



711 grand ave, #110  
san rafael, ca 94901

ph: 415.226.0855  
fax: 415.226.0856  
[marintransit.org](http://marintransit.org)

July 1, 2019

Honorable Board of Directors  
Marin County Transit District  
3501 Civic Center Drive  
San Rafael, CA 94903

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**SUBJECT: Disadvantaged Business Enterprise Participation (DBE) Goal Methodology for Marin Transit Contracting Opportunities in Federal Fiscal Years 2020-22**

Dear Board Members:

**RECOMMENDATION:** Approve methodology for developing a three-year goal for DBE participation in Marin Transit contracts supported by U.S. Department of Transportation funds.

**SUMMARY:**

Staff recommends that your Board approve the attached methodology for determining a goal for minority- and women-owned businesses participation in Marin Transit projects that receive federal funds. As a direct federal recipient, Marin Transit is required to develop a methodology to identify and approve a three-year goal and monitor progress towards achieving that goal.

The Federal Transit Administration (FTA) requires DBE programs for contracts related to federal funding for planning activities, capital projects, and operating assistance. Transit vehicle purchases have separate DBE compliance procedures and are not subject to transit agency DBE goals. Your Board adopted a Diversity Program for Contracts at your June 24, 2013 meeting. Marin Transit's Diversity Program establishes procedures to obtain information and input regarding available businesses, monitor and enforce compliance of contractors, and develop corrective action plans if the DBE goal is not met. Marin Transit's DBE officer actively participates in an outreach committee of staff from Bay Area transportation agencies who develop programs for minority and women-owned businesses to learn about proposal, bidding, and contracting procedures and increase awareness of upcoming contract opportunities.

The proportion of funds subject to DBE requirements reflects the District's approved three-year DBE goal and upcoming contracting opportunities where federal funds will be utilized. Utilizing the methodology results in a 2 percent overall goal that is based on staff's assessment of the availability of ready, willing, and able DBEs relative to all businesses ready, willing, and able to participate in federally assisted contracts. This analysis relies on U.S. Census 2016 Countywide Business Pattern data to obtain information on businesses that offer services related to the District's upcoming contract opportunities. Staff utilized the current California Unified Certification Program Directory to identify disadvantaged businesses. The attached description of the methodology for determining the goal follows current FTA guidance. Staff anticipates an overall DBE goal for Marin Transit's FTA-assisted contracts that will be achieved through race-neutral methods.

Marin Transit is a member of the Business Outreach Committee (BOC) a group of 15 transit and transportation agencies located in the San Francisco Bay Area. The BOC held a joint public participation meeting at AC Transit on April 2, 2019 to receive comments pertinent to the FFY 2020-2022 goal-setting processes. Members of the public were given opportunities to provide comments. Invitations to the public participation session were sent to 8,700 firms in the BOC mailing list including minority and women-owned businesses and consultants/contractors. Invitations to the consultation meeting were sent to 170 community organizations and small business resources centers. In the North Bay, these organizations include the Marin Small Business Development Center, North Bay Black Chamber of Commerce, Hispanic Chamber of Commerce of Marin, the Chambers of Commerce for individual Marin Cities and Towns, and the North Coast Builders Exchange. The input obtained from these sessions is provided in the attachment to this letter.

On June 27, 2019, Marin Transit posted a Public Notice of the availability of the proposed DBE goal methodology in English and Spanish, with a link to this document, for public review and comment on the District's website at [www.marintransit.org](http://www.marintransit.org). The notice also informs the public that the proposed goal and rationale are available for inspection during normal business hours for 30 days following the date of the Public Notice. Marin Transit will submit the FFY 2020-22 DBE goal methodology to the Federal Transit Administration for review and approval.

**FISCAL IMPACT:** None associated with this report.

Respectfully submitted,



Amy Van Doren  
Director of Policy and Legislative Programs

Attachment – Marin County Transit District Overall Disadvantaged Business Enterprise (DBE) Goal for Federal Fiscal Years 2020-2022



**Marin County Transit District**  
**Overall Disadvantaged Business Enterprise (DBE) Goal**  
**Federal Fiscal Years 2020-22**

**Marin Transit**  
**Revised Overall Disadvantaged Business Enterprise (DBE) Goal**  
**for Federal Fiscal Years 2020-22**

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## Introduction

Under the requirements of the Code of Federal Regulations 49 C.F.R. Part 26.45 (Participation by Disadvantaged Business Enterprises in U.S. Department of Transportation (USDOT) Programs), Marin County Transit District developed an overall Disadvantaged Business Enterprise (DBE) goal for DBE participation from Federal Fiscal Year (FFY) 2020 through FFY 2022 in contracting opportunities that may include federal funding. Marin Transit's proposed overall DBE goal for FFY 2020-22 is 2% of the federal financial assistance for FTA-assisted contracts, exclusive of contracts related to the purchase of transit vehicles. <sup>1</sup>

The regulations require federal recipients to prepare the overall goal using a two-step process. According to the *USDOT Tips for Goal Setting*, the recipient must first determine a base figure for the relative availability of certified DBEs and potentially certified Minority and Woman-owned Business Enterprises, hereafter collectively referred to as Disadvantaged Business Enterprises (DBEs), in the relevant market area. The base figure is intended to be a measurement of the current ready, willing, and able DBEs as a percentage of all businesses ready, willing, and able to perform the recipient's anticipated FTA-assisted contracts.

