

DATE: June 30, 2014

TO: Transportation Commission

FROM: Greg Diehl, CRBRC Director/DBELO and Joshua Laipply, P.E. Chief Engineer

SUBJECT: Proposed FTA DBE Overall Goal

Purpose

In accordance with 49 CFR Part 26, on a triennial basis CDOT must establish an overall Disadvantaged Business Enterprise (DBE) goal for Federal Transit Administration (FTA)-assisted contracts.

Action

CDOT is requesting a resolution to approve its proposed overall goal of 2.88% for FTA-assisted contracts for Federal Fiscal Years (FFY) 2017-2019.

Background

CDOT's current FTA DBE overall goal is 1.31%. A new goal must be established every three years using the methodology set forth in 49 CFR 26.45. This goal is established and tracked separately from CDOT's Federal Highway Administration (FHWA) overall goal. It applies primarily to CDOT's Division of Transit and Rail (DTR), which receives, distributes, and oversees the use of federal funds received by FTA.

Details

The attached document details the methodology used by the CDOT Civil Rights and Business Resource Center (CRBRC) to establish its FTA DBE overall goal. As described in the methodology, CDOT evaluated the actual contracting opportunities to be offered using FTA funds, the ready, willing and able DBEs to participate in such opportunities, and other relevant evidence in order to determine its overall goal. CDOT proposes an FTA DBE goal of 2.88% for the three-year period, from October 1, 2016 through September 30, 2019 (FFY 2017-2019). CDOT expects to meet the full 2.88% with race-neutral measures.

The significant change from 1.31% to 2.88% is a result of past participation on CDOT FTA-assisted contracts. While the weighted availability of DBEs is quite low and there are few DBEs in rural areas, there is a handful of DBEs that regularly provide consultation to grant partners. As a result, CDOT often exceeded its overall goal of 1.31%. Consideration of past participation is evidence that USDOT recommends CDOT consider when establishing the goal.

While this goal may seem low compared to CDOT's FHWA goal and goals of other Denver-metro agencies, CDOT's FTA DBE overall goal is significantly higher than that of its FTA region counterparts. North Dakota is the next highest with a goal of 1.15% and Montana is the lowest with .20%. Utah has a goal of .36%.

Key Benefits

The DBE program seeks to ensure non-discrimination in the award and administration of FTA assisted contracts and to create a level playing field on which DBEs can compete fairly for FTA-assisted contracts.

Next Steps

Upon approval of the Transportation Commission, the proposed FTA DBE goal will be submitted to FTA. FTA may approve, reject or request modification of the goal. This may lead to adjustments to the FTA DBE overall goal for FFY 2017-2019.

Attachments

Proposed Resolution

FTA DBE Goal Methodology



TC Resolution -

WHEREAS, in accordance with 49 CFR Part 26, CDOT must establish an overall goal for Disadvantaged Business Enterprise (DBE) participation on all FTA-funded contracts for Federal Fiscal Years 2017, 2018 and 2019; and

WHEREAS, CDOT must follow the procedures established by 49 CFR Part 26 to calculate its overall goal; and

WHEREAS, CDOT has developed a methodology based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on CDOT's FTA-assisted contracts; and

WHEREAS, the methodology includes the base figure and the evidence with which it was calculated, the adjustments CDOT made to the base figure, and the evidence CDOT relied on for the adjustments; and

WHEREAS, the goal reflects CDOT's determination of the level of DBE participation it would expect absent the effects of discrimination; and

WHEREAS, CDOT consulted with groups and organizations which could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and CDOT's efforts to establish a level playing field for the participation of DBEs; and

WHEREAS, CDOT published its methodology on its website on July 8, 2016 and provided notice to stakeholders via email; and

WHEREAS, 49 CFR Part 26 requires that the maximum feasible portion of the goal be met with race and gender neutral means.

NOW THEREFORE BE IT RESOLVED:

- By August 1, 2016, CDOT shall submit to FTA the proposed overall goal of 2.88% DBE participation on all FTA-funded contracts, with the entire 2.88% to be met with race and gender neutral means.



