Capital Metro
Disadvantaged Business Enterprise Triennial Goal
for
Federal Transit Administration Funded Contracts

Federal Fiscal Years 2023-2025
Public Consultation Agenda

- Objectives and regulatory requirements of the DBE Program
- Cap Metro’s proposed DBE triennial goal for its FTA funded contracts
  - Step One base figure of DBE availability
  - Consideration of Step Two adjustment
  - Estimation of DBE participation to be achieved through race-neutral and race-conscious measures
- Answer questions and solicit written comments
Public Consultation Requirement

- 49 C.F.R. §26.45(g)(1) requires direct, interactive public consultation about Cap Metro’s proposed DBE Program Triennial Goal for FTA funded contracts

- Information solicited
  - Availability of disadvantaged and non-disadvantaged businesses
  - Any ongoing effects of discrimination in Cap Metro’s contracting environment
  - Efforts to level playing field for participation of DBEs
DBE Program Requirements

- DBE Program’s primary objectives
  - Ensure nondiscrimination on FTA assisted contracts
  - Create a level playing field for socially and economically disadvantaged firms to compete for FTA assisted contracts

- Cap Metro’s responsibilities
  - Establish a triennial goal for FTA assisted contracts and submit it for review and approval to the FTA
    - Follow two-step goal-setting process
    - Develop an overall goal that reflects the level of participation it would expect absent discrimination in the relevant market area
Cap Metro’s Proposed Overall Goal

- Proposed overall goal is 22.5% for FFYs 2023-2025
  - 10.0% to be achieved through race-neutral ("RN") and 12.5% through race-conscious ("RC") measures
    - RC measures are focused specifically on assisting only DBEs
    - RN measures can be used to assist all small businesses, not just DBEs
    - “Race” includes gender
Cap Metro’s Goal Setting Methodology

- Two Step Process
  - Step One:
    - Cap Metro must calculate the DBE availability for its federally assisted contracts
    - **Base Figure** = Ready, willing and able DBEs
      All firms ready, willing and able
      (including DBEs and non-DBEs)
  - Step Two:
    Examine all relevant evidence for consideration of a possible adjustment to the base figure to reflect “effects of the DBE program and the level of participation that would be expected but for discrimination”
Step One: Base Figure Calculation

- 49 C.F.R. §26.45(c) allows recipients to use a valid disparity study
- Cap Metro’s 2022 DBE Availability Study
  - FTA funded contracts for October 1, 2016, through June 30, 2021
  - Geographic market is Travis, Hays, and Williamson Counties
  - 32 NAICS codes in this geographic market
  - Overall, weighted DBE availability was 27.5%
Step Two: Adjustments to Base Figure Calculations

- Examine all types of demonstrable evidence
  - Current capacity as measured by median volume of work performed by DBEs in recent years
  - Other agencies’ disparity studies
  - Statistical data from related fields such as financing, bonding and insurance
  - Relevant data on employment, self-employment, education, training and union membership
Step Two: Adjustments to Base Figure Calculations

- Current DBE capacity to perform work on FTA assisted projects for the past five years
  - DBE participation FFY 2017: 9%
  - DBE participation FFY 2018: 21%
  - DBE participation FFY 2019: 15%
  - DBE participation FFY 2020: 17%
  - DBE participation FFY 2021: 25%
- Median DBE participation for FFY 2017-2021 was 17%
Step Two: Final Adjustment to Base Figure Calculations

- Adjustment calculation:
  - Step One base figure: 27.5%
  - Median past DBE participation: 17%
  - Average = 22.5%
- Proposed triennial DBE goal for FTA funded contracts is 22.5%
Race-Neutral and Race-Conscious Projection

- Cap Metro must meet the maximum feasible portion of its overall goal using RN measures.
- To calculate the use of RN measures to achieve its overall goal, Cap Metro used the median RN achievement of 14.0%.

<table>
<thead>
<tr>
<th>Fiscal Year</th>
<th>Overall DBE Utilization</th>
<th>RN Utilization</th>
<th>RC Utilization</th>
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<tbody>
<tr>
<td>2017</td>
<td>9%</td>
<td>1%</td>
<td>8%</td>
</tr>
<tr>
<td>2018</td>
<td>21%</td>
<td>14%</td>
<td>7%</td>
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<td>2019</td>
<td>15%</td>
<td>10%</td>
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<td>2020</td>
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<td>7%</td>
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</tr>
<tr>
<td>2021</td>
<td>25%</td>
<td>11%</td>
<td>14%</td>
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Race-Neutral and Race-Conscious Projection

- Other factors considered:
  - Amount by which past goals were exceeded
  - Past history of Cap Metro’s inability to achieve the triennial goal

- Based on this analysis, Cap Metro plans to achieve its goal using 10.0% race-neutral measures and a remainder of 12.5% using race-conscious measures
Race-Neutral Measures

- Agency sponsored events and workshops
- SBE Program
  - Requires prime contractors to provide subcontracting opportunities of a size that small businesses, including DBEs, can reasonably perform, rather than self-performing all the work
- Cap Metro’s Business Center website
- Collaboration with City of Austin and TxDOT
Public Participation: Review & Comment

- Published Notice
  - The proposed overall goal and methodology are available on Cap Metro’s website at www.capmetro.org
  - Public comment period extends to July 31, 2022. Please email comments to DBEgoalFY2023-2025@capmetro.org
- Cap Metro will provide a summary to FTA of any comments received, and a summary of any changes made, based upon those comments