally funded contracts. Thousands of agencies and members of the community were notified of these events. This includes but is not limited to minority and women-owned businesses as

well as small businesses. These notifications also informed the public that their comments could be sent to the District via email, mail, fax, or submitted online (See Attachment A). These events were held on the following dates:

1. May 4, 2022
2. May 18, 2022
3. June 3, 2022
4. June 8, 2022

Business Outreach Committee (BOC)

The District partnered with the BOC⁴ to conduct two virtual public participation meetings, which were held on April 11, 2022, and April 26, 2022. The meetings included presentations to small businesses to provide information on upcoming contracting opportunities, receive input on the goal-setting process, and discuss information they may have concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and agency efforts to establish a level playing field. Public comments received can be found in Attachment B.

Business Advisory Council (BAC)

The District consulted with minority, women's, and general contracting groups through the BAC, which also includes community organizations. The District presented the proposed Triennial DBE Goal and Methodology at the BAC meeting held on April 20, 2022, and June 15, 2022. Attendees of this meeting were given an opportunity to comment on the District's goal-setting process. The District also notified participants that comments could be provided anonymously and could be provided after the event via email. One comment was received, see below.

Date	Name	Email	Comment
4/20/2022	Jesus Vargas	jvargas@vsceinc.com	Consider increasing Base Figure to 26% so it will be higher than the C.A. state goal of 25%.

Community-Based Organization, Chamber of Commerce/Trades Groups, Government Agencies Outreach

The District consulted by email with various local community organizations and agencies. Invites were sent to over 170 organizations around the Bay Area and the State of California. A diverse group of organizations was contacted. Examples include the Hispanic Chamber of Commerce of San Francisco and the Oakland African American Chamber of Commerce. The District wanted to ensure that communities of all backgrounds had an opportunity to provide any information that they had regarding the contracting environment. The District requested that these agencies provide comments and invited

⁴ The BOC is a consortium of Bay Area transit and transportation agencies whose goal is to assist small and disadvantaged companies in doing business with Bay Area Transportation Agencies.

them to attend the District's Public Participation meetings. The email was sent on April 27, 2022. No comments were received.

To ensure an appropriate dialogue was available, the District also engaged community-based organizations via email to bring the conversation to them. Specifically, we notified these organizations that the District would be happy to speak about the upcoming Triennial Goal at their meetings. The email was sent on May 9, 2022. As a result of this outreach, District staff presented the Triennial Goal methodology at an Association of General Contractors meeting held on July 28, 2022 (see Attachment C). No comments were received.

Business Community

The District consulted with firms by email using the District's outreach databases. Almost 9,000 firms were notified via email about the public participation meetings. The District composed an email referencing the Triennial Goal study and notified firms that they could provide public comment via telephone, email, fax, or online if they chose not to attend a public participation meeting. Emails were sent to firms multiple times throughout the public participation process.

The District received the following public comments:

Table 6: Comment Log

Date	Name	Company	Email	Comment
5/18/22	Gboyega Aladegbami	AEKO Consulting	Not provided	To increase capacity, do the following: 1) Create a small pool of set-asides targeted to new businesses with BART to gain the needed experience. Also, modify the good-faith effort to have BART be notified of any difficulty in locating a DBE. It can then broadcast the information to the DBE community for action.
5/28/22	Maura Baldwin	Panoramic Design Group Landscape Architecture	mbaldwin.pdg@gmail.com	It does not seem to be effective for A&E design consultants. Please consider tracking how many and which design firms are selected as DBEs for projects. I have been a DBE for years. I am on a rather short list of Landscape Architect DBEs. I have been selected as DBE on a project one time via word of mouth. Who is getting these projects? How do A&E design consultants get their foot in the door? Thank you.

6/8/22	Leroy Brock	Professional Glass Installations Inc.	Not provided	<p>Yes, I think SBE goals and DBE goals should be met separately, or the DBE goal should be increased.</p> <p>Yes. Some small non-union companies who are DBE certified cannot meet all the PSA requirements. I.E. hiring a union worker before hiring himself if he planned on being the labor.</p>
6/8/22	J.D. Stewart	StygianHC	Not provided	Creating a way for legitimate DBEs to connect to BART's procurement system.

A published notice announcing your proposed overall goal before submission to the operating administration on August 1 (49 CFR § 26.45(g)(1)(ii))

The District 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 below), from June 8, 2022, until the present.

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

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

The District received no responses from the public notice on its website and in 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, the District concludes that its FFY23-25 DBE Goal is 23%.**

Exhibit A: District Public Notification on BART.gov Website (July 8, 2022)

bart.gov/about/business/ocr

LATEST NEWS

San Francisco Bay Area Rapid Transit District Proposed Triennial Disadvantaged Business Enterprise Goal

Federal Fiscal Years 2023 through 2025

The San Francisco Bay Area Rapid Transit District (District) has updated its proposed Triennial Disadvantaged Business Enterprise (DBE) goal for Federal Transit Administration (FTA) assisted projects during federal fiscal years 2023 through 2025 (October 1, 2022 - September 30, 2025), to be submitted to the FTA in August 2022 for approval.