**Colorado Department of Transportation
Federal Transit Administration
FFY 2017-2019 Disadvantaged Business Enterprise Goal**

Submitted by the
CDOT Civil Rights and Business Resource Center
August 1, 2016

TABLE OF CONTENTS

INTRODUCTION.....	3
CDOT FTA FUNDING BREAKDOWN	3
STEP 1: DEVELOP A BASE FIGURE.....	5
STEP 2: ADJUST BASE FIGURE	6
RACE-NEUTRAL VS. RACE-CONSCIOUS BREAKDOWN.....	9
CONSULTATION.....	9
PUBLIC PARTICIPATION.....	10
APPENDIX A: RELATIVE AND WEIGHTED AVAILABILITY OF DBE FIRMS	11
APPENDIX B: GRANTEE SURVEY.....	13

INTRODUCTION

This document details the methodology used by the Colorado Department of Transportation (CDOT) to establish its Disadvantaged Business Enterprise (DBE) overall goal for Federal Transit Administration (FTA) assisted contracts. This goal is established and tracked separately from CDOT's Federal Highway Administration (FHWA) overall goal. It applies primarily to CDOT's Division of Transit and Rail (DTR), which receives, distributes, and oversees the use of federal funds received by FTA.

CDOT established this goal in accordance with Part 26, Title 49 of the Code of Federal Regulations (49 CFR Part 26). As described below, CDOT evaluated the actual contracting opportunities to be offered using FTA funds, the ready, willing and able DBEs to participate in such opportunities, and other relevant evidence in order to determine its overall goal. CDOT proposes an FTA DBE goal of 2.88% for the three-year period, from October 1, 2016 through September 30, 2019 (FFY 2017-2019). CDOT expects to meet the full 2.88% with race-neutral measures.

CDOT FTA FUNDING BREAKDOWN

In FFY 2014-2016, CDOT received approximately \$57 million from FTA. While CDOT directly procures some services using FTA funds, most FTA funds (approximately \$48 million) are granted to transit providers in rural areas. CDOT anticipates administering approximately the same amount during the next three-year period.

CDOT grant partners (or subrecipients) use FTA funds for operating, administration and capital purchases. Subrecipients may contract for goods and services, creating indirect FTA-assisted contracting opportunities for DBE firms. CDOT's Civil Rights and Business Resource Center (CRBRC) surveyed DTR all of its grant partners to estimate available contracting opportunities in the FFY 2017-2019 period. Current grant partners reported actual spending amounts and perceived adjustments for the next three years. New grant partners were directed to complete the survey by estimating expenditures over the next three years. Approximately 75% of grant partners responded to the survey.

Of the total amount of FTA assistance CDOT received from FTA, CDOT determined that only 19% represents viable contracting opportunities. The other funds do not represent contracting opportunities to be included in the goal setting for one or more of the following reasons:

- The subrecipient meets the \$250,000 threshold for its own DBE program (38%);
- The funds are used for purchases from transit vehicle manufacturers (TVMs) (14%);
- The funds are used for non-contracting operating expenses (28%); or
- The funds are used for services provided by internal government offices (1%).

Contracting opportunities provided by grant partners who maintain their own DBE program are not included in CDOT's calculation. In accordance with USDOT guidance, the FTA funds provided to these grant partners are incorporated into the grant partner's direct FTA reporting. The funds and correlating opportunities are not included in CDOT's analysis.

The grant partners that maintain their own DOT-approved program include:

- Mesa County
- North Front Range Metropolitan Planning Organization

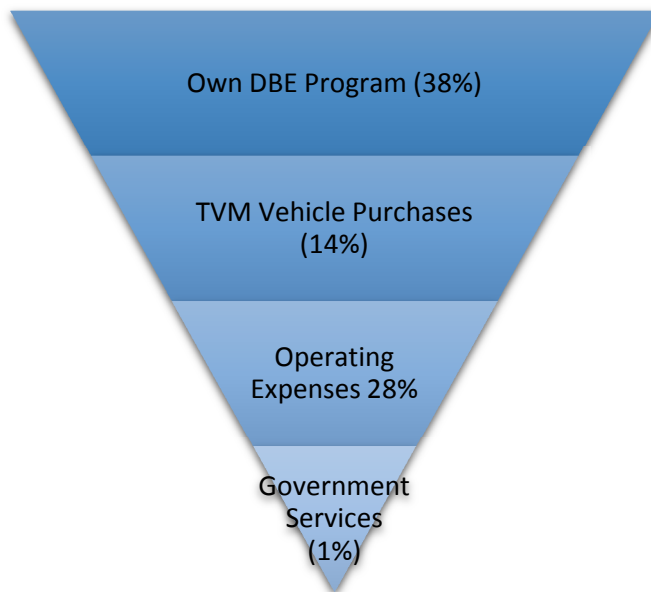
- City of Steamboat Springs
- Roaring Fork Transportation Authority
- Regional Transportation District
- City of Durango
- Greeley Evans Transit
- City of Colorado Springs dba Mountain Metropolitan Transit

CDOT has collected a copy of the DOT-approved DBE program for each direct recipient to confirm that each grant partner is a direct recipient. Due to changes in FTA funding, it is expected that Roaring Fork Transportation Authority will begin reporting to CDOT in FFY 2018.

Purchases from transit vehicle manufacturers (TVM) and operating expenses are also not considered contracting opportunities. TVM purchases are exempt since TVMs maintain their own DBE programs. Operating expenses are excluded per FTA guidance. Operating expenses include rent, utilities, employee wages, employment taxes, fringe benefits, licenses, fees, taxes, conferences, other travel expenses, and insurance.

Additionally, CDOT has exempted expenditures made within government organizations for services. For example, a subrecipient might use the services of a mechanical shop that is part of the city government to maintain its buses. As such, these expenditures with a local government do not represent a viable contracting opportunity for DBEs.

Below is a visual depiction of the use of FTA funds:



Contracting Opportunities = 19%


The FTA provides a significant and valuable financial contribution to support DTR and its grant partners. Yet, when exemptions are factored in, the potential for DBE contracting opportunities included in CDOT's overall goal setting is limited to approximately 19% of the FTA funding provided to CDOT.

Office Equipment	423420	Office Equipment Merchant Wholesalers	1	53	1.89%	0.32%	0.01%
Office-related Supplies	424120	Stationery and Office Supplies Merchant Wholesalers	2	93	2.15%	1.09%	0.02%
Fuel	424710	Petroleum Bulk Stations and Terminals	0	39	1.15%	32.73%	0.38%
	424720	Petroleum and Petroleum Products Merchant Wholesalers (except Bulk Stations and Terminals)	1	48			
	Subtotal		1	87			
Transit Service Provider-Fixed route	485210	Interurban and Rural Bus Transportation	0	16	0.00%	20.76%	0.00%
Transit Service provider- Paratransit *	485999	All Other Transit and Ground Passenger Transportation	3	52	5.77%	4.42%	0.26%
Software	423430	Computer and Computer Peripheral Equipment and Software Merchant Wholesalers	1	1460	0.07%	5.12%	0.00%
Lawyer	541110	Offices of Lawyers	1	3665	0.03%	0.43%	0.00%
Accounting	541211	Offices of Certified Public Accountants	12	2298	0.52%	0.41%	0.00%
Engineering Services	541330	Engineering Services	90	4617	1.95%	0.35%	0.01%
Environmental Consulting	541620	Environmental Consulting Services	35	165	21.21%	0.01%	0.00%
Marketing/PR Services	541613	Marketing Consulting Services	20	968	2.83%	0.48%	0.01%
	541820	Public Relations Agencies	15	267			
	Subtotal		35	1235			
Other Prof. Services	541611	Administrative Management and General Management Consulting Services	44	2202	2.31%	8.49%	0.20%
	541614	Process, Physical Distribution, and Logistics Consulting Services	11	181			
	Subtotal		55	2383			
Facilities Maintenance	561720	Janitorial Services	18	12353	0.22%	0.85%	0.00%
	561730	Landscaping Services	23	6639			
	Subtotal		41	18992			
Vehicle Service	811111	General Automotive Repair	1	1516	0.15%	11.36%	0.02%
	811121	Automotive Body, Paint, and Interior Repair and Maintenance	2	514			

