

**Santa Clara Valley
Transportation Authority**

**Disadvantaged Business Enterprise
(DBE) Program**

**Three-Year Overall Goal and Methodology
Report
For Federal Fiscal Years 2017 – 2019**





I. Goal Setting Methodology Section 26.45

The Santa Clara Valley Transportation Authority (**VTA**) has prepared this submission to the Federal Transit Authority (FTA) to describe the methodology used to establish the transit Disadvantaged Business Enterprise (DBE) goal mandated by 49 CFR Part 26 for its federally-assisted transit contracts. 49 Code of Federal Regulations (CFR) Part 26.45 requires a two-step process for setting the transit DBE goals that reflect the level of DBE participation on **VTA**'s contracts expected in the absence of discrimination. As further required by 49 CFR Part 26.51 (c), **VTA** submits a projection of the portion of the transit goal that it expects to meet through race-conscious and race-neutral means and the basis for the projection.

The first step is the calculation of a base figure for the relative availability of DBEs. The second step requires consideration of a possible adjustment of the base figure to reflect the effects of the DBE program and the level of participation that would be expected absent the effects of past and current discrimination against DBEs.

VTA followed this two-step goal setting methodology prescribed in the DOT regulation 49 CFR 26.45 (c)-(d).

A. Step One – Determination of Base Figure-Section 26.45(c)

The first step of the goal setting process is to determine the base figure for the relative availability of DBEs based on evidence of ready, willing, and able DBEs in relationship to all comparable businesses known to be available to compete for FTA-assisted contracts **VTA** anticipates awarding during the goal period.

On May 2007, **VTA** retained the services of CRA International to perform a DBE Availability and Utilization Study (Study) to determine if, in fact, there was evidence of discrimination in the contracting industry that would meet the standards set forth by the 9th Circuit Court. The findings in this Study support the usage of race-conscious goals on **VTA**'s federally funded contracts. **VTA**'s market area consist of 11 counties (Alameda, Contra Costa, Marin, Napa, Sacramento, San Francisco, San Joaquin, San Mateo, Santa Clara, Sonoma, and Solano) for the Bay Area Consolidated Metropolitan Statistical Area (CMSA).

In May 2016, **VTA** collaborated with San Mateo Transit District (SamTrans) and the Peninsula Joint Powers Board (Caltrain) to update the Study. Mason Tillman and Associates (MTA) was selected through an open competitive procurement to update the Study. The Study is underway and completed three community outreach meetings in May, August and September. The Study estimated to be completed in June 2017.

1. USDOT-Assisted Contracting Program for Federal Fiscal Year 2017-2019: The **VTA** capital projects include bridge structure repair, rail replacement, traction power substation, light rail crossover and switches, tunnels, cross passages and portals for the New Starts program: "Silicon Valley BART Extension Phase II" These projects, with anticipated \$148,566,750 contracting opportunities, are listed below in Table 1:



TABLE 1
Summary of FTA-Assisted Contracts to Be Expended
Contracting Opportunities by NAICS Codes, FY 2017-2019

