

The Eastern Contra Costa Transit Authority



Disadvantaged Business Enterprise Goal

FY 2017 through FY 2019

DBE Liaison Officer: Joseph Chappelle

Pursuant with 49 CFR Part 26, established by the federal government with the intent of leveling the competitive playing field among firms owned by historically disadvantaged business owners, and as a recipient of federal monies through the Federal Transit Administration, the Eastern Contra Costa Transit Authority (ECCTA) has completed its goal setting and methodology for its Disadvantaged Business Enterprise (DBE) program.

Summary

In determining its DBE goal for the fiscal period of October 1st, 2016 through September 30th, 2019, ECCTA looked over the amount of monies it was receiving from the FTA and determined if there were any completed, active, or planned contracting opportunities that existed for those monies that totaled, in aggregate, over \$250,000. It then determined a figure that represented the percent of DBE participation that would be expected if there existed a level playing field between DBE firms and non-DBE firms. This methodology was then brought before relevant stakeholders in the DBE community before the DBE percent goal was finally decided to be 4.20%. It was posted on our website and is available for review: [Tri Delta Transit - Disadvantaged Business Enterprise](#)

FTA Monies

ECCTA receives its FTA-connected monies at the discretion of the Metropolitan Transportation Commission. These monies include monies from the Job Access and Reverse Commute program, Section 5307 grants, and others. Due to the nature of how MTC determines its funding allocation, the amount of money that ECCTA receives from these funding sources can vary, and are often blocked off for specific purposes, such as bus replacement and repair.

ECCTA contracts its fixed-route and Paratransit services to a private contractor, First Transit. When the contract came up for renewal in July of 2016, no bids from DBE firms were received. However, since it would be technically possible to “unbundle” the contract to extend a contracting opportunity to a DBE firm for, say, Paratransit services, ECCTA reviewed the number of firms, both DBE and non-DBE, that could potentially be available for such an opportunity. Using data from the United States Census¹ and from California’s Department of Transportation UCP², ECCTA decided that the information available on the representative NAICS codes (485113 and 485991 for Bus Transit and Paratransit respectively) did not accurately represent the businesses that would prove ready, willing, and able if such an opportunity were to exist because it was unclear if the Census data included public agencies (such as ECCTA), and would therefore result in ECCTA counting itself in its analysis, and because the DBE companies listed on the UCP neither offered services that would fit ECCTA’s purposes nor were located within ECCTA’s local market area.³ For example, one company specialized in charter bus services, while another specialized in limousine transportation and both were in the Los Angeles area. For these reasons, the firm totals were

¹ As found with the U.S. Census data tool, American FactFinder, Geography Area Series: County Business Patterns, 2014 Business Patterns

² http://www.dot.ca.gov/hq/bep/find_certified.htm

³ ECCTA’s market area is defined as the approximate area within a 100 mile radius from its facility.

not used in the analysis for ECCTA’s DBE goal, as this would have provided an inaccurate picture of DBE availability. However, ECCTA will continue to evaluate its operations contract to ensure any newly-emerging DBEs are presented the opportunity to compete.

Beyond this, ECCTA found that one contracting opportunity did exist for a project in the form of the installation of four electric charging stations upon ECCTA’s facility grounds.

Base Figure

To determine its base figure, ECCTA looked at the potentially necessary NAICS codes that would be involved in the aforementioned project, within the confines of its market area. Determining that only one NAICS codes would likely come into play, ECCTA then used data from the United States Census⁴ and the data from California’s Department of Transportation UCP⁵ to determine the following:

	NAICS Code	Project	Total:	% Total
1)	238210	Electric Charging Stations	\$370,500.00	1.0000
Total FTA-Assisted Contract Funds			\$370,500.00	1

	NAICS Code	Project	DBEs Available	All firms available	Relative Availability
1)	238210	Electric Charging Stations	102	2428	0.0420

ECCTA then weighted these values according to the cost estimates of the project to get a weighted base figure:

	NAICS Code	Project	Weight	x	Availability	Weighted Base Figure
1)	238210	Electric Charging Stations	1.00000	x	0.04201	0.0420

This established a base figure of 4.20%.

Adjustments

In an attempt to adjust the base figure to a more realistic depiction of DBE activity, ECCTA looked at possible sources of information that could be used to adjust the base figure:

⁴ As found with the U.S. Census data tool, American FactFinder, Geography Area Series: County Business Patterns, 2014 Business Patterns

⁵ http://www.dot.ca.gov/hq/bep/find_certified.htm

- Due to the infrequency of contracting opportunities that met the \$250,000 threshold, past participation in ECCTA's contracting opportunities were discounted. The last contracting opportunity that meet 49 CFR requirements occurred in 2004; therefore any data from that time period would be out-of-date and an inaccurate reflection of today's current DBE availability and participation. This lack of information also impacted how ECCTA defined its local market area.
- BART recently completed a [disparity study](#), published in January 2017, that could be a potential source of data that could be used in adjusting ECCTA's base figure. However, despite showing that disparities existed among firms owned by a minority class, it only provided information for disparities in a broad class of categorization (e.g. Construction, Professional Services, etc.), rather than specific NAICS codes. As such, the disparity study data could not be used for an adjustment to create a more realistic figure.

For these reasons, no further adjustment was deemed possible or necessary.

Race-Neutral/Race-Conscious

Consistent with the intent of leveling the competitive playing field for DBE firms, the United States Department of Transportation (DOT) requires that the maximum feasible portion of this overall goal be achieved by race-neutral means. That is to say, whenever a DBE firm wins a prime contract through normal competitive means, receives a subcontract from a prime that does not have a DBE goal attached, or receives a subcontract from a prime that did not consider its DBE status when making the award, it is considered to have done so through race-neutral means.

Race-conscious means, then, are those means that take race into consideration (such as contract goals). However, two complications arise in this area: one, California Proposition 209 requires that race-conscious means for contracts only apply to U.S. DOT-funded contracts; and two, the Ninth Circuit Court of Appeals ruled that race-conscious means can only be used on U.S. DOT-funded contracts when there is evidence of discrimination against specific groups.⁶

ECCTA strives to meet its goal through race-neutral means. It further believes that it can meet its 4.20% overall goal race-neutrally. However, given that BART's 2017 disparity study identified discrimination existed among DBE businesses in general, ECCTA will use race-conscious means to meet any remainder of its goal not met by race-neutral means should the need arise.

⁶ (Western States Paving v. Washington State DOT 2009)

Public Participation

On March 30th, 2017, ECCTA held a consultation meeting and invited the following stakeholders:

Contra Costa Black Chamber of Commerce	Hispanic Chamber of Commerce of Contra Costa County	Antioch Chamber of Commerce	Pittsburg Chamber of Commerce
Brentwood Chamber of Commerce	Oakley Chamber of Commerce	Contra Costa Small Business Development Center	

No one, outside of ECCTA's DBE Liaison Officer and Chief Operating Officer, attended the meeting.

Conclusion

Without further input as to the accuracy of DBE participation within ECCTA's market area, ECCTA's DBE goal remains at **4.20%**. ECCTA will continue reviewing its contracting opportunities, as well as the DBE landscape, for any changes that may become necessary.