The District will achieve its DBE goal using race and gender-conscious measures, as well as race and gender-neutral measures. The District proposes an overall goal of 23% for FFY 2023-2025 for FTA-assisted projects, of which 8% is race-conscious and 15% is race-neutral. The proposed overall DBE [goal and methodology are posted here](#) for review. BART will accept public comments for a 30-day period beginning June 8, 2022 and ending July 8, 2022.

Public comments will be accepted via:

Email: JTowner@bart.gov

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

Fax: (510) 874-7470

Mail: 2150 Webster St, BART HQ, Oakland, CA 94612.

3. Step Three – Race/Gender-Neutral and Race/Gender-Conscious Components of the Overall DBE Goal (49 CFR § 26.51(a))

Pursuant to (49 CFR § 26.51(a)), 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 elected to identify the RC/RN split by examining median past R.N. attainment. As shown in Table 7 below, the median past R.N. attainment was 15% which occurred in FFY18. This 15% R.N. attainment was then divided by 24% (the median past DBE attainment) to identify the percentage of the base figure to be met race-neutrally ($15\%/24\% = 64\%$). 64% was then multiplied by the 23% base figure to identify a R.N. amount of **15%**.

Table 7: Past R.N. Attainment

FFY	Past Participation
FFY17	22%
FFY18	15%
FFY19	22%
FFY20	1%
FFY21	13%

Race/Gender-Neutral Summary

The race/gender-conscious portion was calculated by subtracting the race/gender-neutral portion from the proposed DBE goal. A summary of the proposed goal can be found in Table 8 below.

Table 8: Proposed Goal Breakdown (FFY23-25)

Race/Gender-Neutral Goal	15%
Race/Gender-Conscious Goal	8%
Overall Goal	23%

Review of the Project Portfolio

Staff conducted an initial review of the proposed portfolio to determine, among other things, if the nature of the project portfolio was similar or discordant with prior years' contracting activity. This was accomplished by conducting a review of the District's contracting activity for the past three (3) Federal Fiscal Years.

Most of the projected contracts for FFY23-25 reflect similar scopes of work as the District recently awarded. For example, the District expects to award general engineering on-calls, train control, and accessibility contracts, all regular scopes of work that the District routinely contracts. When comparing the nature and extent of the distribution of FTA dollars, the distribution is on par with what we have done in the past (excluding FFY20). Specifically, on-call agreements make up a significant portion of the projected awards, as they have done in the past. The FFY23-25 distribution of awards is most closely tied to the FFY19 awards distribution, as shown in Table 9 below.

Table 9: Distribution of FTA Dollars

Work Type	FFY23-25 (Projected)	FFY21	FFY20	FFY19
On-Call Agreements ⁵	49%	51%	3%	56%
Construction	41%	21%	96%	44%
Procurement	10%	29%	0%	0%

Considerations should be made when comparing to FFY20. As mentioned in the District's previous Triennial Goal narrative submitted to the FTA in 2019, a massive \$700M+ design-build carryover contract was awarded during the FFY19-22 triennial period. This carryover contract had a low DBE contract goal and significantly impacted the District's DBE attainment when it was awarded in FFY20. As mentioned to the FTA in the District's 2020 shortfall analysis, the District plans to apply for project-specific goals for design-build contracts of this size to reduce the impact on the District's DBE attainment.

Race/Gender-Neutral Support

The District also considered the impact of any initiatives on the planned RC/RN attainment. A summary of the major items is below:

Small Business Support Services (SBSS)

In 2018 the District awarded, for the first time, a multi-year contract to a consultant to the BART Office of Civil Rights to provide Small Business Support Services (SBSS). The SBSS contains pre- and post-bid support to small businesses (including all DBEs and potential DBEs) to help firms successfully prepare for, bid, win, and execute work on BART construction projects. In FY2021, the SBSS team provided technical assistance to more than 400 small business firms. Due to the continued use of race-conscious goals on construction projects, the impact SBSS has had on race-neutral attainment is unclear.

Micro Small Business Entity (MSBE) Set-Aside Contracts

For FFY23-25, the District plans to set aside up to 10 MSBE contracts. Due to the relatively low dollar value of these contracts, no adjustment to the RC/RN split has been made.

Conclusion

After a thorough review of the District's projected race/gender-neutral attainment, current and future initiatives, BART does not believe there is a basis for adjusting its race/gender-neutral goal up or down from 15%. Correspondingly, the race/gender-conscious goal will remain at 8%, with an overall goal of 23%.

⁵ "On-Call Agreements" combines A&E, Professional Services, and Other Technical Services agreements for comparison purposes.