

To: Board of Directors

Date: July 12, 2016

From: Kristina Martinez, Civil Rights Administrator

Reviewed by:

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**SUBJECT:** Disadvantaged Business Enterprise (DBE) Overall Goal for FY2017 through FY2019

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**Background:** The Board of Directors adopted the revised Disadvantaged Business Enterprise (DBE) Program on February 16, 2012 pursuant to U.S. Department of Transportation directives and guidelines in the regulations, 49 CFR Part 26. The Federal Transit Administration (FTA) approved the DBE Program on March 8, 2013.

The regulations were amended to require grantees to establish a three-year DBE overall goal setting schedule and to submit it to FTA by August 1, 2016. To that end, staff completed the *FY2017 through FY2019 DBE Overall Goal and Goal Setting Methodology (DBE Report)* and recommended a goal of five percent (5%) for FTA-assisted contracts. The previous three-year overall goal was set at 7% and County Connection achieved the following DBE participation: 9.6% (FY2013), 9.3% (FY2014) and 3.1% (FY2015). Achievement for the first six months of FY2016 was 3.4%.

Federal Regulations require that County Connection publish a notice on its official Web site announcing the proposed goal for FY2017 through FY2019. The notice also informed the public that information on the development of the proposed DBE goal and rationale was available for inspection for thirty (30) days from the date of the publication. Comments could also be submitted to County Connection within this time frame.

At their June 1, 2016 meeting, the A&F Committee authorized staff to publish the goal and begin the public review and comment period. This action was taken with the understanding the Board would consider final adoption of the DBE goal following the public review and comment period.

At the conclusion of the public review and comment period on July 1, 2016, County Connection received no requests from the public for information regarding development of the proposed goal and no comments about the goal setting methodology.

### Financial

**Implications:** An approved DBE Program, which includes a three-year overall DBE goal, will enable County Connection to continue to be eligible for federal financial assistance.

**Recommendation** The A&F Committee recommends that the Board approve the attached Resolution No. 2017-001, which adopts a three-year overall DBE goal of 5% for federally assisted contracts and authorizes staff to forward the *DBE Report* to FTA.

- Options:**
1. Approve the A&F Committee recommendation
  2. Decline to approve the A&F Committee recommendation
  3. Other action as determined by the Board

**Action Requested:** Staff requests that the Board of Directors approve the A&F Committee recommendation.

**RESOLUTION NO. 2017-001**

**CENTRAL CONTRA COSTA TRANSIT AUTHORITY  
BOARD OF DIRECTORS**

**ADOPTING A DISADVANTAGED BUSINESS ENTERPRISE  
OVERALL GOAL FOR FY2017 THROUGH FY2019**

WHEREAS, the County of Contra Costa and the Cities of Clayton, Concord, the Town of Danville, Lafayette, Martinez, the Town of Moraga, Orinda, Pleasant Hill, San Ramon and Walnut Creek (hereinafter "Member Jurisdictions") have formed the Central Contra Costa Transit Authority ("CCCTA"), a joint exercise of powers agency created under California Government Code Section 6500 *et seq.*, for the joint exercise of certain powers to provide coordinated and integrated public transportation services within the area of its Member Jurisdictions; and

WHEREAS, CCCTA is a recipient of federal funds administered by the Federal Transit Administration (FTA);

WHEREAS, the U.S. Department of Transportation (DOT) issued Regulations (49 CFR Part 26) effective March 4, 1999, which has been amended at various times, regarding the participation of Disadvantaged Business Enterprises (DBEs) in federally assisted contracts;

WHEREAS, the Regulations require that CCCTA establish a three-year DBE overall goal for FY2017-2019, which is due to be submitted to U.S. DOT by August 1, 2016; and

WHEREAS, staff prepared the *FY2017 through FY2019 DBE Overall Goal and Goal Setting Methodology (DBE Report)*, which recommends the establishment of a DBE overall goal of five percent (5%) applicable to CCCTA contracting opportunities assisted by the U.S. DOT pursuant to requirements set forth in the Regulations; and

WHEREAS, the Regulations prescribe that CCCTA provide for public participation by soliciting input from minority, women and general contractor groups, community organizations and other organization; by publishing the proposed goal before submission on the CCCTA official Internet Web site; and as an option, providing for a thirty-day public inspection period; and

WHEREAS, staff participated in a public participation session on April 12, 2016, sponsored by the Business Outreach Committee, at which representatives of minority, women and general contractor groups, community organizations and other U.S. DOT grantees were invited to attend; and

WHEREAS, at their June 1, 2016 meeting, the Administration and Finance Committee found that the proposed FY2017 through FY2019 DBE overall goal to be appropriate and reasonable and authorized staff to publish the proposed goal and begin the public review and comment period; and

WHEREAS, the notice was published on the CCCTA Internet Web site on June 1, 2016 announcing the proposed 5% DBE overall goal for FY2017 through FY2019 for federally assisted contracts, and advising the public that the *DBE Report* was available for inspection for thirty days; and

WHEREAS, at the conclusion of the thirty-day public review and comment period on July 1, 2016, no comments or requests were received from the public for information regarding development of the proposed goal.

NOW, THEREFORE, BE IT RESOLVED that the Board of Directors hereby adopts the 5% DBE overall goal for FY2017 through FY2019 applicable to U.S. DOT assisted contracts.

BE IT FURTHER RESOLVED that the Board of Directors directs the General Manager, or his designee, to submit the *DBE Report* to the U.S. DOT through the Federal Transit Administration by August 1, 2016 so as to assure continued eligibility for the receipt of federal financial assistance.

Regularly passed and adopted this 21<sup>st</sup> day of July, 2016 by the following vote.

AYES:

NOES:

ABSTAIN:

ABSENT:

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Robert Storer, Chair, Board of Directors

ATTEST:

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Lathina Hill, Clerk to the Board

## Central Contra Costa Transit Authority

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### FY2017 through FY2019 Disadvantaged Business Enterprise Overall Goal and Goal Setting Methodology (DBE Report)

Adopted by the  
CCCTA Board of Directors  
Date:  
Resolution No. 2017-001

Submitted to the  
U.S. Department of Transportation  
Federal Transit Administration  
Date:

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## EXECUTIVE SUMMARY

The U.S. Department of Transportation (U.S. DOT) revised its Disadvantaged Business Enterprise (DBE) Program by issuing a rule to help ensure fair competition for U.S. DOT-assisted contracts. Based on a provision in the Moving Ahead for Progress in the 21<sup>st</sup> Century Act (MAP-21) that reauthorized the U.S. DOT DBE Program, the rule ensures a level playing field on which minority, women and other disadvantaged small businesses can compete for federally assisted contracts. The rule, 49 CFR Part 26 (Regulations) titled, "Participation by Disadvantaged Business Enterprises in Department of Transportation Programs," was published in the *Federal Register* on February 2, 1999 and became effective March 4, 1999. The DBE Regulations were amended at various times and now require recipients to establish and submit overall goals for review every three years.

The DBE Regulations are intended by U.S. DOT to pass the strict scrutiny required in the 1995 U.S. Supreme Court ruling in *Adarand v. Peña*. Many of the changes respond to the Court's requirement that affirmative action programs must be narrowly tailored to remedy past discrimination that could not otherwise be remedied through race-neutral means. Key provisions of 49 CFR Part 26 applicable to the goal-setting methodology include:

- Establishment of DBE goals based on evidence of relative availability of DBEs as a percentage of firms in the relevant contracting markets.
- Use of race-neutral means to meet overall agency DBE goals to the maximum extent feasible. For contracts with subcontracting opportunities, contract-specific goals should only be used if race-neutral methods are insufficient to achieve the annual DBE goal.
- Increased reporting and monitoring during contract performance to ensure actual expenditure of contract funds with DBEs listed in the bid/proposal and contract.

The Central Contra Costa Transit Authority (CCCTA) has had a *DBE Program* in place since October 20, 1983. Pursuant to further changes in the Regulations, CCCTA revised its *DBE Program* on February 16, 2012 and the Federal Transit Administration (FTA) approved it on March 8, 2013.

CCCTA established a 7% overall DBE goal for FY2014-FY2016 and it was submitted to the FTA on July 31, 2013. The DBE goal was approved on August 28, 2015. CCCTA is now required to establish an overall DBE goal for FY2017-FY2019 and to submit it to FTA by August 1, 2016. To that end, CCCTA developed a three-year overall goal for the participation of small, disadvantaged business enterprises in FTA-assisted contracts.

The recommended overall goal for DBE participation is five percent (5%). Calculation of this goal was based on a percentage of all FTA-assisted contracting funds anticipated to be expended between July 1, 2016 and June 30, 2019. CCCTA anticipates receiving FTA Section 5307 grants for preventive maintenance which will be used for operating assistance in the paratransit division. CCCTA also anticipates receiving Section 5307 capital grants in FY2017 and FY2019 for revenue fleet replacement.

When establishing this three-year overall goal, CCCTA reviewed its operating budget for FY2017 for the paratransit division. The operating budgets have not been developed for the two outlying fiscal years, however, it is anticipated the contracting opportunities will be similar to those identified for FY2017. Thus, the goal is based on CCCTA's paratransit

operating budget for FY2017. The capital grants are not included in the calculations because they will be used for revenue fleet replacement.

The 5% overall goal identifies the relative availability of DBEs based on evidence of ready, willing and able DBEs in relationship to comparable businesses known to be available to compete for CCCTA's FTA-assisted contracts. The goal reflects staff's determination of the level of DBE participation expected to be achieved absent the effects of discrimination.

CCCTA intends to meet this three-year goal to the maximum extent feasible through race-neutral measures. To ensure public participation in the goal-setting process, CCCTA staff participated in outreach efforts with the DBE and contracting communities. The proposed overall goal was advertised on the CCCTA website and advised the public of a review and comment period.

## **METHODOLOGY FOR SETTING OVERALL DBE GOAL**

The proposed three-year overall goal of 5% DBE participation is based on current and prior-year contracting opportunities in grants received or anticipated to be received from FTA that CCCTA will expend in FY2017 through FY2019. While the amounts of FTA assistance and budgeted items will differ each year, it is anticipated the types and percentages of contracting opportunities will be similar to those projected for FY2017. The total adjusted FTA-assisted funds for FY2017 are \$18,072,000 with \$1,265,433 in contracting opportunities and \$16,806,567 in non-contracting opportunities (see Attachment 1).

This methodology includes an assessment of (1) the number, type and total dollar value of FTA-assisted contracting opportunities; (2) a two-step process prescribed in the U.S. DOT Regulations consisting of an analysis of the availability of DBE contractors/subcontractors relative to all businesses that are ready, willing and able to participate (referred to as "relative availability of DBEs"); and (3) the use of race-neutral methods to achieve the three-year goal.

### **A. Contracting Opportunities in FTA-Assisted Contracts**

Construction, professional and other services, and procurement of supplies and equipment (except transit revenue vehicles) constitute CCCTA contracting opportunities. The total dollar value of each contracting opportunity has the following major components--the bid or proposal items that are performed by prime contractors and the specific bid or proposal items that could be accomplished by available subcontractors.

To determine FTA-funded contracting opportunities, budgets and current grants expected to be expended for the three-year term of FY2017 through FY2019 were reviewed. For the Section 5307 preventive maintenance grants to be used for paratransit operations, only the dollar value was calculated of the contracting opportunities equal to FTA's share of the total budget in the paratransit division. In this case, the total FY2017 paratransit operating budget is \$5,636,374 and the FTA-funded grant is \$1,350,000. Thus, FTA's share of the total paratransit operating budget equates to 24%. The total projected paratransit operating budgets in FY2018 and FY2019 are \$5,778,000 and \$5,923,000 respectively. The corresponding projected

FTA Section 5307 preventive maintenance grants are \$1,411,000 (24.4%) in FY2018 and \$1,411,000 (23.8%) in FY2019.

Capital grants are projected for FY2017 and FY2019 that will be used to purchase replacement transit revenue vehicles. CCCTA does not anticipate receiving any capital grants in FY2018. The capital grants will be used for contracting opportunities covered by the DBE program for transit vehicle manufacturers, so they are not included in this calculation.

The specific contracting categories (construction, professional and other services, and supplies/equipment) were then determined for the total paratransit operating funds available during FY2017. These FTA-assisted contracting opportunities of \$1,265,433 are anticipated to be used for paratransit operating services.

## **B. Consideration of Data Sources for Establishing the Base Figure of DBE Availability**

CCCTA developed its three-year overall DBE goal based on the two-step process outlined in the Regulations. In Step 1, a base figure was calculated to determine the relative availability of DBEs in specific areas of expertise applicable to CCCTA's contracting activities. This data was gathered from the California Unified Certification Program (CUCP) DBE Database and the U.S. Census Bureau, County Business Patterns. In Step 2, an assessment of relevant evidence available to CCCTA was analyzed to determine what adjustments, if any, were needed to narrowly tailor the base figure to CCCTA's contracting markets. The following is a review of data sources considered when establishing the base figure in Step 1.

### **1. U.S. Census Bureau Data**

The Regulations suggest that one method of establishing the DBE base figure is to develop a percentage of DBE availability based upon the number of DBE's in the DBE directory firms relevant to CCCTA's contracting activities as the numerator. Data from the U.S. Census Bureau's County Business Patterns (CBP) is then used for all businesses relevant to CCCTA's market within the North American Industrial Classification System (NAICS) code as the denominator.

### **2. California UCP DBE Database**

CCCTA analyzed the number of DBE firms using data from the CUCP DBE database per major NAICS categories. Currently, the California Unified Certification Program (UCP) database consists of 4,782 DBE firms. This database was used in Step 1 to establish ready, willing, and able DBE's relative to CCCTA's contracting opportunities. The CUCP only lists firms that are currently certified as DBE's. Any firm that does not continue to meet criteria established within the DBE program is decertified and removed from the database.



3. U. S. Small Business Administration Certified Firms

A business currently certified under the U.S. Small Business Administration (SBA) 8(a) Program or the Small Disadvantaged Business (SDB) Program is considered eligible for certification as a DBE in the California UCP, providing it meets the business size standard and other eligibility criteria established by U.S. DOT. Several SBA 8(a) and SDB certified firms are included in the California UCP DBE Database.

Information from the U.S. Small Business Administration was not used to determine the availability of DBE firms because (a) some firms may not meet the U.S. DOT business size standard and/or other eligibility criteria within the DBE Program and (2) the firms listed in the U.S. Small Business Administration Programs may also be listed the CUCP DBE Database which could result in double-counting.

4. Bidders List

CCCTA has compiled a bidders list, as required by the Regulations, for use as an analytical tool. At this time, however, CCCTA does not have a comprehensive bidders list to identify the relative availability of DBE's in its local market area available.

5. DBE Disparity Studies

DBE disparity studies that comply with the U.S. Supreme Court's ruling in *City of Richmond v. J. A. Croson Co.* are frequently the basis for establishing race conscious DBE programs. In *Croson*, the local goals program for contracts with minority-owned businesses was challenged. The Court found that race-based preference programs would be constitutionally valid only if there is evidence that discrimination in the marketplace caused the underutilization of minority-owned firms and that race-based preferences are necessary to remedy such discrimination. In addition, the Court ruled that any race-based remedies must be narrowly tailored.

CCCTA participated in a regional disparity study undertaken by National Economic Research Associates, Inc. (NERA) for the San Francisco Bay Area transit agencies that was completed in 1993 and updated in 1994, titled, *The Utilization of Minority and Women-Owned Business Enterprises by Member Agencies of the Regional Transit Association (DBE Disparity Study)*. At the time, the overall results of the *DBE Disparity Study* supported the continuation of CCCTA's goals-based *DBE Program* for federally assisted contracts by providing statistical and anecdotal evidence of discrimination and the underutilization of DBE firms in the geographical areas which constitute CCCTA's marketplace. Since then, other Bay Area transit agencies have commissioned individual disparity studies, but CCCTA has not been a participant.

Given the passage of time, information from the 1993-94 *DBE Disparity Study* was not used to adjust availability figures derived in Step 1 because the data is

not current and it is compiled in broad contracting categories that are not specific to the SIC Codes identified in the *Study*.

In May 2005, the U.S. Court of Appeals for the Ninth Circuit, in the case of *Western States Paving Co. Inc. v. Washington State Department of Transportation*, ruled that WSDOT applied its DBE program unconstitutionally because it did not have sufficient evidence of discrimination in its marketplace to justify its annual overall DBE goal. Subsequent to this Court decision and further guidance from U.S. DOT, Caltrans, SFMTA, BART, SamTrans, CalTrain, and VTA completed contracts for their own availability/utilization studies in the geographical areas directly relevant to their contracting markets. These studies were completed around 2008. Recently, several agencies have commissioned new studies that are currently underway.

Results of these studies were not used in this goal-setting analysis. The data used in the 2008 studies are not current, and the recent studies are not yet available. Moreover, these studies measure construction and engineering services for highway and rail contracting opportunities that are not relevant to CCCTA's projected contracting opportunities.

6. Another U.S. DOT Recipient's Goal

CCCTA will not use the DBE goal of another U.S. DOT recipient for the goal-setting process because CCCTA's contracting opportunities do not closely mirror those of another agency.

**C. Step 1: Establishing a Base Figure**

A base figure was developed for FY2017 contracting opportunities to express the relative availability of DBEs as a percentage of all firms in the relevant contracting markets, as delineated by NAICS Codes.

1. Analyzing Available Businesses in the Relevant Contracting Markets

CCCTA's vendor listing indicates several contracts are awarded to vendors/contractors located within Contra Costa County, and many of these firms are located within CCCTA's service area. A review of projected contracts revealed there are seven major NAICS Codes with contracting and subcontracting opportunities. While several of these contracts are expected to be awarded to local firms, the remainder may be awarded to regional, statewide and national firms.

Due to limited information for specific NAICS Codes solely in Contra Costa County, it was decided to broaden the geographical data and use information from the U.S. Census Bureau, County Business Patterns in nine surrounding Bay Area counties to represent firms that may be interested to participate as primes or subcontractors on CCCTA's projected contracts. This approach complies with a requirement in the Regulations to use as close as possible the same NAICS Codes and geographical base when determining the base figure for the overall

goal. When calculating the total number of firms, CCCTA used the number of firms from the CBP plus the total number of DBE's as delineated by NAICS codes (refer to Attachment 2, Step 1).

2. Analyzing Available DBEs in the Relevant Contracting Markets

A similar analysis was conducted to determine the number of ready, willing and able DBEs available to participate as prime contractors or subcontractors on CCCTA's projected contracts. The California Unified Certification Program (CUCP) provides data on firms owned Disadvantaged Business Enterprises (DBE's). The CUCP only lists firms that are currently certified as DBE's. Any firm that does not continue to meet criteria established within the DBE program is decertified and removed from the database. When calculating the total number of DBE's, CCCTA used the number of firms as delineated by NAICS codes (refer to Attachment 2, Step 1).

3. Calculating the Base Figure

CCCTA compared the available DBE firms and all businesses in the relevant contracting markets. The percentage of DBE availability was determined for each NAICS Code by dividing the total number of DBE firms by the number of all businesses in that major NAICS Code. The base figure for total availability was calculated to be 1.07%.

$$\text{Base Figure} = \frac{\text{Ready, willing, and able DBEs}}{\text{All firms ready, willing, and able (including DBEs and non-DBEs)}}$$

To determine the base figure of DBE availability, the calculation includes a weighting factor according to the FTA-assisted contracting expenditure patterns. The budgeted contract amounts were then determined and a percentage of the total contracts was calculated for each NAICS Code to give a higher weight to areas where more dollars will be expended. The percentage of the total contracts was then multiplied by the percentage of availability for each NAICS Code.

Attachment 2, Step 1, delineates the contracting opportunities for each NAICS Code. The total weighted base figure for total availability was calculated to be 2.33%.

**D. Step 2: Adjusting the Base Figure**

CCCTA adjusted the base figure based on evidence that indicates the availability of DBEs for FTA-assisted contracts will be higher than the calculated availability figure of 2.33%. To determine an adjusted base figure, staff reviewed information related to the proven capacity of DBEs to perform similar contracts. This included information from the U.S. Census Bureau, DBE disparity studies, DBE achievements on CCCTA's prior and current contracting opportunities, and public comments received from representatives of DBE firms, resource agencies and other organizations.

1. U.S. Census Bureau Data

It is noted that there are shortcomings in using data from the U.S. Census Bureau. These limitations include: (a) the data is not current; (b) the three or four digit major industry group NAICS Codes do not refine the classifications enough to apply closely to CCCTA's contracts; (c) the data includes firms that are not interested in or are unable to perform CCCTA's contracts.

2. Previous Experience in Meeting the DBE Goal with FTA-Assisted Contracts

The CCCTA Board of Directors adopted the FY2014 through FY2016 DBE overall goal of 7% on July 18, 2013 for FTA-assisted contracting opportunities. CCCTA achieved 3.4% DBE participation for the first six months of the federal fiscal year 2016 (October 1, 2015 through March 31, 2016). Previous DBE achievements were 3.1% for FFY2015, 9.3% for FFY2014 and 9.6% for FFY2013.

CCCTA will be using federal grants in its paratransit division for operating assistance. Procurement opportunities for operating funds are similar to FY2013 though FY2016 and prior years; however, the capital projects differ each year based on new and ongoing contracts. CCCTA did not adjust the final availability figure based on overall past participation because the capital contracting opportunities in FY2017 through FY2019 are not identical to prior years.

3. DBE Participation in Contracts Currently Underway

a. Paratransit Services

CCCTA will use a preventive maintenance grant under FTA Section 5307 to augment its operating revenue used to provide services in the paratransit division. Contracting opportunities during FY2017-FY2019 are expected to be similar to the last three fiscal years.

On April 17, 2014, the CCCTA Board of Directors awarded a contract to its previous contractor, First Transit, Inc., for maintenance and operation of paratransit services for a three-year term effective July 1, 2014. CCCTA's General Manager is authorized to extend the contract for up to two additional one-year terms. No DBE goal was set on this project; however, the contractor indicated it would work closely with CCCTA to make efforts in meeting CCCTA's overall DBE goal since federal funds are used for paratransit services.

In the past, the contractor has utilized two DBE subcontractors where DBE achievement has ranged from 0.1% to 11%. CCCTA determined that NAICS Code 485, as related to the paratransit contract, required an adjustment due to the level of funds committed to this project and historical evidence of DBE achievements in this contracting marketplace.

As provided in the U.S. DOT's *Tips for Goal-Setting in the Disadvantaged Business Enterprise (DBE) Program*, CCCTA adjusted its base figure using past participation on this contract. CCCTA averaged the median past participation (8.6%) of this project using the last three fiscal years and the step one base figure (2.33%) to arrive at the overall goal.

$$\text{Adjustment} = \frac{\text{Step One Base Figure} + \text{Median Past Participation}}{2}$$

Based on these factors, CCCTA changed its DBE availability from 2.33% to 5% to reflect more accurately the DBE subcontracting opportunities available for this project. (Please refer to Attachment 2, Step 2.)

b. Legal Services

On May 20, 1996, the CCCTA Board of Directors approved a resolution awarding a contract for legal services to Hanson Bridgett LLP. When the RFP was issued, no DBE goal was established and there has been no known DBE participation on this contract.

CCCTA determined that NAICS Code 5411: Legal Services, as it relates to this contract, required no additional adjustment due to the total DBE availability, the level of funds committed to this project, and lack of DBE subcontracting opportunities. (Please refer to Attachment 2, Step 2.)

4. DBE Participation in New Contracts

No adjustments were made on new contracts because the amounts in each NAICS code are small, or a total of \$1,269 (.10%) of the total contracting opportunities for the paratransit division. It is anticipated some of these contracts may be awarded to DBE firms.

5. Consultation with DBE Firms, Resource Agencies and Other Organizations

In an effort to provide public participation in the goal-setting process, CCCTA worked in concert with members of the Business Outreach Committee to solicit and receive public comments. (Refer to Attachment 3 for information regarding the public participation sessions.)

Notices of the public participation sessions were mailed and emailed in March 2016 to DBE firms in the UCP Database as well as minority, women and general contractor groups and community organizations seeking input and/or consultation in establishing CCCTA's three-year overall goals. They are knowledgeable about the availability of disadvantaged and non-disadvantaged businesses and the effects of discrimination in contracting opportunities for DBEs in CCCTA's marketplace.

Agency staff members held two public participation sessions on April 12, 2016. The purpose of these sessions was to provide the public with a forum for commenting on the three-year goal setting process for participating agencies.

Agency staff members briefly described their contracting opportunities for FY2017 through FY2019 and requested specific information on the availability of ready, willing and able DBEs for their projects. In response to the Notice inviting their participation, 26 representatives from DBE and non-DBE companies as well as representatives from resource agencies attended the meeting. Representatives provided comments and/or requested information on agency contracting opportunities. No comments or questions were received regarding CCCTA's specific contracts or DBE goal-setting process.

CCCTA staff also consulted with other U.S. DOT recipients in California regarding methodologies used by them to establish their three-year overall goals. These agencies included members of the Business Outreach Committee and the California UCP. Inasmuch as comments received from these sources did not address CCCTA's specific contracting opportunities projected for FY2017 through FY2019, no additional adjustments were made to the base figure derived in Step 1 or the adjustments made in Step 2.

The identified adjustments made in Step 2 of the goal-setting process increased the total availability from 2.33% to 5%, as shown in Attachment 2, Step 2. CCCTA recommends a 5% overall DBE goal applicable to FTA-assisted contracts.

## **PROJECTION OF PERCENTAGE OF THREE-YEAR OVERALL DBE GOAL TO BE ACHIEVED THROUGH RACE-NEUTRAL MEASURES**

The U.S. DOT Regulations require that the maximum feasible portion of the DBE overall goal be met by using race-neutral methods. Race-neutral methods include efforts made to assure that bidding and contracting requirements facilitate participation by DBEs and other small businesses, such as unbundling large contracts to make them more accessible, encouraging prime contractors to subcontract portions of the work, and providing technical assistance, outreach and communications programs. Race-neutral DBE participation includes any time a DBE wins a prime contract through customary competitive procurement procedures, a DBE is awarded a subcontract on a prime contract that does not carry a DBE goal, or a DBE wins a subcontract, even if there is a DBE goal, from a prime contractor that did not consider its DBE status in making the award.

Because of the emphasis placed on race-neutral methods and the small dollar amounts of projected new formal contracts with subcontracting opportunities, CCCTA anticipates setting no contract-specific DBE goals on new contracts to be awarded in FY2017 through FY2019. CCCTA will focus on developing, refining and implementing race-neutral methods for facilitating DBE participation by advising prospective contractors of the areas for possible subcontracting and of the availability of ready, willing and able subcontractors, including DBE firms, to perform such work. CCCTA will continue to solicit DBE participation on an ongoing basis, use DBE firms that have successfully completed prior projects, encourage eligible firms to become certified as DBEs, encourage DBE certified firms to maintain their certifications, assist with access and distribution of the California UCP DBE Database, work with the California UCP Executive Committee to refine the DBE certification and annual review processes, and provide requested technical assistance and related services when feasible.

As a member of the Business Outreach Committee (BOC), CCCTA is assisting with annual projects that include a quarterly newsletter and outreach/networking events. The newsletter highlights agency contracting opportunities and provides information on resource agencies, contracting issues and upcoming outreach events. The BOC plans to host outreach/networking events and certification workshops each year in addition to the public participation meetings focused on contracting and DBE availability for our goal-setting process. The outreach/networking events bring together agency buyers and project managers as well as prime contractors and subcontractors that may be interested in submitting bids or proposals for agency contracts. These events and the certification workshops have provided certification information to interested firms and encouraged them to apply and/or to maintain their current certification status.

Race-neutral measures will comprise 100% of the total contracting opportunities through various types of contracts, including construction, professional services, procurement of materials, supplies and equipment, and other services. CCCTA will monitor carefully its progress during the course of each year and will consider whether it will establish appropriate contract-specific SBE goals if other race-neutral methods do not appear sufficient to achieve the three-year overall DBE participation goal. All contracts that have DBE commitments will be monitored for compliance.

## **PUBLICATION OF PROPOSED THREE-YEAR OVERALL DBE GOAL**

Federal Regulations require that CCCTA publish a notice on its official Web site announcing the proposed goal for FY2017 through FY2019 contracts assisted by U.S. DOT. On June 1, 2016, the proposed goal was posted on the CCCTA website. The legal notice is included in Attachment 4.

The notice also informed the public that information on the proposed goal and methodology was available for inspection during normal business hours at CCCTA's office for thirty (30) days from the date of publication. Comments could also be submitted to CCCTA within that time frame. At the conclusion of the public review and comment period on July 1, 2016, CCCTA received no requests from the public for information regarding development of the proposed goal and no comments about the goal-setting methodology.

## **CALIFORNIA UNIFIED CERTIFICATION PROGRAM**

The Regulations require all U.S. DOT recipients in their state to participate in a Unified Certification Program (UCP). The major requirements for a UCP are: (a) U.S. DOT recipients must participate in a UCP within three years of March 4, 1999; (b) U.S. DOT recipients must ensure that the UCP has sufficient resources and expertise to carry out the Regulations; (c) the UCP shall make all certification decisions on behalf of all U.S. DOT recipients in the state with respect to participation in the U.S. DOT DBE Program; (d) UCP certifications shall be pre-certifications; (e) a UCP is not required to process a certification application from a firm having its principal place of business outside the state if it is not currently certificated in its home state; and (f) each UCP shall maintain and distribute a unified DBE directory.

U.S. DOT designated the California Department of Transportation (Caltrans) as the lead agency for development and implementation of the California UCP. To accomplish that task, statewide meetings were held and a Memorandum of Agreement (MOA) was developed outlining California's plan for implementation of the UCP. Caltrans submitted the California UCP MOA on May 1, 2001 to U.S. DOT, and the U.S. DOT Secretary approved the MOA on March 13, 2002. Initial implementation of the California UCP began on January 1, 2002, and full implementation was accomplished within 18 months of the U.S. DOT approval date.

As required by the California UCP MOA, CCCTA submitted a Declaration Letter to Caltrans advising it is a U.S. DOT recipient with an approved DBE Program in place, acknowledging it is in agreement with the MOA, including funding requirements, and declaring it will be a certifying agency.

CCCTA is impacted by the California UCP as follows: (a) the MOA proposes an annual membership fee between \$1,000 and \$2,000 per agency, to be reviewed annually; (b) CCCTA and other certifying agencies certify firms as DBEs or ACDBEs; (c) all certified firms are included in the UCP DBE Database; (d) CCCTA is responsible for inputting and updating its own certification activities in the UCP DBE Database; and (e) CCCTA staff participates as a member of the UCP Executive Committee. The MOA is currently under review and is in progress of being updated by the UCP Executive Committee.









**Attachment 2 (a)**

DBE AVAILABILITY, OVERALL DBE GOAL FOR FY2017 THROUGH FY2019

**Step 1: Base Figure for DBE Availability by NAICS Codes**

NAICS Code	Major Industry Group	DBE Availability	Number of Firms	All Firms (Including DBE's)	Percent DBE Availability
3231	Printing & Related Support Activities	34	636	670	5.07%
4532	Office Supplies, Stationery, & Gift Stores	14	732	746	1.88%
4471	Gasoline Stations	1	1,276	1,277	0.08%
485	Transit & Ground Passenger Transportation	12	583	595	2.02%
5411	Legal Services	24	4,770	4,794	0.50%
5617	Services to Buildings & Dwellings	76	3,914	3,990	1.90%
8111	Automotive Repair and Maintenance	9	3,799	3,808	0.24%
	<b>Total NAICS Codes Listed</b>	<b>170</b>	<b>15,710</b>	<b>15,880</b>	<b>1.07%</b>

Source: U.S. Census Bureau, 2014 Economic Census, County Business Patterns

Bay Area Counties: Alameda, Contra Costa, Marin, Napa, San Francisco, San Mateo, Santa Clara, Solano, Sonoma

Source: California Unified Certification Program (DBE Database)

**Weighted Base Figure**

NAICS Code	Major Industry Group	Contracts in Process			New Contracts			Weighted Percent Total DBE Availability
		Percent DBE Availability	Budgeted Contract Amount	Percent Total Contracts	Percent DBE Availability	Budgeted Contract Amount	Percent Total Contracts	
3231	Printing & Related Support Activities				5.07%	96	0.01%	0.00%
4532	Office Supplies, Stationery, & Gift Stores				1.88%	814	0.06%	0.00%
485	Transit & Ground Passenger Transportation (Contract)	2.02%	1,263,445	99.84%				2.33%
8111	Automotive Repair and Maintenance (Sub)	0.24%						
4471	Gasoline Stations (Sub)	0.08%						
5411	Legal Services (Contract)	0.50%	719	0.06%				0.00%
5617	Services to Buildings & Dwellings				1.90%	359	0.03%	0.00%
	<b>Subtotals</b>		<b>\$1,264,164</b>	<b>99.90%</b>		<b>\$1,269</b>	<b>0.10%</b>	
	<b>Total Base Figure for DBE Availability</b>					<b>\$1,265,433</b>	<b>100.00%</b>	<b>2.33%</b>

**Attachment 2 (b)**

DBE AVAILABILITY, OVERALL DBE GOAL FOR FY2017 THROUGH FY2019

**Step 2: Adjusted Base Figure**

Past Project Participation

Fiscal Year	Past Participation Rate
2015	3.4%
2014	11.9%
2013	8.6%
<b>Median</b>	<b>8.6%</b>

Adjusted Goal:	Step One Base Figure + Median Past Participation
	2
=	2.33% + 8.6%
	2

**Total Adjusted Goal: 5%**

Attachment 3

Public Participation



**Business Outreach Committee (BOC)**  
A Consortium of Bay Area Transportation Agencies  
**\*\*\*\*\*PUBLIC NOTICE\*\*\*\*\***

*The BOC invites you to a meeting to advise the public of upcoming projects and to receive comments on our goal setting processes:*

**Tuesday, April 12, 2016**  
**From 4:00 p.m. to 6:00 p.m.**

at the Alameda County Transportation Commission\*  
1111 Broadway, Suite 800  
Oakland, CA 94607


*\*directions are attached; public transportation is encouraged as parking is limited.*

**[Please click here to register!](#)**

**Your attendance is strongly encouraged.**  
**Please inform businesses that may not have received this notice.**

This meeting will provide the opportunity for members of the public to learn about upcoming transportation projects and provide input on the goal-setting process, specifically on the relative availability of Disadvantaged Business Enterprises (DBEs) that are ready, willing and able to compete for U.S. Department of Transportation (DOT) assisted contracts to be let by transportation agencies throughout the San Francisco Bay Area.

**Representatives from the agencies listed to the left will be presenting their agency's upcoming contract opportunities**

  
**San Francisco Bay Ferry**  
A SERVICE OF WETA

**The Water Emergency Transportation Authority (WETA)**  
**will provide a special presentation on the**  
**Downtown San Francisco Ferry Terminal Expansion Project**

The BOC hereby notifies all interested parties that the agencies listed to the left are beginning the process of establishing annual overall goals for participation by DBEs in contracts and procurements which may be financed in whole or in part by the DOT for Federal Fiscal Year (FFY) 2017-2019.



March 24, 2016

Dear Business Partner:

On behalf of the Business Outreach Committee (BOC), you are invited to participate in a roundtable discussion with Bay Area transit and transportation agencies to share information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, agencies efforts to establish a level playing field, and the goal methodology used for federally-assisted contracts for Federal Fiscal Year (FFY) 2017 - 2019.

Members of trade associations, chambers of commerce, builders exchanges, and technical resource groups have all been invited to join in this discussion. A list of proposed discussion topics is attached as well as contact information for the BOC agency representatives that will be participating in this meeting.

The BOC works hard to promote small business inclusion in agency contracting and procurement activities. Therefore, immediately following the consultation session, BOC member agencies will hold a meeting to inform the public of their contracting opportunities and to hear comments and/or suggestions on how agencies can improve their DBE program.

Here are the details of the meeting:

**Consultation Session**

Tuesday, April 12, 2016, 2:30 PM – 3:30 PM  
Alameda County Transportation Commission  
1111 Broadway, 8<sup>th</sup> Floor, Oakland, CA  
Commission Meeting Rooms

RSVP: Artemise Davenport at [adavenport@goldengate.org](mailto:adavenport@goldengate.org) or 415-257-4581.

***Please RSVP by April 5, 2016***

The goal of the BOC is to assist small disadvantaged and local firms in doing business with Bay Area transportation agencies. The BOC seeks to provide meaningful opportunities for small, disadvantaged, and/or local companies to expand their capacity by developing relationships with transit agency staff and the contracting community of the San Francisco Bay Area.

Please join us and provide your input on our efforts.

Respectfully,

*Artemise Davenport*

Artemise Davenport  
Chair, Business Outreach Committee

Alameda-Contra Costa  
Transit District (AC Transit)

Alameda County  
Transportation Commission  
(Alameda CTC)

Bay Area Rapid Transit  
(BART)

California Department of  
Transportation (Caltrans)

Central Contra Costa Transit  
Authority (County  
Connection)

City of Rio Vista (Delta  
Breeze)

Golden Gate Bridge, Highway  
and Transportation District  
(GGBHTD)

Marin Transit

Metropolitan  
Transportation  
Commission (MTC)

Napa Valley  
Transportation Authority

Peninsula Corridor Joint  
Powers Board (Caltrain)

San Francisco Bay Area  
Water Emergency  
Transportation Authority  
(WETA)

San Francisco Municipal  
Transportation Agency  
(SFMTA)

San Mateo County Transit  
District (SamTrans)

Santa Clara Valley  
Transportation Authority (VTA)

Solano County Transit  
(SolTrans)

Sonoma County Department of  
Transportation & Public Works

Transbay Joint Powers  
Authority (TJPA)

Western Contra Costa  
Transit Authority (WestCAT)

Proposed Roundtable Discussion Topics

1. What has been your experience with the DBE certification program (or other certification programs)?
2. Are any of your constituents DBEs?
3. Does the program meet the needs of your constituents?
4. Do you have any race-neutral contracting practices to suggest?
5. What areas would you like to see the BOC focus on?

**The Business Outreach Committee includes Civil Rights Officers and Contract Administrators from:**





## ***BOC Member Agencies and Contacts***

**Alameda-Contra Costa Transit District**  
**AC Transit:** Phillip McCants, Contracts Compliance Administrator  
(510) 891-5443 or [pmccants@actransit.org](mailto:pmccants@actransit.org)

**Alameda County Transportation Commission**  
**ACTC:** Joan Fisher, Business Outreach Coordinator  
(510) 208-7466 or [jfisher@alamedactc.org](mailto:jfisher@alamedactc.org)

**Bay Area Rapid Transit District**  
**BART:** Ron Granada, Senior Civil Rights Officer  
(510) 464-6103 or [rgranad@bart.gov](mailto:rgranad@bart.gov)

**Central Contra Costa Transit Authority**  
**CCCTA/ County Connection:** Kristina Martinez, Mgr. of Outreach Svcs/Civil Rights Admin.  
(925) 680-2031 or [kmartinez@countyconnection.com](mailto:kmartinez@countyconnection.com)

**Golden Gate Bridge, Highway and Transportation District**  
**GGBHTD:** Artemise Davenport, DBE Program Analyst  
(415) 257-4581 or [adavenport@goldengate.org](mailto:adavenport@goldengate.org)

**Marin Transit**  
**Marin Transit:** Amy Van Doren, Director of Policy and Legislative Programs  
(415) 226-0859 or [avandoren@marintransit.org](mailto:avandoren@marintransit.org)

**Metropolitan Transportation Commission**  
**MTC:** Denise Rodrigues, Contract Compliance Manager  
(510) 817-5897 or [drodrigues@mtc.ca.gov](mailto:drodrigues@mtc.ca.gov)

**Napa Valley Transportation Authority**  
**NVTA:** Renee Kulick, Administrative Technician  
(707) 259-8780 or [rkulick@nctpa.net](mailto:rkulick@nctpa.net)

**San Mateo County Transit District / Peninsula Joint Powers Authority**  
**SamTrans / Caltrain:** Elke Campbell, DBE Officer  
(650) 508-7939 or [campbelle@samtrans.com](mailto:campbelle@samtrans.com)

**San Francisco Municipal Transportation Agency**  
**SFMTA:** Sheila Evans-Peguese, Senior Contract Compliance Officer  
(415) 701-4436 or [sheila.evans-pequese@sfmta.com](mailto:sheila.evans-pequese@sfmta.com)

**Santa Clara Valley Transportation Authority**  
**VTA:** Liz Brazil, OSDB Manager  
(408) 321-5874 or [liz.brazil@vta.org](mailto:liz.brazil@vta.org)

**San Francisco Bay Area Bay Water Emergency Transportation Authority**  
**WETA:** Lauren Gularte, Administrative Policy Analyst  
(415) 364-3188 or [gularte@watertransit.org](mailto:gularte@watertransit.org)

**Solano County Transit**  
**SolTrans:** Gary Albright, Civil Rights Officer  
(707) 736-6996 or [Garv@soltransride.com](mailto:Garv@soltransride.com)

**Transbay Joint Powers Authority**  
**TJPA:** Eddie Phillips, Contracts Compliance Manager  
(415) 597-4041 or [ephillips@transbaycenter.org](mailto:ephillips@transbaycenter.org)

**WestCAT**  
**WestCAT:** Robert Thompson, Assistant General Manager  
(510) 724-3331 or [rob@westcat.org](mailto:rob@westcat.org)



*Business Outreach Committee (BOC)*  
A Consortium of Bay Area Transit and Transportation Agencies

## **CONSULTATION MEETING 2016**

Tuesday, April 12, 2016  
2:30 p.m. – 3:30 p.m.

Alameda County Transportation Commission  
1111 Broadway, Suite 800 (Commission Rooms)  
Oakland, CA 94607

### **AGENDA**

1. Introduction/Background
2. Agency Goal Setting Practices
3. DBE Participation Challenges
4. Input/Dialogue
5. Open Forum



**PUBLIC PARTICIPATION MEETING 2016**  
**Establishing Overall Triennial DBE Goal for Federal Fiscal Year (FFY) 2016-2019**  
sponsored by the  
**Business Outreach Committee (BOC)**  
*A Consortium of Bay Area Transit and Transportation Agencies*

Tuesday, April 12, 2016  
4:00 p.m. to 6:00 p.m.

Alameda County Transportation Commission  
1111 Broadway, Suite 800 (Commission Rooms)  
Oakland, CA 94607

**AGENDA**

- 4:00 p.m. Welcome and BOC Background
- 4:05 p.m. Agency Introductions and Overview of Contracting Opportunities:
- Alameda County Transportation Commission (Alameda CTC)
  - Golden Gate Bridge Highway & Transportation District (GGBHTD)
  - Transbay Joint Powers Authority (TJPA)
  - Metropolitan Transportation Commission (MTC)
  - Bay Area Rapid Transit District (BART)
  - Alameda Contra Costa Transit District (AC Transit)
  - Central Contra Costa Transit Authority (County Connection)
  - Solano County Transit (SolTrans)
  - San Francisco Municipal Transportation Agency (SFMTA)
  - San Mateo County Transit District (SamTrans)
  - Marin Transit
  - Santa Clara Valley Transportation Authority (VTA)
  - Western Contra Costa Transit Authority (WestCAT)
  - Water Emergency Transportation Authority / San Francisco Bay Ferry (WETA)
- 4:25 p.m. Presentation: Downtown San Francisco Ferry Terminal Expansion (WETA)
- 4:40 p.m. Goal Setting Process
- 5:00 p.m. Public Comments, Questions/Answers
- NETWORKING AND ADJOURNMENT

## Attachment 4

Publication of Proposed Overall Three-Year DBE Goal

# County Connection

2477 Arnold Industrial Way    Concord, CA 94520-5326    (925) 676-7500    countyconnection.com

### NOTICE OF PROPOSED THREE-YEAR OVERALL GOAL

The Central Contra Costa Transit Authority (CCCTA) announces a 5% proposed overall goal for participation by Disadvantaged Business Enterprises (DBEs) in CCCTA contracting opportunities for the period July 1, 2017 through June 30, 2019 that are budgeted to receive financial assistance from the U.S. Department of Transportation (DOT), Federal Transit Administration (FTA).

Information on the development of the proposed goal and rationale is available for inspection from 8:00 a.m. to 5:00 p.m., Monday through Friday, at the CCCTA office, 2477 Arnold Industrial Way, Concord, CA 94520 for 30 days following the date of this notice. Any person may also submit comments regarding the proposed goal to the Civil Rights Administrator at the above address for 30 days from the date of this notice.

Rick Ramacier, General Manager, CCCTA  
June 1, 2016