Next, the recipient must examine all relevant evidence to determine what adjustment, if any, is needed to the base figure in order to arrive at an overall goal. The final adjusted figure is the recipient's overall goal and represents the proportion of federal transportation funding that the recipient is expected to allocate to DBEs during the subsequent three federal fiscal years. Once the agency determines the adjusted overall goal, the process requires considering what portion of the goal will be met by race- and gender-neutral measures.

If a recipient finds that it can meet its overall goal with race- and gender-neutral measures, those measures must be utilized. In contrast, if the recipient determines it cannot achieve the entire overall goal using only race- and gender-neutral measures, it must establish a race- and gender-conscious portion of the overall goal. Development of a race- or gender-conscious goal is subject to a 2005 legal opinion that affects federal recipients in California. Subsequent to that opinion, *Western States Paving v. State of Washington (Western States)*<sup>2</sup>, recipients in the Ninth Circuit cannot consider the use of a race- or gender-conscious goal unless a finding of statistically significant disparity has been made for the ethnic and gender groups to be included in the race- or gender-conscious goal. The Ninth Circuit determined that statistical findings demonstrating a "small disparity" are of insufficient probative value to meet the strict scrutiny standard. Citing *Croson*, the

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<sup>1</sup> Effective February 28, 2011, the USDOT amended the DBE regulations set forth in 49 CFR Part 26 as described in the Federal Register, Volume 76, Number 22 and Vol.79 No. 221 October 2, 2014 Part II Disadvantaged Business Enterprise Program Implementation Modifications; 49 CFR Part 26 [Docket No. OST-2-12-0147]

<sup>2</sup> *Western States Paving Co. v. United States & Washington State Department of Transportation*, 407 F. 3d 983 (9th Cir. 2005).

Court declared that an inference of discriminatory exclusion could arise where there is a statistically significant disparity between the number of qualified minority contractors willing and able to perform a particular service and the number of such contractors actually engaged by the locality or its prime contractors.

This *Overall DBE Goal Setting Report* is based on the DBE regulations contained in 49 CFR Part 26.45, as amended, the decisions of the United States Federal Court, and the *USDOT Guidance Memorandum*. The goal identifies 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 in the Marin Transit's FTA-assisted contracts.

In April 2019, Marin County Transit District participated with peer Bay Area transit and transportation agencies in outreach sessions to obtain public participation and input in developing DBE goals. The overall DBE goal reflects staff's determination of the availability of DBE opportunities and the level of DBE participation expected absent the effects of discrimination.

Marin County Transit District will submit this revised goal methodology for FFY 2020-2022 to the Federal Transit Administration (FTA) for review. The District's recommended overall DBE goal for the period is 2%, which reflects the weighted base figure. The xxx% will be achieved through race-neutral methods. The FTA reporting period for the recommended overall goal will be October 1, 2020 to September 30, 2022.

## **Marin Transit Federally Assisted Contract Opportunities from Fiscal Years 2020 through 2022**

Marin Transit has calculated the projected number, types of work, and dollar amounts of contracting opportunities that will be funded, in whole or in part, by U.S. DOT federal financial assistance for the three-year reporting period. Exclusive of contracts for vehicle purchases, FTA-assisted contracting opportunities for Fiscal Years 2020 through 2022 are expected to primarily consist of onboard vehicle equipment and a new paratransit contract to start in the last quarter of FFY 2022. Additional projects may be undertaken if additional federal revenue becomes available, and Marin Transit will adjust the overall DBE goal if necessary. The anticipated contracts and purchases are listed below in **Table 1**. Note that DBE goals for Transit Vehicle Manufacturers are established through a separate FTA process.