CDOT FTA DBE GOAL FOR FFY 2017-2019
 GOAL SETTING METHODOLOGY

	Subtotal		3	2030			
Drug Testing	621511	Medical Laboratories	0	78	0	0.02%	0.00%
	TOTAL		583	72,205	0.81%	100.00%	0.92%

APPENDIX B: CONTRACTING OPPORTUNITY SURVEY

	COLORADO Department of Transportation Office of the Chief Engineer
2016 DTR Overall Goal Survey	
Background Information	
<p>* 1. Agency Name:</p> <input type="text"/>	
<p>* 2. Individual Completing Survey:</p> <input type="text"/>	
<p>* 3. Phone Number:</p> <input type="text"/>	
<p>* 4. Email:</p> <input type="text"/>	
<p>* 5. Are you a direct recipient of FHWA, FTA or FAA funds?</p> <p><input type="radio"/> Yes</p> <p><input type="radio"/> No</p>	
<p>6. If yes, from what agency and approximately how much each year?</p> <input type="text"/>	
<p>7. Do you expect to remain a direct recipient through September 2019?</p> <input type="text"/>	

*** 8. Do you have a current DOT-approved DBE Program?**

Yes

No

9. If yes, on what date was your DBE program approved and when will it expire?



COLORADO

Department of Transportation

Office of the Chief Engineer

2016 DTR Overall Goal Survey

Use of Funds

Direct recipients that have a DBE approved program and expect to continue to maintain a DBE program through 2019 do not need to complete this page. Please email a copy of your DBE program to Eboni Younger-Riehl at eboni.riehl@state.co.us

- * 10. Enter the value of the total FTA dollars spent or encumbered by your agency between October 1, 2012 - September 30, 2015. Include contracts/expenditures as of the date they were awarded or the purchase was made, not the date they were invoiced or paid. If you are a new recipient or did not receive FTA funding for a full three year period, please estimate the FTA funds that will be used over the next three years for Q10-Q13.

Three Year FTA
Total

11. Exempt Expenses: From the total amount of FTA grants (Q10), how much did your agency use for the following? For the list of TVM manufactures, please cut and paste the following in your browser:
http://www.fta.dot.gov/12326_5626.html.

Rent and Utilities	<input type="text"/>
Payroll, employment taxes, and fringe benefits	<input type="text"/>
Licenses, fees, and other taxes	<input type="text"/>
Conferences and travel	<input type="text"/>
Insurance	<input type="text"/>
TVM purchases	<input type="text"/>
Government provided vehicle maintenance	<input type="text"/>
Government provided signs	<input type="text"/>
Government provided fuel	<input type="text"/>
Another government service provider	<input type="text"/>

* 12. Subtract the amount of the exempt expenses from the total amount of FTA grants (i.e. subtract the amount in Q11 from the amount in Q10). This is your remaining amount.

Remaining Amount:

13. Use of remaining amount: Of the remaining amount (Q12), provide the approximate amount that went or will go to each of the following (Round to the nearest \$100; if none, enter "0"). The total of the amounts listed below should equal the amount provided in your answer to Q12.

Fixed route transit service providers (non-government):

Paratransit service providers

Non-TVM vehicle purchase:

Vehicle service and maintenance (non-government):

Sign production (non-government):

Transportation materials and supplies for vehicles (non-government): <input type="text"/>
Transportation materials and supplies for shelters and facilities (non-government) <input type="text"/>
Fuel (non-government): <input type="text"/>
Building construction: <input type="text"/>
Road construction and signage: <input type="text"/>
Building/facility maintenance: <input type="text"/>
Engineering Services: <input type="text"/>
Urban planning: <input type="text"/>
Environmental consulting services: <input type="text"/>
Marketing and Public Relations Services: <input type="text"/>
Accountants: <input type="text"/>
Lawyers: <input type="text"/>
Other professional services/consulting: <input type="text"/>
Office related materials and supplies: <input type="text"/>
Office equipment: <input type="text"/>
Other - Please list and provide amount: <input type="text"/>

14. Special Situations: If the past three year period does not reflect your average spending or if you have a special situation (i.e., large FTA funding project) coming up in the next few years, please explain these anomalies: