



DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

DBE Goal and Methodology for Federal Fiscal Years 2018-2020



Prepared by the Office of Diversity and Civil Rights



MASSACHUSETTS BAY TRANSPORTATION AUTHORITY

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DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

Federal Fiscal Years 2018-2020

Goal and Methodology

INTRODUCTION

In accordance with Federal Regulation 49 CFR §26.45(f)(3), the Massachusetts Bay Transportation Authority (hereinafter referred to as “the Authority” or “the MBTA”) submits its three-year Disadvantaged Business Enterprise (DBE) overall goal for FFY 2018-2020 on projected contracting opportunities funded in whole or in part by the Federal Transit Administration (FTA) along with the methodology and supporting documentation for review.

PROPOSED DBE GOAL FFY 2018-2020

The Authority has established an overall DBE goal of 10.98% for FFY 2018-2020. Based on this calculation, the Authority expects to award approximately \$1,306,073,506 and it is expected that 10.98% (\$143,406,871) will be expended with DBEs on MBTA DOT-assisted contracts during the next three fiscal years.

GOAL SETTING METHODOLOGY

The overall goal must be based on demonstrable evidence of the availability of ready, willing and able DBEs relative to all businesses ready, willing and able to participate on MBTA DOT assisted contracts. In accordance with 49 CFR 26.45(c)(d), the Authority utilized the following two-step process to develop its overall DBE goal.

- *Step One – Base Figure:* Calculation of a base figure that represents the availability of certified DBEs ready, willing, and able to work on Authority contracts.
- *Step Two – Adjustments:* Adjustment of the base figure so that the final overall goal represents the amount of participation the Authority might expect in the absence of discrimination or its effects. Determination of adjustments is based upon the contracting program and knowledge of the local contracting market.

This process is intended to provide the maximum flexibility for the Authority while ensuring that the goal is based on availability of ready, willing and able DBEs in its relevant market.

Step One – Determination of Base Figure § 26.45(c)

Relative Availability of DBEs to All Firms

The Authority determined the relative availability of DBEs to all firms by identifying DBE firms ready able and willing against all comparable firms within the Authority’s market area, in applicable work categories (by NAICS codes identified in **Exhibits A-C** [attached]). The Authority followed one of the prescribed goal-setting methodologies in accordance with 49 CFR §26.45. DBE availability was determined by performing a query of the Massachusetts Office of Supplier Diversity’s (SDO) Directory of Certified Businesses database and for All Firms the most recent U.S. Census Bureau 2015 County Business Patterns NAICS for Massachusetts.

For each NAICS code/subsector, the Authority calculated the number of DBEs (numerator¹) and the number of all firms (denominator²) in each NAICS code/subsector, then arrived at a percentage of DBEs to all firms for each category. The calculations detailed in **Exhibits A-C**, yielded the following percentages as shown in Table 1.

Determination of the Authority’s Market Area

For purposes of DBE goal setting, the Authority’s market area has been defined as the Commonwealth of Massachusetts. Based on our research, the Authority determined the majority of federally assisted contracting dollars expended by the MBTA were spent with contractors based in Massachusetts.

Table 1: Relative availability of DBEs per category

PERCENTAGE OF DBES TO ALL FIRMS (DBES AND NON-DBES)			
Firms	Construction	Professional Services (Design)	Materials
DBEs (Certified and Potential)	1,501	1,038	709
All Firms (including DBEs)	19,114	6,999	13,904
Relative Availability	7.85%	14.83%	5.10%

Weighting Process

To ensure the most accurate base figure possible, a weighting process is applied, based on the proportionate value of projected expenditures in each industry category. Table 2 illustrates the value of awards estimated to be expended per industry category. The Total

¹ Numerator represents all DBE firms listed in the Massachusetts Supplier Diversity Office Directory of Certified Businesses. In keeping with the U.S.DOT’s tips for goal setting, we supplemented the list of available DBEs with lists of available MBEs and WBEs that could potentially be certified as DBEs in the same geographic market and industry codes.

² Denominator represents all established firms (DBEs and non-DBEs), located within the MBTA’s market area, Massachusetts, and listed in the most recent 2015 U.S. Census County Business Patterns database.

dollar expenditure (\$1,306,073,506.00) is comprised of Projected FFY 2018-2020 Spending on FTA Funded Projects. (Exhibit D 1-2).