| Contract | Contract \$ Amount | NAICS # | NAICS \$ Portion of Contract | NAICS % of Contract | Total % Contract |
|--|--------------------|--------------|------------------------------|---------------------|------------------|
| Hamilton Bridge & Structure Repair | \$440,000 | 237310 | 310,000 | 70.5% | |
| | | 541330 | 110,000 | 25.0% | |
| | | 541370 | 20,000 | | |
| | | Total | 440,000 | 95.5% | 0.3% |
| Rail Replacement Program | \$17,579,773 | 238210 | 2,000,000 | 11.4% | |
| | | 237990 | 8,329,773 | 47.4% | |
| | | 331511 | 3,300,000 | 18.8% | |
| | | 238990 | 1,050,000 | 6.0% | |
| | | 238110 | 1,050,000 | 6.0% | |
| | | 541330 | 1,850,000 | 10.5% | |
| | | Total | 17,579,773 | 100.0% | 11.8% |
| Downtown San Jose Speed Improvement - Phase 1 | \$700,000 | 238990 | 200,000 | 28.6% | |
| | | 237310 | 300,000 | 42.9% | |
| | | 541330 | 200,000 | 28.6% | |
| | | Total | 700,000 | 100.0% | 0.5% |
| Traction Power Substation Procurement | \$3,360,000 | 423610 | 2,500,000 | 74.4% | |
| | | 541330 | 420,000 | 12.5% | |
| | | 238210 | 440,000 | 13.1% | |
| | | Total | 3,360,000 | 100.0% | 2.3% |
| Vasona Corridor Pedestrian Back Gates | \$740,000 | 238210 | 200,000 | 27.0% | |
| | | 423610 | 300,000 | 40.5% | |
| | | 237990 | 90,000 | 12.2% | |
| | | 541330 | 150,000 | 20.3% | |
| | | Total | 740,000 | 100.0% | 0.5% |
| Light Rail Crossover and Switches | \$2,252,500 | 238210 | 125,000 | 5.5% | |
| | | 237990 | 327,500 | 14.5% | |
| | | 331511 | 1,200,000 | 53.3% | |
| | | 238990 | 150,000 | 6.7% | |
| | | 238110 | 200,000 | 8.9% | |
| | | 541330 | 250,000 | 11.1% | |
| | | Total | 2,252,500 | 100.0% | 1.5% |
| Chaboya Yard Well Removal | \$175,000 | 238990 | 175,000 | 100.0% | |
| | | Total | 175,000 | 100.0% | 0.1% |
| Guadalupe Train Wash Replacement | \$1,298,000 | 238210 | 100,000 | 7.7% | |
| | | 238110 | 248,000 | 19.1% | |
| | | 339999 | 800,000 | 61.6% | |
| | | 541330 | 150,000 | 11.6% | |
| | | Total | 1,298,000 | 100.0% | 0.9% |
| Pedestrian Swing Gates Replacement | \$634,000 | 238990 | 150,000 | 23.7% | |
| | | 332999 | 384,000 | 60.6% | |
| | | 541330 | 100,000 | 15.8% | |
| | | Total | 634,000 | 100.0% | 0.4% |
| Train to Wayside Comm System Upgrade | \$1,084,600 | 541611 | 1,084,600 | | |
| | | Total | 1,084,600 | 100.0% | 0.7% |
| Downtown Station and Crossover - Utility Relocation (C310) | \$16,636,924 | 237110 | 2,218,976 | 13.3% | |
| | | 237130 | 574,593 | 3.5% | |
| | | 237310 | 1,498,265 | 9.0% | |
| | | 237990 | 1,608,677 | 9.7% | |
| | | 238910 | 10,736,413 | 64.5% | |
| | | Total | 16,636,924 | 100.0% | 11.2% |
| Downtown Station and Crossover Shell (Support Walls and Excavation) (C322) | \$ 9,930,141 | 237110 | 126,003 | 1.3% | |
| | | 237130 | 3,904,732 | 39.3% | |
| | | 237310 | 54,950 | 0.6% | |
| | | 238110 | 5,378,302 | 54.2% | |
| | | 238120 | 380,210 | 3.8% | |
| | | 238990 | 85,944 | 0.9% | |
| | | Total | 9,930,141 | 100.0% | 6.7% |
| Diridon/Arena Station Shell (Support Walls and Excavation) (C323) | \$3,719,039 | 237110 | 214,084 | 5.8% | |
| | | 237130 | 86,348 | 2.3% | |
| | | 237310 | 157,452 | 4.2% | |
| | | 238110 | 3,035,845 | 81.6% | |
| | | 238120 | 225,310 | 6.1% | |
| | | Total | 3,719,039 | 100.0% | 2.5% |
| Tunnels, Cross Passages, and Portals (C330) | \$90,016,773 | 237110 | 3,767,344 | 4.2% | |
| | | 237130 | 55,399,416 | 61.5% | |
| | | 237310 | 3,725,522 | 4.1% | |
| | | 238110 | 18,804,031 | 20.9% | |
| | | 238120 | 7,180,606 | 8.0% | |
| | | 238210 | 140,063 | 0.2% | |
| | | 238220 | 990,021 | 1.1% | |
| | | 238990 | 9,770 | 0.0% | |
| | | Total | 90,016,773 | 100.0% | 60.6% |
| TOTAL ALL CONTRACTS | | | \$148,566,750 | | 100.0% |



Table 2, shown below grouped all the contracts by NAICS code and percentages of total.

