

Eastern Contra Costa Transit Authority

Proposed Three-Year Overall Disadvantaged Business Enterprise (DBE) Goal and Methodology

FFY 2023 through FFY 2025

Introduction

Eastern Contra Costa Transit Authority (ECCTA) implements a Disadvantaged Business Enterprise (DBE) Program in accordance with Title 49 of the Code of Federal Regulations, Part 26 (49 CFR Part 26). The DBE regulations require United States Department of Transportation (U.S. DOT) recipients to implement a DBE program and set triennial DBE participation goals.

The methodology to calculate the triennial DBE participation goal is a two-step process described in 49 CFR Part 26. Step-One of the methodology establishes a base figure for the anticipated U.S. DOT-assisted contracts to be awarded in the period. The base figure is derived from the relative availability of ready, willing and able DBEs in relationship to all comparable businesses that are ready, willing and able to participate in the anticipated U.S. DOT-assisted contracts. Step-Two relies on ECCTA's examination of evidence from its local market area to determine if an adjustment to the base figure is needed.

The DBE goal reflects ECCTA's determination of the level of DBE participation expected absent the effects of discrimination. As a recipient of federal money through the Federal Transit Administration (FTA), ECCTA has included a narrative description accompanied by tables and calculations in its goal setting and methodology to provide a clear explanation of how ECCTA developed the DBE goal for FFY 2023-2025.

Federal Transit Administration (FTA)- Assisted Contracting Opportunities for FFY 2023-2025

During FFY 2023-2025, ECCTA anticipates receiving \$1,980,000 in Americans with Disabilities Act (ADA) operating assistance. ECCTA currently contracts its fixed-route and paratransit services to a private contractor, First Transit, and applies the ADA operating assistance toward supplementing the cost of operating ADA paratransit service.

Table 1 reflects the anticipated FTA-assisted contracting opportunities subject to the overall triennial goal period of FFY 2023-2025.

Table 1- FTA-Assisted Contracting Opportunities

Description of Contract	FTA Dollars
ADA operating assistance	\$1,980,000
Total	\$1,980,000

Goal Methodology

Step-One: Determining Base Figure

Base figures were calculated for contracts to be awarded during FFY 2023-2025 to determine the relative availability of DBEs in specific areas of expertise using the North American Industrial Classification System (NAICS) codes. ECCTA examined NAICS codes that would be associated with transportation providers able to provide Tri Delta Transit’s fixed route and paratransit service. At this time, ECCTA contracts with one transportation provider for these services. The layout of ECCTA’s facility in Antioch, California currently is only able to accommodate one contracted transportation provider. Limited facility space and parking space, as well as the current design and layout of ECCTA’s facility, and additional costs associated with housing two transportation providers, reasonably allow for only one contracted transportation provider. The NAICS code, description, and associated contracting opportunity are identified in column A, B and C of Table 2.

Table 2-NAICS Code and Associated Contracting Opportunity

A. NAICS CODE	B. NAICS DESCRIPTION	C. CONTRACTING OPPORTUNITY
485113	Bus and other Motor Vehicle Transit Systems	ADA operating assistance

Number of DBEs: To determine the number of DBEs in ECCTAs nine county market area, ECCTA searched the California Department of Transportation’s CUCP¹ database for DBEs that are certified in the identified NAICS code. The number of DBEs identified is displayed in column C of Table 3.

Number of All Firms (DBEs and non-DBEs): To determine the number of all firms (DBEs and non-DBEs) in ECCTAs nine county market area, ECCTA searched the United States Census Bureau’s most recent California Business Patterns (CBP)² database for all firms in the identified NAICS code. Numbers of all firms identified are displayed in column D of Table 3.

¹ <https://dot.ca.gov/programs/civil-rights/dbe-search>

² As found with the U.S. Census data tool, County Business Patterns, CBP Tables 2019

Relative Availability of DBE Firms: Relative availability is derived by dividing the number of DBEs available in a particular NAICS code by the number of all firms in that NAICS code. Column E in Table 3 displays the relative availability of DBE firms for the associated NAICS code.

Table 3- DBE Availability by NAICS Code

A. NAICS CODE	B. NAICS DESCRIPTION	C. DBEs AVAILABLE TO PERFORM THIS WORK	D. ALL FIRMS AVAILABLE	E. RELATIVE DBE AVAILABILITY
485113	Bus and other Motor Vehicle Transit Systems	0	16	0

Calculating Weighted Base Figure: Contract dollars of each industry classification were divided by the total contract dollars resulting in percentage of total dollars per classification. This weighted percentage is displayed in column D of Table 4.