**Table 1**

**Actual and anticipated value of FFY 2020-22 FTA-assisted contracts and percent of total amount**

<b>Project</b>	<b>Federal Dollars</b>	<b>Percent of Total</b>
ADA Paratransit Operations and Maintenance (for new contract start date July 2022)	\$1,977,000	68.20%
Uniforms for Paratransit	\$12,000	.41%
Information Technology for Paratransit	\$97,500	3.36%
Paratransit Vehicle Washing	\$48,000	1.66%
Travel Navigator for Mobility Management (for new contract start date July 2022)	\$100,000	3.45%
Automated Vehicle Location Systems: Mobile Data Terminals, Automated Vehicle Annunciators, & Automated Passenger Counters ( <i>sole source</i> )	\$321,500 Under negotiation. Estimate based on a median value.	11.09%
Clipper Regional Electronic Fare Equipment ( <i>sole source</i> )	\$140,500	4.85%
On Board Cameras ( <i>sole source</i> )	\$191,200	6.60%
Radios ( <i>sole source</i> )	\$11,000	.38%
<b>Total Anticipated Federal Value of New Contracts and Purchases</b>	<b>\$2,898,700</b>	<b>100%</b>

The total amount of anticipated funds available for DBE opportunities in federally assisted contracts and purchases is \$2,898,700 during the three-year reporting period. This amount excludes transit vehicle purchases.

Marin Transit routes uses Caltrans-administered 5311 funds to supports rural transit services. For the upcoming triennial period, Marin Transit has agreed to report these 5311 expenditures directly to FTA. There is DBE participation in the current rural operations contract, though Marin Transit will not rebid this contract in FFY 2020-22.

**Overall DBE Goal Methodology**

The overall goal is expressed as a percentage of the total amount of U.S. DOT funds Marin Transit anticipates expending in the three forthcoming fiscal years. As described below, Marin Transit used a two-step process to establish the overall DBE goal.

## Step 1: Compute Base Figure

As specified in 49 CFR 26.45(c), Marin Transit developed a base figure to determine the relative availability of DBEs to perform work on the anticipated contracts and purchases. The formula for calculating the relative availability of DBEs for each project is:

$$\text{Base figure} = \text{Ready, willing, and able DBEs} / \text{divided by} \\ \text{All firms ready, willing and able (including DBEs and} \\ \text{non-DBEs)}$$

Based on guidance from FTA and the U.S. DOT Office of Small and Disadvantaged Business Utilization, Marin Transit computed a weighted base figure that takes into account the relative size of the anticipated contracts.

The weighted base figure was developed by:

- 1) Using the **2019** California Unified Certification Program Directory to identify the number of registered DBEs willing to perform work in Marin County Transit District's market area for each of the anticipated procurements, based on the NAICS (North American Industry Classification System) code(s) most relevant to each contract or purchase. Marin County Transit District's market area is determined based on where the substantial majority of bidders are located, as documented in the District's Bidders List. For the purposes of the DBE goal, the market area is defined as the San Francisco–Oakland–Hayward, CA Metropolitan Statistical Area (MSA) combined with the Santa Rosa, CA Metro Area MSA. This combined area includes six counties: Alameda, Contra Costa, Marin, San Francisco, San Mateo, and Sonoma Counties. The number DBEs in the market area, by NAICS code, is listed in **Table 2**.
- 2) Using **2016** County Business Patterns (CBP) data from the U.S. Census Bureau to identify the total number of businesses available in Marin County Transit District's market area for work on each contract, based on the same NAICS codes. This data was released on April 19, 2018. **Table 2** lists the number of businesses in the market area, by NAICS code.
- 3) Dividing the number of DBEs by the number of all businesses to determine the relative availability of DBES in the market area for each contract and weighted for contracts with more than one identified work category. The proportion of DBEs available by each procurement type is listed under "% DBE" in **Table 3**.



**Table 2****Data on Availability of DBEs and Businesses for Anticipated Contracts by NAICS Code**

<b>Anticipated Contracts</b>	<b>NAICS Code</b>	<b>Six County Business Census Patterns (Two MSAs combined) by NAICS Code</b>	<b>DBEs California Unified Certification Program</b>
ADA Paratransit Operations and Maintenance	485991-Special Needs Transportation	34	<b>2</b>
Uniforms for Paratransit	812331-Linen Supply	15	<b>2</b>
Information Technology for Paratransit	541512-Computer Systems Design and Related Services	1494	<b>6</b>
Paratransit Vehicle Washing	811192-Automotive Washing and Polishing	177	<b>0</b>
Travel Navigators	624120-Services for the Elderly and Disabled	621	<b>0</b>
Mobile Data Terminals, Automated Vehicle Annunciators, & Automated Passenger Counters ( <i>combined sole source</i> )	334220-Radio & Television Broadcasting & Wireless Communications Equipment Manufacturing	27	<b>3</b>
Clipper Regional Electronic Fare Equipment ( <i>sole source</i> )	334220-Radio & Television Broadcasting & Wireless Communications Equipment Manufacturing	27	<b>3</b>

On Board Cameras (sole source)	334220-Radio & Television Broadcasting & Wireless Communications Equipment Manufacturing	27	3
Radios (sole source)	334220-Radio & Television Broadcasting & Wireless Communications Equipment Manufacturing	27	3

\* Marin Transit identifies these upcoming vehicle equipment purchases as sole source procurements consistent with existing technologies and systems. These are described under the section on the Adjusted Overall DBE Goal for FFY 2020-22, on page 14 below.

**Table 3** extracts all the NAICS codes from the anticipated projects and identifies the proportion of DBEs available to work in Marin County using the CUPC database of DBEs and the data from U.S. Census County Business Patterns for the two Metropolitan Statistical Areas by code.

**Table 3**

**Relative Availability by NAICS Code for FFY 2020-22**

NAICS	Description	Available Businesses in the CBP	Number of Available DBEs	DBE % of Available Businesses by NAICS
485991	Special Needs Transportation	34	2	.0588
812331	Linen Supply	15	2	.1333
541512	Computer Systems Design and Related Services	1494	6	.0040
811192	Automotive Washing and Polishing	177	0	0

624120	Services for the Elderly and Disabled	621	0	0
334220	Radio & Television Broadcasting & Wireless Communications Equipment Manufacturing-radio, security camera	27	3	.1111
<b>Total</b>		2368	13	.55%

**Table 4** aggregates anticipated contract expenditures by NAICS code identified for contracting and possible subcontracting opportunities. The table assigns both a proportionate dollar amount for each code and a percentage of the total anticipated estimate of federal dollars.

**Table 4**

**Summary of Anticipated Dollar Amounts by NAICS Code**

<b>NAICS</b>	<b>Description</b>	<b>Anticipated Contract Dollars</b>	<b>% of Total</b>
485991	Special Needs Transportation	\$1,977,000	.6820
812331	Linen Supply	\$12,000	.0041
541512	Computer Systems Design and Related Services	\$97,500	.0336
811192	Automotive Washing and Polishing	\$48,000	.0166
624120	Services for the Elderly and Disabled	\$100,000	.0345
334220	Radio & Television Broadcasting & Wireless Communications Equipment Manufacturing	\$664,200	.2291
<b>Total</b>		<b>\$2,898,700</b>	<b>100%</b>

The Base Figure is derived by dividing the number of ready, willing, and able DBE firms identified for each work category by the number of all firms identified for each corresponding work category (relative availability), weighting the relative

availability for each work category by the corresponding work category weight from **Table 4** (weighted ratio), and adding the weighted ratio figures together.

$$\text{Base Figure} = \frac{\sum (\text{Number of Ready, Willing, and Able DBEs}) \times \text{Weight} \times 100}{\text{Number of All Ready, Willing, and Able Firms}}$$

**Table 5**

**Weighted-Base Figures for FTA-Assisted Contract Expenditures FFY 20-22**

NAICS	Industry Description	NAICS Base Figure	% Total Expenditures	Weighted Base Figure
485991	Special Needs Transportation	.0588	.6820	.0401
812331	Linen Supply	.1333	.0041	.0005
	Linen Supply	.0040	.0336	.0001
54151	Computer Systems Design and Related Services	0	.0166	0
811192	Automotive Washing and Polishing	0	.0345	0
334220	Radio & Television Broadcasting & Wireless Communications Equipment Manufacturing	.1111	.2291	.0255
<b>Total</b>			100%	<b>6.63%</b>

As shown in **Table 5** above, the **Weighted Base Figure** is equal to the sum of the **Weighted Ratios** for all NAICS Work Categories and is calculated at 6.63%.

**Step 2: Adjust Base Figure**

Per 49 CFR 26.45(d), following calculation of a base figure, all available evidence must be examined to determine what adjustment, if any, is needed to the base figure to arrive at the overall DBE goal. The primary form of evidence available is the past participation of DBEs in Marin Transit contracting.

**Bidders' List - Section 26.45(c.3)**

Marin Transit maintains a Bidder's list as set forth in 49 CFR Part 26.11 of bidders for its federal and non-federally assisted projects. Marin Transit has reviewed this list and determined that the data derived from this list substantiates the market area for contractors, including DBE contractors, as outlined above.

**Sources from Organizations and Institutions - Section 26.45(g.1)**

Directly and through the Business Outreach Committee, Marin Transit communicates with various contractor associations, minority business associations, and the DBE and SBE business communities in general.

### **Applicability of Disparity Studies**

Marin Transit has met its previous overall DBE goal through race-neutral means and is not required to conduct a disparity study. In developing the FFY 2020-22 DBE goal, Marin Transit staff have reviewed three disparity studies. Findings from the Caltrans and SFMTA studies are described below. In both cases, the size and nature of their projects differ significantly from Marin Transit's projects. The Santa Clara Valley Transportation Authority (VTA) recently completed a disparity study, which they have not released to the public. Marin Transit's market area does not include Santa Clara County, though our respective market areas include Bay Area counties to the north. This section also summarizes VTA's findings.