| Table 2 Summary of FTA-Assisted Contracts to Be Expended by NAICS Codes FY 2017-19 | | | |
|---|--------|--------------------|----------------|
| | NAICS | \$ To Be Expended | % of Total |
| Water and Sewer Line and Related Structures Construction | 237110 | \$6,313,237 | 4.25% |
| Power and Communication Line and Related Structures Constr. | 237130 | \$59,775,212 | 40.24% |
| Highway, Street & Bridge Construction | 237310 | \$6,342,946 | 4.27% |
| Other Heavy & Civil Engineering Construction | 237990 | \$10,323,999 | 6.95% |
| Poured Concrete Foundation & Structures Contractors | 238110 | \$28,610,104 | 19.26% |
| Structural Steel and Precast Concrete Contractors | 238120 | \$7,768,995 | 5.23% |
| Electrical Contractors | 238210 | \$3,000,644 | 2.02% |
| Plumbing Heating and Air Conditioning Contractors | 238220 | \$980,409 | 0.66% |
| Site Preparation Contractors | 238910 | \$10,710,221 | 7.21% |
| All Other Specialty Contractors | 238990 | \$1,812,270 | 1.22% |
| Iron Foundries | 331511 | \$4,486,112 | 3.02% |
| All Other Miscellaneous Fabricated Metal Product | 332999 | \$386,222 | 0.26% |
| All Other Miscellaneous General Purpose Machinery | 339999 | \$802,152 | 0.54% |
| Electrical Apparatus & Equipment, Wiring Supplies, & Related Equipment Merchant Wholesalers | 423610 | \$2,792,679 | 1.88% |
| Engineering Services | 541330 | \$3,342,302 | 2.25% |
| Surveying and Mapping (except Geophysical) Services | 541370 | \$14,855 | 0.01% |
| Administrative Management and General Management Services | 541611 | \$1,084,391 | 0.73% |
| Total | | 148,546,750 | 100.00% |

2. DBE Availability: A **7.72%** base figure was determined based on the analysis of relative DBE availability as applied to anticipate FTA weighted dollar contract expenditure, as shown in Table 3.

| TABLE 3 WEIGHTED - BASE FIGURES Applicable FTA-Assisted Contract Expenditures FY 2017-19 | | | | | | |
|---|---|---------------|---------------|--------------------|-------------|----------------------|
| NAICS | Industry Description | All Firms CBP | DBE Firms UCP | NAICS Base Figures | % of Total | Weighted Base Figure |
| 237110 | Water and Sewer Line and Related Structures | 220 | 23 | 10.5% | 4.25% | 0.44% |
| 237130 | Power and Communication Line and Related S | 120 | 4 | 3.3% | 40.24% | 1.34% |
| 237310 | Highway, Street & Bridge Construction | 231 | 50 | 21.6% | 4.27% | 0.92% |
| 237990 | Other Heavy & Civil Engineering Construction | 86 | 25 | 29.1% | 6.95% | 2.02% |
| 238110 | Poured Concrete Foundation & Structures Contractors | 444 | 32 | 7.2% | 19.27% | 1.39% |
| 238120 | Structural Steel and Precast Concrete Contractors | 97 | 16 | 16.5% | 5.23% | 0.86% |
| 238210 | Electrical Contractors | 1881 | 31 | 1.6% | 2.02% | 0.03% |
| 238220 | Plumbing Heating and Air Conditioning Contra | 2070 | 14 | 0.0% | 0.66% | 0.00% |
| 238910 | Site Preparation Contractors | 537 | 29 | 5.4% | 7.21% | 0.39% |
| 238990 | All Other Specialty Contractors | 687 | 62 | 9.0% | 1.22% | 0.11% |
| 331511 | Iron Foundries | 9 | 0 | 0.0% | 3.02% | 0.00% |
| 332999 | All Other Miscellaneous Fabricated Metal Product Manufacturing | 79 | 0 | 0.0% | 0.26% | |
| 339999 | All Other Miscellaneous General Purpose Machinery Manufacturing | 121 | 0 | 0.0% | 0.54% | 0.00% |
| 423610 | Electrical Apparatus & Equipment, Wiring Supplies, & Related Equipment Merchant Wholesalers | 430 | 13 | 3.0% | 1.88% | 0.06% |
| 541330 | Engineering Services | 2436 | 136 | 5.6% | 2.25% | 0.13% |
| 541370 | Surveying and Mapping (except Geophysical) Services | 127 | 20 | 15.7% | 0.01% | 0.00% |
| 541611 | Administrative Management and General Management Consulting Services | 2120 | 62 | 2.9% | 0.73% | 0.02% |
| | Total | 11355 | 490 | 4.3% | 100% | 7.72% |



B. Step Two Adjustments – Section 26.45(d)

The second step is to adjust the “base figure” percentage from Step 1 so that it reflects as accurately as possible the DBE participation the recipient would expect in the absence of discrimination based on past participation of DBEs on projects. In adjusting the base figure, we have taken into consideration many factors in this goal-setting process, including the figures from previous years, database analysis from our availability and utilization study, and the DBE participation obtained from other transit agencies in the San Francisco Bay Area.

Past Participation:

VTA examined the DBE volume of work committed to DBEs on **VTA**’s FTA funded projects from FFY 2012-2015.

| | |
|--|--------|
| FFY 2012-2013: Actual DBE awards/commitments equaled | 13.84% |
| FFY 2013-2014: Actual DBE awards/commitments equaled | 20.17% |
| FFY 2014-2015: Actual DBE awards/commitments equaled | 5.73% |

Using adjustments based on past participation as a means of adjusting the Step 1 Base Figure, we determined the past participation as **13.84%**. In determining the median past participation:

C. Final Step: Calculating the Overall Goal

1. FFY 2017-2019 Base Figure = 7.72%
2. Median Past Participation = 13.84%
3. Adjustment Factor = (base figure 7.72%) + (median of past participation 13.84%) divided by 2 = 10.78%

In calculating the DBE overall goal, **VTA** also determined that it is reasonable to expect, in the absence of discrimination, an additional 2.2% of race-neutral DBE goal achievement based on past participation from FFY 2012 through 2015. This resulted in **VTA**’s determination of an overall 13% DBE goal through 10.78% race-conscious measures and 2.2% race-neutral measures.

II. Public Participation in Setting Overall Triennial DBE Goals:

Under 26.45(g), **VTA** participates in various professional services and/or construction outreach and assistance events throughout the year. **VTA** is a member of the Business Outreach Committee (BOC) a group of 14 transit and transportation agencies located in the San Francisco Bay Area that includes, BART, SFMTA, Caltrans, Samtrans/JPB, AC Transit, Alameda CTC, MTC, and other smaller agencies.

The BOC held a joint public participation meeting in Oakland, CA on April 12, 2016 to obtain comments pertinent to the FFY 2017-2019 goal-setting processes. **VTA** presented its

upcoming procurements projected for FFY 2017 and beyond. Members of the public were given opportunities to provide comments. The purpose of these sessions was to obtain input in the goal-setting process, specifically on the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to compete for U.S. DOT-assisted contracts.

The BOC members disseminated copies of a notice inviting representatives of various groups, organizations, and agencies to attend the public participation session. These included minority, women's, and general professional and trade organizations, and other organizations that could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and the **VTA's** efforts to establish a level playing field for the participation of DBEs.

Copies of the notice were emailed in March/April 2016, to disadvantaged, minority, women businesses, and to general contractors groups and community organizations. These organizations are knowledgeable about the availability of disadvantaged and non-disadvantaged businesses and the effects of discrimination on contracting opportunities for DBEs.

Invitations to the public participation session were sent to 14,689 firms in the CUCP DBE listing, minority and women businesses, DOT grantees, and consultants/contractors and including invitations to the consultation meeting were sent to 160 community organizations and small business resources centers. Twenty-six firms attended along with representatives from community based organizations from COMTO, San Francisco Bay Area Small Business Council, and San Francisco African American Chamber of Commerce.

Similarly, On May 3, 2016, **VTA** hosted another event in Santa Clara County for presenting **VTA's** DBE Triennial Goal. There were 14,648 email notices sent with 94% of emails delivered. Two hundred twenty-three individuals registered to attend, and over three hundred people attended the meeting.





The public participation in setting overall triennial DBE goals provided information about the DBE program applicable to U.S DOT-funded contracts, and to obtain pertinent input from businesses and organizations that are most impacted by the DBE goals established for U.S. DOT-assisted contracts.