Projected Budget Project Analysis

Projected Budget (\$1,306,073,506.00)

The figures in Exhibit D-1-2 represent the Budget Department’s analysis of the MBTA’s Capital Investment Program (CIP) to determine the amount of planned federal funding in fiscal years 2018 through 2020 that is applicable to DBE requirements.

Exhibit D-1 shows the funded amounts for the past and current FTA grants by spending category. TVMs are excluded from these figures.

FFY 2018-2020 Spending: Based on the current (draft) CIP, we looked at the FFY 2018-2020 cash flows for all FTA-funded projects (which includes both existing grants and future projects we expect to federalize). To account for potential procurement and construction delays that would impact annual spending, we reduced the cash flows by 10% each year, which is considered a more conservative (and realistic) spending figure.

It should be noted that the Authority’s plan is to ramp up capital spending over the next few years, which is why the FFY 2018-2020 figures in Exhibits D-1 (page 5) and D-2 show a steady increase. The following items (all included as footnotes in the file) should also be noted:

- The dollar amounts shown here are based on preliminary FFY2018-2022 CIP figures (4/24/17 draft) and reflect total federal contribution.
- This includes both currently executed FTA grants and grants that are anticipated to be executed over the next three years.
- There is always the risk that schedules and spending will slip due to unforeseen circumstances (especially for projects not yet underway). For this analysis it is assumed that, on average, actual spending will be about 90% of CIP projected cash flows as a result of these delays.
- Green Line Extension Project dollar amounts are included. See Exhibit D-2.

Table 2: Federal dollars projected for FFY 2018-2020

	Construction	Professional Service	Materials
Industry Expenditure (\$)	\$845,037,027	\$145,643,075	\$315,393,405
Total Expenditure (\$)	\$1,306,073,506	\$1,306,073,506	\$1,306,073,506
Percentage of Expenditure (%)	64.70%	11.15%	24.15%

Weighting

In order to reach the final base figure of Step One, we use the weights in Table 2 to adjust the percentages in Table 1 as is set out below.

(Relative Availability [Table 1] X Percentage of Expenditure [Table 2])

Construction	1,501/19,114 =	7.85%	X	64.70%	=	5.08%
Professional Services	1,038/6,999 =	14.83%	X	11.15%	=	1.65%
Materials	709/13,904 =	5.10%	X	24.15%	=	1.23%
				Base Figure		<u>7.96%</u>

Step Two – Adjustment to Base Figure

Adjustment Based on Median of Past Four Years DBE Attainment

In accordance with 49 CFR §26.45(d)(1)(I), after arriving at the preliminary base figure of 7.96%, the Authority reviewed and assessed other data to determine if the base figure should be adjusted. Evidence considered in making an adjustment to the base figure was based on historical DBE attainment (reported as commitments) over the last four federal fiscal years from FFY 2013 through 2016.

Table 3 shows the historical DBE attainment through commitments to DBEs on awarded contracts and Table 4 shows DBE participation on closed contracts over the most recent completed FTA reporting periods.

Historical DBE Attainment

Table 3 reflects historical DBE goal commitments on FTA assisted contracts Awarded over the most recent three completed Federal Fiscal Years (FFYs) FTA Semi-Annual Reports:

Table 3: DBE Goal Commitments on Awarded Contracts

Federal Fiscal Year	DBE Goal Commitments on Awarded Contracts
2012-2013	36%
2013-2014	17%
2014-2015	11%
2015-2016	6%
Median DBE Goal Commitment = 14%	

Final Proposed Overall DBE Goal

Based on past DBE attainment (goal commitments and participation on closed contracts), the Authority adjusted the preliminary base figure by adding all three percentages and taking the average, as follows:

1. Authority preliminary base figure: 7.96%
2. Past median DBE commitments: 14.0%

$$7.96\% + 14.0\% = 21.96\%$$

$$21.96\% / 2 = 10.98\%$$

The proposed Triennial (overall) DBE goal for FFY 2018-2020 has been established at 10.98%

Disparity Studies

At this time there are no current disparity studies that would be relevant to the Step Two analysis.

Race-Conscious and Race-Neutral Participation

DBE participation that is obtained on contracts with no specific DBE goal, or by DBE primes, or in instances when a goal is exceeded is considered race neutral. DBE participation obtained through contract specific goals is considered race conscious.

In determining the race neutral/race conscious split for FFY 2018-2020, the Authority determined the average race neutral/race conscious split over the last three federal fiscal years as illustrated below in Table 4.

Table 4.				
Race-Neutral/Race-Conscious Split for FFY 2018-2020				
FFY	Race-Neutral Achieved	Total to DBEs	% RN	Uniform Report
2014	\$ 246,144.00	\$ 2,512,993.00		1st Semi-Ann.
	\$ 2,311,469.00	\$ 11,749,517.00		2nd Semi-Ann.
Total	\$ 2,557,613.00	\$ 14,262,510.00	17.93%	
2015	\$ 1,154,329.00	\$ 2,067,695.00		1st Semi-Ann.
	\$ 408,718.00	\$ 4,556,180.00		2nd Semi-Ann.
Total	\$ 1,563,047.00	\$ 6,623,875.00	23.60%	
2016	\$ 457,267.00	\$ 2,061,295.00		1st Semi-Ann.
	\$ 482,823.00	\$ 1,785,984.00		2nd Semi-Ann.
Total	\$ 940,090.00	\$ 3,847,279.00	24.44%	
Average RN/RC Split: 20.46%				

1. Absolute RN Attainment x Proposed Goal = 20.46% x 10.98% = 2.24%

RN Split = 2.24%

2. Proposed Goal - RN Split = 10.98% - 2.24% = 8.74%

Proposed Overall DBE Goal for FY 2018-2020 =	10.98%
Projected Race-Neutral:	2.24%
Projected Race-Conscious:	8.74%

Based on the above calculations, the Authority will seek 8.74% of its overall DBE goal through race-conscious measures, contract specific goals and a Good Faith Effort (GFE) process and 2.24% through race-neutral measures. The Authority considers this to be a reasonable and achievable approach, notwithstanding past shortfalls in achieving DBE participation goals, for reasons addressed in its previously-submitted shortfall analysis for FFY 2016 and the enhanced administrative and monitoring procedures outlined immediately below.

MBTA’s Commitment to Meeting Proposed DBE Goal

The DBELO/ODCR staff will provide oversight of projects included in the Projected FFY 2018-2020 Spend (MBTA 5-yr.-CIP) on FTA-Funded Projects to ensure projects included in the Triennial Methodology are awarded during the triennial period:

- At the start of each Federal Fiscal Year covering the Triennial period, Capital Program Oversight shall submit to ODCR on a quarterly basis a list of new projects identified in the Projected FFY 2018-2020 Spend (CIP) that are slated to go out to bid during that quarter. Capital Program Oversight shall also include the projected dollar spend for on-going projects included in the Projected FFY 2018-2020 spend.
- Capital Program Oversight shall provide commentary on those contracts not awarded during the time frame outlined in the FFY 2018-2020 Spend as to whether said projects are to be rescheduled for release in another year or have been eliminated from the Projected FFY 2018-2020 Spend. The same will hold true for the projected dollar spend for on-going projects.
- The DBELO/ODCR Staff will review the above data to determine the impact on the Authority’s ability to meet the agency’s Triennial DBE goal for a specific fiscal year. If the data supports a finding of the MBTA not achieving the Triennial DBE goal during one of the 3-year periods, Staff should submit to the FTA an adjustment for the period so affected.

- The MBTA's contingency plan to meet the overall goal in any Triennial fiscal year will be to encourage DBE participation on all projects especially those that may not be included in the projected FFY 2018-2020 spend. See Exhibits D1-3.
- Based on the above reporting by Capital Program Oversight to ODCR and ODCR Staff contract specific goal setting attainments, ODCR shall maintain a status report on the Agency's overall goal attainment.

PUBLIC PARTICIPATION PROCESS

As a requirement of the regulations, prior to establishing the overall DBE goal, the MBTA held its public forum with the public on July 14, 2017. See Exhibit F (public notice). The participants at the forum were made up of prime contractors, minority-owned, women-owned and other disadvantaged business enterprises. The forum was held to review the methodology for setting the Triennial DBE goal and to solicit feedback from those in attendance.

Participants were given a PowerPoint presentation on the methodology of how the DBE goal is determined. Participants were engaged throughout the presentation. Participants' questions covered a range of concerns including the methodology, scopes of work and contracts. The theme that resonates from year to year is how DBEs can get meaningful connection with our procurement departments. One participant asked if we could provide contractors with a list of DBEs that could perform the work. The participant was reminded that the SDO DBE Directory contains this information and is available to all contractors online.

PUBLICATION OF GOAL

Following the consultations with the public, the Authority published notice of its proposed overall goal on the MBTA's website, http://bc.mbta.com/business_center/DBE/?id=17429.