Table 4- Calculating Weighted Base Figure

A. NAICS CODE	B. CONTRACTING OPPORTUNITY	C. FTA DOLLARS	D. WEIGHTED % OF TOTAL FTA DOLLARS	E. DBE AVAILABILITY	F. BASE FIGURE
485113	ADA operating assistance	\$1,980,000	1	0	0
	Total	\$1,980,000	1	Overall Base Figure	0

Overall Goal Base Figure: The base figure for the overall goal was calculated by multiplying the weighted percentage of funds to be expended for each NAICS code by DBE relative availability for each NAICS code. With only one contracting opportunity at this time with zero DBEs available in ECCTA's local area market for this contracting opportunity, the result is a 0 (zero)% overall base figure.

Step-Two: Adjusting Step-One Base Figure

49 C.F.R. Section 26.45 Part 26 requires an examination of available relevant evidence to determine what additional adjustment to the Base Figure is needed, if any, to narrowly tailor the Base Figure to ECCTA's marketplace and to establish the overall goal. To adjust the base figure, ECCTA reviewed and assessed other known evidence potentially impacting the relative availability of DBEs within ECCTA's local market area, in accordance with prescribed narrow tailoring provisions set forth in 49 CFR Part 26.45. Evidence considered in making an adjustment to the base figure included ECCTA's past DBE participation, disparity studies, and consultation/public participation information.

ECCTA did not consider past participation as relevant for adjusting the base figure. Due to the infrequency of contracting opportunities that met the \$250,000 threshold in past years, past participation in ECCTA's contracting opportunities was discounted.

ECCTA reviewed disparity studies in its local market area and found a San Francisco Bay Area Rapid Transit District (BART) Disparity Study issued on January 12, 2017³ and a California Department of Transportation (Caltrans) Disparity Study that was completed on August 6, 2021⁴.

The BART Disparity Study documented a statistically significant disparity in construction procurements for African American owned firms, Asian American owned firms, Hispanic American owned firms and Caucasian female owned firms. The BART Disparity Study also documented a statistically significant disparity in professional services procurements for Asian American owned firms, Hispanic American owned firms and Caucasian female owned firms.

ECCTA did not find the BART Disparity Study to be relevant to ECCTA as BART's marketplace is significantly larger than ECCTA's marketplace and the types of contracts awarded by BART are not substantially similar to the contracts awarded by ECCTA.

The Caltrans Disparity study "examined disparity analysis results separately for construction and professional services work to assess whether contracting outcomes differ by industry... minority- and woman-owned businesses considered together exhibited substantial disparities on both construction (disparity index of 73) and professional services (disparity index of 50) contracts. Results for individual groups indicate that:

- All groups except non-Hispanic white woman-owned businesses (disparity index of 133) and Native American-owned businesses (disparity index of 81) showed substantial disparities on construction contracts. A disparity index of 81 indicates a disparity, but it does not reach the threshold to be considered substantial.
- All groups except Subcontinent Asian American-owned businesses (disparity index of 110) showed substantial disparities on professional services contracts."

ECCTA did not find the Caltrans Disparity Study to be relevant to ECCTA. The 2021 Caltrans Disparity Study is based on the statewide marketplace. ECCTA's marketplace consists of the counties of Alameda, Contra Costa, Marin, Sacramento, San Francisco, San Mateo, San Joaquin, Santa Clara and Solano. ECCTA does not believe the general statewide statistical findings of the disparity study can be interpolated to ECCTA's limited market area given the demographic differences between the various regions in California. In addition, the types of contracts awarded by Caltrans are not substantially similar to the contracts awarded by ECCTA.

³ As found in the January 12, 2017 San Francisco Bay Area Rapid Transit District Disparity Study Volume 1 https://www.bart.gov/sites/default/files/docs/VI.BART%20Final%20Report.Volume%20I.1.12.2017_1.pdf

⁴ As found in the August 6, 2021 Caltrans Disparity Study <https://dot.ca.gov/-/media/dot-media/programs/civil-rights/documents/disparity-study/caltrans-disparity-study-2021-final-report.pdf>

Based on this information, ECCTA did not make any adjustments to its overall base figure.

ECCTA is a member of the Business Outreach Committee (BOC) in the San Francisco Bay Area. The BOC is a consortium of San Francisco Bay Area Transit and Transportation Agencies. BOC members include: Alameda-Contra Costa Transit District, Alameda County Transportation Commission, California Department of Transportation, California High Speed Rail Authority, Central Contra Costa Transit Authority, City of Rio Vista, City of Santa Rosa, Eastern Contra Costa Transit Authority (Tri Delta Transit), Golden Gate Bridge Highway and Transportation District, Livermore Amador Valley Transit Authority, Marin Transit, Metropolitan Transportation Commission, Napa Valley Transportation Authority, San Francisco Bay Ferry/WETA, San Francisco County Transportation Authority, San Francisco Bay Area Rapid Transit District, San Francisco Municipal Transportation Agency, San Mateo County Transit District/Peninsula Joint Power Authority, Santa Clara Valley Transportation Authority, Santa Cruz Metropolitan Transit District, Solano County Transit, Sonoma County Department of Transportation and Public Works, Sonoma-Marin Area Rail Transit District, Transbay Joint Powers Authority and Western Contra Costa Transit Authority.

ECCTA participates in BOC group programs, activities and efforts in the San Francisco Bay Area. These efforts help to create a level playing field on which DBEs and small businesses can compete fairly, enhance outreach and communication efforts with these firms, and provide appropriate assistance and information for participation in DOT-assisted contracts. Through the BOC, ECCTA conducts outreach to introduce procurement opportunities to construction firms, professional services firms, product suppliers and manufacturers. The BOC publishes a quarterly "Contracting Opportunities" newsletter that features contracting opportunities, resources, and guidance for small businesses and DBEs. ECCTA publishes its contracting opportunities in the newsletter and has placed the most current issues of the newsletter on its website at <http://trideltatransit.com/business-dbe.aspx>

In collaboration with other BOC members, ECCTA will conduct a Consultation Meeting on April 11, 2022 and a series of Public Participation Meetings on April 11, 2022 and April 26, 2022. The Consultation Meeting and Public Participation Meetings will be held virtually over the Cisco WebEx Platform due to the ongoing COVID-19 pandemic. All interested parties are able to comment on ECCTA and other member agencies proposed overall DBE goals for contracts and procurements that may be financed in whole or in part by FTA funds for FFY 2023-2025. In addition to a comment period for input on proposed DBE goals, the meetings include an overview of the DBE program, a DBE goal setting exercise, and notice of upcoming contracting opportunities.

The BOC asks questions at the Consultation Meeting to get feedback on issues within the DBE/SBE community, challenges to the DBE program, and how agencies can better assist DBEs/SBEs. The questions include:

- What are the major barriers for your members in competing for contracting opportunities?
- What trades are there a lack of/plethora of DBE participation?
- What types of technical assistance do your members need most?
- Do you have suggestions for resources and references that the BOC should develop, maintain,

and disseminate to your members?

- How can the BOC assist you in your mission?

A published notice announcing the proposed overall goal was posted on ECCTA's website on March 7, 2022. The announcement informed the public that the proposed overall goal and its rationale were available for inspection online at www.TriDeltaTransit.com/business-dbe.aspx or in-person during normal business hours at its administrative office in Antioch, California for a thirty day comment period. ECCTA posted the notice on its website: www.TriDeltaTransit.com/business-dbe.aspx

Race-Neutral/Race-Conscious

Consistent with the intent of leveling the competitive playing field for DBE firms, the U.S. DOT requires the maximum feasible portion of the DBE overall goal be achieved by race-neutral means. When 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, such as contract goals, take race into consideration. 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 in *Western States Paving Co, Inc. v. Washington State Department of Transportation*, 407 F.3d 983 (9th Cir. 2005), that race-conscious means can only be used on U.S. DOT-funded contracts when there is evidence of discrimination against specific groups.

ECCTA strives to meet its goal through race-neutral means. However, given that BART's disparity study identified a disparity exists, ECCTA will consider requesting approval from the FTA to use race-conscious means if it determines the need in the future.

FFY 2023-2025- Overall DBE Goal for ECCTA

ECCTA's proposed overall DBE goal for FTA-assisted contracts for FFY 2023-2025 is 0 (zero)%. ECCTA will continue reviewing its contracting opportunities for any changes that may become necessary. A revised DBE goal will be set if any new FTA-assisted contracting opportunities arise during the Federal fiscal period of October 1, 2022 through September 30, 2025.

Contact Information:

Eastern Contra Costa Transit Authority

Tania Babcock

DBE Liaison Officer

(925) 754-6622

civilrights@eccta.org

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