The sessions also provided information about the availability of certified and potential DBEs willing and able to compete for DOT-assisted contracts, an opportunity to discuss their concerns, and perspectives on how DOT recipients might more effectively administer their programs to improve DBE participation. During the public participation session, **VTA** and peer agencies discussed their respective DOT-assisted contracting opportunities projected for FY 2016-2017, and a forecast of contracting opportunities through FFY's 2017/2018 and 2018/2019.

In both outreach events, firms that attended emphasized the need for more outreach to the DBE community, and the need for additional notification about upcoming procurement activities. Other issues included:

- How goals are set;
- Validity of CUCP database;
- Lack of consequences for Agencies not meeting DBE goals;
- Transparency of actual DBE/SBE utilization;
- Length of time needed to obtain DBE certification;
- Prime contractors having pre-identified DBE/SBE subcontractors making it extremely difficult to get work;
- Suppliers being considered dealers, thus allowing only a portion of participation to count towards DBE goals;
- Why procurements are evaluated the way they are;
- Central database or place where firms can find out about, and sign up for contracting opportunities for all the regional transportation agencies;
- Difficulty in identifying and establishing a working relationship with the prime contractors bidding on federally funded projects; and
- How to find out about upcoming contracting opportunities before bid issuance.

VTA and BOC members advised the participants that it is currently addressing some of these issues by holding quarterly events (such as networking sessions, certification training, workshops on bidding/estimating, accessing capital, insurance and bonding, etc.). The BOC is assisting small, disadvantaged, minority, and women businesses by issuing a quarterly newsletter with upcoming contracting opportunities, helpful hints on how to respond to bids, information on no-cost educational courses, and contact information for each BOC member's DBE Liaison and/or Contract Administrators.

VTA is also planning to collaborate with Santa Clara County with a regional Business Diversity Program to leverage its efforts in providing support services for the region.

II. Projection of Race-Conscious vs. Race Neutral Goal Attainment

A **13.0%** DBE overall goal (10.78% race conscious and 2.22% race neutral), has been established for all FTA-funded contracts anticipated to be awarded for FFY 2017-2019. The DBE Overall Goal and projects in FFY 2014- 2016 is the same due to similar projects proposed for FFY 2017-2019, of which both are related to the new start program for the Silicon Valley Bart Extension Phase I and Phase II projects accounting for almost 85% of all federally funded contracts. **VTA** will continue to monitor its DBE overall goal by tracking each individual contract throughout the term of the contract for DBE participation and payments respective to the federal fiscal year of award.

Race-Conscious and Race-Neutral Means to Achieve the DBE Overall Goal

VTA is continuing with race-conscious goals in conjunction with our race-neutral means. **VTA** sets DBE numerical contract goals on FTA and FHWA assisted contracts where goals need to be set. Race neutral means include, but are not limited to, the following:

1. Carrying out information and communication programs on contracting procedures and specific contract opportunities;
2. Providing services to help DBEs and other small businesses improve long-term development, increase opportunities to participate in a variety of types of work, handle increasingly significant projects, and achieve eventual self-sufficiency;
3. Ensuring distribution of our DBE directory through print and electronic means to the widest feasible universe of potential prime contractors;
4. Assisting DBEs and other small businesses develop their capability to utilize emerging technology and conduct business through electronic media;
5. Providing technical assistance and other services, as needed;
6. Facilitating DBE and other small business participation by unbundling large contracts to make them more accessible to small businesses, requiring or encouraging prime contractors to subcontract portions of work that they might otherwise perform with their own forces;
7. Providing assistance in overcoming limitations such as inability to obtain bonding or financing;
8. Participate in Caltrans Mentor Protégé Program to enhance the capabilities of DBEs and SBEs to perform prime contracts and subcontracts, and thereby increase the utilization of available DBEs and SBEs; and
9. Monitor contracts to ensure attainment of contract assigned goals.

Conclusion:

The projected DBE overall goal is **13.0%** (10.78% race conscious and 2.22% race neutral), for FTA-assisted contracting activity is based on projected availability of ready, willing and able DBEs to participate in the activity. **VTA's** assessment of the FTA-assisted contracts projected for the triennial period in compliance with the procedures outlined in 49 CFR Part 26.