Marin Transit will consider the findings of these and future disparity studies in the conduct of its DBE participation program, including outreach and education activities with the Bay Area Business Outreach Committee, to ensure access to bid opportunities for all eligible MBE/WBE's.

Caltrans issued a draft FTA Disparity Study for comment on May 30, 2019. The draft study found that minority- and woman-owned businesses participation in transit-related contracts that Caltrans and subrecipient local agencies awarded during the study period exceeded what one might expect based on the availability of those businesses for that work. Results did vary substantially across individual groups as follows:

- Three groups exhibited disparity indices substantially below parity: non-Hispanic white woman-owned businesses, Asian Pacific American-owned businesses, and Black American-owned businesses.
- Three DBE categories did not exhibit a disparity: Hispanic American-owned businesses, Native American-owned businesses, and Subcontinent Asian American-owned businesses.

Minority- and woman-owned businesses considered together exceeded parity on both prime contracts and subcontracts. Results for individual groups indicated that:

- Three groups exhibited disparity indices substantially below parity on prime contracts: non-Hispanic white woman-owned businesses, Asian Pacific American-owned businesses, and Black American-owned businesses
- Black American-owned businesses were the only group that exhibited a disparity index substantially below parity on subcontracts.

The draft Caltrans study also analyzed the results separately for transit-related professional services and goods and services contracts. It found overall that minority- and woman-owned businesses did not show disparities for professional services contracts or for goods and services contracts. However, disparity analyses results differed by contracting area and DBE group:

- Three groups exhibited disparity indices substantially below parity on professional services contracts: non-Hispanic white woman-owned

businesses, Asian Pacific American-owned businesses, and Black American-owned businesses.

- Two groups exhibited disparity indices substantially below parity on goods and services contracts: non-Hispanic white woman-owned businesses and Black American-owned businesses.

San Francisco Transportation Authority (SFMTA) completed a disparity study in early 2016. The SFMTA marketplace for construction and related goods contracts consists of four Bay Area counties (San Francisco, Alameda, San Mateo, and Santa Clara) and Los Angeles County. SFMTA's marketplace for professional services contracts are the same four Bay Area counties of San Francisco, Alameda, San Mateo, and Santa Clara. Marin Transit's market area includes the North Bay and does not include Santa Clara or Los Angeles Counties.

The SFMTA Disparity Study's findings include:

- SFMTA's race/gender-neutral measures appear to be effective for Minority-owned businesses (MBEs) in construction and professional services contract categories with two exceptions.
- Evidence supports a conclusion that race-neutral measures have not assisted Black American construction contractors to participate fully and equitably in SFMTA federally assisted construction contracts.
- Women-owned businesses (WBEs) are substantially underutilized on SFMTA FTA-funded contracts, whether WBEs participate as prime contractors or subcontractors in either construction or professional services contract categories, inclusive of goods.

Santa Clara Valley Transportation Authority (SCVTA) completed a disparity study in March 2019. SCVTA is in Silicon Valley, and has responsibility for transit, highways, and the BART extension project in Santa Clara County. While SCVTA has not released the study to the public, they posted the findings on their website at [www.vta.org/osdb](http://www.vta.org/osdb) under Outreach Events, as VTA Final Findings.

The VTA study found no disparities in prime contracts for small construction projects worth under \$1 million and under \$25,000. For professional services prime contractors, the study found disparities for contracts valued at under \$500,000 and under \$50,000 for African Americans, Hispanic Americans, and Caucasian Women. For prime contractors supplying goods, equipment, and supplies, the VTA study found disparities for purchases valued at under \$500,000 and under \$50,000 for African Americans, Asian Pacific Americans, and Hispanic American

For subcontractors, the VTA study identified disparities in construction subcontracts for African Americans, Asian Pacific Americans, and Subcontinent Asian Americans. For subcontracted professional services, the study found a disparity for African Americans. VTA intends to take the following actions to increase Race and Gender-Neutral DBE participation:

- Form partnerships with private firms and nonprofits to provide technical assistance and support services;

- Maintain adequate staff in the Office Business Diversity Programs;
- Use direct contracting to award small contracts to SBEs;
- Implement M/W/DBE and SBE subcontractor substitution standards;
- Assess allocation of risk at prime and subcontract level; and
- Develop a contract-opportunities forecast.

Marin Transit will continue to participate in the DBE research and outreach activities with its San Francisco Bay Area peers in the Business Outreach Committee. Marin Transit will monitor its current and future procurements to identify possible trends in DBE participation, progress in meeting its race neutral goal, and determine whether a race conscious goal is needed.

### **Historic DBE Participation in Marin Transit Contracts**

Marin Transit became a direct federal recipient in 2013. The District has had a limited number of federally assisted contracts.

The District submitted its second DBE goal and methodology to FTA in August 2016 for FFY 2017-2020, with an identified a DBE goal of 6%. The District's primary procurement in FY 2017 was to construct the \$4.7 million Downtown Novato Transit Facility to combine four bus stops into one location. This construction project is by far the District's most extensive and costly project to date. Marin Transit's DBE Officer assume the possibility of using federal funds for the project and included all the contract dollars for Novato Transit Facility in determining the 2017-19 DBE goal. As no federal dollars were used on the \$4.7 million project, the District did not meet Marin Transit's federal DBE goal.

The DBE officer set a 10 percent goal for the Novato Transit Facility construction contract. The selected bidder was also the responsive bidder and committed to meeting this 10 percent goal. Marin Transit verified the skills and demonstrated participation of a total of five DBE firms that were utilized to complete this project. In addition, a portion of the project work was carried out by an organization that supports local youth employment development - the North Bay Conservation Corps.

Marin Transit's largest federally supported procurement for FFY 2017-19 was the purchase of a Mobile Information Kiosk Vehicle to provide information for passengers riding the Muir Woods Shuttle to Muir Woods National Monument. In the FFY 17-19 goal, Marin Transit assumed that this would be a construction project.

The remaining projects for FFY 17-19 primarily consisted of highly specialized equipment purchases for new buses: fareboxes, on-board camera systems, automated passenger counters, regional electronic smart card readers, and automated vehicle annunciators. These are consistent with current equipment technologies and systems at the local and regional level. Two other projects required highly specialized skills and experience: Radio communications needs assessment and Space needs analysis for a future operations and maintenance facility.

There is DBE participation in Marin Transit's rural 5311 contract, which the District has historically reported to Caltrans. For the FFY 20-22 triennial period, Caltrans has agreed to allow Marin Transit to report its DBE participation in a Section 5311 supported contract to FTA.

In the US DOT Tips for Goal Setting in the Disadvantaged Business Enterprise Program, page 7 suggests that an agency can make a Step 2 adjustment by averaging the base figure with the past median DBE participation.

Excluding the rural 5311 program, the DBE participation rate in Marin Transit's federally assisted contracts is based on the proportion of new federally assisted contracts awarded to DBEs during FFY 2017-19 as follows:

- FFY 2017: 0%
- FFY 2018: 0%
- First half of FFY 2019: 0%

Using the method in the *Tips for Goal Setting*, the median of 0% percent is the historic participation rate in federally supported procurements. An adjusted goal would be determined in the following formula:

1. FFY 2020-22 Base Figure = 6.63%
2. Median Past Participation = 0%
3. Adjustment Factor = (6.63%) +(0%) divided by 2 = 0%

### **Consideration of an Adjusted Overall DBE Goal for FFY 2020-22**

Based on the Step 2 analysis, Marin County Transit District has concluded that the 6.63% figure should be adjusted lower. Marin Transit proposes an overall DBE goal of 2% of federal funds that will be expended in FTA-assisted contracts in FFY 2020-2022, exclusive of funds for the purchase of transit vehicles.

In FFY 2020-22, the following anticipated vehicle equipment procurements will be sole source: Mobile Data Terminals, Automated Vehicle Annunciators, & Automated Passenger Counters, Radios, and Regional Electronic Fare (Clipper). These will be consistent with existing local and regional systems. Removing those purchases from the Step One calculations lowers the Step One calculation to 4%.

The remaining anticipated contract awards are for operations: primarily for the ADA paratransit contract and possibly for a travel navigator program serving senior and disabled residents. Marin Transit's DBE officer has identified three possible areas for unbundling the ADA paratransit contract: uniforms, information technology support, and vehicle washing. Marin Transit's paratransit vehicles are fueled at the Marin County-owned garage. Thus, there are no DBE opportunities associated with fueling. Marin Transit does not anticipate any federally supported construction projects for FFY 20-22.



In anticipation of a new ADA paratransit contract in late FFY 2022, Marin Transit will work to identify possible DBE firms that may be able to provide the skills necessary to deliver the District's paratransit services. The District has some experience with its Section 5311 supported contract in efforts to identify DBEs. The contractor demonstrated a substantial good faith effort and was able to subcontract with a DBE uniform supplier. The proportional cost of uniforms for the District's 5311 supported operating contract is small, at 1% of the federal grant amount in the award.

Given the District's limited experience with DBE participation in operating contracts, Marin Transit proposes a 2% DBE goal for FFY 20-22.

### **Use of Race-Neutral Methods and DBE Contract Goals**

The U.S. DOT regulations require that race-neutral methods be used to the maximum extent feasible to achieve the DBE overall goal. Race-neutral methods include making efforts to assure that bidding and contract requirements facilitate participation by DBEs and other small businesses; unbundling large contracts to make them more accessible to small businesses; encouraging prime contractors to subcontract portions of the work that they might otherwise perform themselves; and providing technical assistance, communications programs, and other support services to facilitate consideration of DBEs and other small businesses.

Because of the emphasis on race-neutral methods, Marin County Transit District does not propose to set contract-specific DBE goals on FTA-assisted contracts to be awarded in Federal Fiscal Year 2020 through Fiscal Year 2022. Instead, the District will focus on developing race-neutral methods for facilitating DBE participation. The District will advise prospective contractors of areas for possible subcontracting, and of the availability of ready, willing, and able subcontractors, including DBE firms, to perform such work. The District will carefully monitor its progress during the year and may establish contract-specific goals if race-neutral methods do not appear sufficient to achieve the overall DBE participation goals for Federal Fiscal Year 2020 through Fiscal Year 2022. It is anticipated that the DBE goal for FTA-assisted contracts will be achieved through race-neutral methods.

### **Public Participation in Setting the Overall DBE Goal**

Under 26.45(g), Marin Transit participates in various professional services and/or construction outreach and assistance events throughout the year. Marin Transit 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, the Metropolitan Transportation Commission, and other smaller agencies.

The BOC held a joint community-based organization and public participation meeting at AC Transit in Oakland on April 2, 2019 to receive comments pertinent to the FFY 2020-2022 goal-setting processes. Member agencies presented their upcoming procurements along with other opportunities projected for FFY 2020 and

beyond, and 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 conducted the consultation meeting and public participation sessions to provide 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 BOC and other participating agencies 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 District's efforts to establish a level playing field for the participation of DBEs.

Copies of the notice were emailed and mailed in March 2019 to disadvantaged, minority, and women-owned businesses and to over 170 general contractor 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. In the North Bay, these organizations include the Marin Small Business Development Center, North Bay Black Chamber of Commerce, Hispanic Chamber of Commerce of Marin, the Chambers of Commerce for individual Marin Cities and Towns, and the North Coast Builders Exchange.

Only one of the invited community and business organizations, VSCE, participated in the consultation session. Over 65 firms registered for the public participation session. The discussion in the consultation session is summarized below:

- VSCE asked how the BOC could better reach contractors since their firm was the only participant in attendance for this session. He stated that it would be great to have one main website at least at the regional level of all agency contracting opportunities instead of having to register through each individual website.
- BOC members asked VSCE how they become aware of job opportunities before they are advertised. They participate in many networking opportunities and agency events. The BOC provides match-making events to build connections with prime contractors. The BOC may consider fine-tuning its annual "Meet the Primes" events to create more 1-on-1 opportunities/interviews for DBEs/SBEs and prime contractors.
- A VSCE representative stated that DBEs need assistance with financial forms in the procurement process if they have not done it before. It would be helpful for agencies to hold separate sessions to assist in completing all required forms and all involved departments should be present at those meetings.

- A BOC member asked VSCE what types of financial requirements they have for the firms they work with. The representative stated that they generally have payment mechanisms in place that are consistent with state law. Agencies asked how others were encouraging their primes to submit bills on time and what types of different payment mechanisms were there to ensure subcontractors were being paid on time and primes were being held accountable. A BOC member noted that one payment mechanism was using an escrow account to ensure subcontractors were being paid on time. This is something agencies can consider during the contract negotiations process.
- Members asked if VSCE had any suggestions for resources and how the BOC could assist. Ms. Chambers noted more outreach and partnering up with different organizations (i.e. Conference of Minority Transportation Officials (COMTO)).
- A VSCE representative asked about the difference between the BOC consultation and public participation sessions. The BOC chair explained that the consultation session is intended for business organizations, chambers of commerce, etc. to provide feedback and information on the DBE/SBE communities they work with. The public participation session is open to the general public and DBE/SBE community to comment on the goal-setting methodology agencies use to establish their overall goals and/or the DBE program in general.
- A BOC member asked the VSCE representative how busy their organizations are and noted that his agency has had several solicitations that have had few or no bids. The member asked for input on different advertising strategies and how other agencies were getting their information out.

For the public participation session, the Business Outreach Committee sent invitations to 8,700 firms on the BOC mailing list including minority and women businesses, DOT grantees, and consultants/contractors. The session 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, BOC member agencies discussed their respective DOT-assisted contracting opportunities projected for FFY 2019, and a forecast of contracting opportunities through FFY's 2020/2021 and 2021/2022.

Of the 65 firms that attended the April 2, 2019 public participation meeting, many emphasized the need for more outreach to the DBE community and for additional notification about upcoming procurement activities. Questions and comments included:

- Are race-neutral goals being phased out? Are you finding more success in race-conscious goals? They must be narrowly tailored based on a disparity study.
- How does an agency have a 0% proposed goal?
- Is there anywhere on your website(s) where we can see past DBE participation/goal attainment? It would be helpful to see the attainment and how DBEs could help achieve those goals. Proposed goals with past attainments will be posted on individual agency websites, and the FTA website lists its top fifty grantees past goals and attainment.
- Request that all agencies coordinate to create one major report that captures cumulative data related to the DBE program. This may include progress, challenges, participation, payments, etc. There are challenges with DBEs and SBEs being paid on time. The program should help small businesses grow and profit in the State of California.
- What level or tier are DBEs participating on contracts? How can DBEs take a larger role? FTA encourages agencies to unbundle contracts, though it can be a challenge.
- What resources are available to SBEs?
- How do businesses start forming teams before an RFP is issued? The BOC offers opportunities to help DBEs/SBEs build working relationships through matchmaking, networking, and interviews/1-on-1 with primes. DBEs are encouraged to contact project managers at the specific agency and contact primes in advance. They typically maintain a vendor database during the procurement process that lists all firms interested in a specific project.
- Our firm is interested in a solicitation and has begun the process of reaching out to DBEs. Not all DBEs will call back/respond or are not interested. What can we do? The DBE Officer can assist as some DBEs may need to update their phone numbers, have moved, etc.

Additional comments included requests to improve notification of upcoming opportunities to vendors and for workshops on insurance and strategic planning.

The BOC advised the participants that it holds quarterly events, such as networking sessions, insurance and bonding, how to get certified, etc. The BOC issues 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.

On June 27, 2019, Marin Transit posted a Public Notice of the availability of the proposed revised DBE goal methodology in English and Spanish, with a link to this document, for public review and comment on the District's website at [www.marintransit.org](http://www.marintransit.org). The notice also informs the public that the proposed goal and rationale are available for inspection during normal business hours for 30 days following the date of the Public Notice.

## Conclusion

Marin Transit has prepared this goal setting and methodology report for submission to FTA, in compliance with the procedures outlined in 49 CFR Part 26, as amended, requiring DOT grantees to establish a DBE overall goal as a percentage of all FTA funds expected to be expended in the three forthcoming federal fiscal years. A 2% DBE overall goal has been established for all FTA-funded contracts anticipated to be awarded for FFY 2020-2022.

Marin Transit will monitor progress on the 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.

Interested parties are encouraged to submit comments to:

Amy Van Doren, DBE Officer  
Marin County Transit District  
711 Grand Avenue, Suite 110  
San Rafael, CA 94901

Or

Federal Transit Administration, Region IX  
Attention: Civil Rights Officer  
San Francisco Federal Building  
90, 7th Street, Suite 15-300  
San Francisco, CA 94103

## Attachment 1

### Public Notice Disadvantaged Business Enterprise (DBE) Goal For Federal Fiscal Years 2020-2022

In accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26, Marin County Transit District announces its proposed goal over the following Fiscal Years 2020, 2021, and 2022 goal of 2% for DBE participation on contracts assisted by the Federal Transit Administration (FTA).

The proposed goal and its rationale are available for public review for the next 30 days during normal business hours from 8:30 a.m. to 5:00 p.m., Monday through Friday, at the offices of Marin County Transit District, 711 Grand Avenue, Suite 110 in San Rafael, CA 94901, and on our web page at [www.marintransit.org/purchasing.html](http://www.marintransit.org/purchasing.html).

Written comments will be accepted by Marin County Transit District and FTA for 30 days following publication of this notice. The District's Federal Fiscal Year 2020-2022 goal may be adjusted by any comments received.

Interested parties are encouraged to submit comments to:  
Amy Van Doren, DBE Officer  
Marin County Transit District  
711 Grand Avenue, Suite 110  
San Rafael, CA 94901

Comments may also be submitted to the Federal Transit Administration, Region IX, Attention: Civil Rights Officer, San Francisco Federal Building, 90, 7th Street, Suite 15-300, San Francisco, CA 94103.

### **Empresa Comercial en Desventaja (DBE) meta de Marin Transit para los años fiscales 2020-2022**

De acuerdo con los regulaciones del Departamento de Transportación de los EE.UU. (DOT), 49 CFR Parte 26, El Distrito de Tránsito de Marin (Marin Transit) anuncia su meta propuesta para los siguientes años fiscales 2020, 2018 y 2022 una meta del 2% participación en DBE en contratos con la ayuda de la Administración Federal de Transito (FTA).

La meta propuesta y su razón fundamental están disponibles para opinión pública para los próximos 30 días entre las horas normales 8:30 a 5:00p.m., Lunes a Viernes, en las oficinas de Marin Transit, 711 Grand Avenue, Suite 110 en San

Rafael, CA 94901, y también por nuestra página de web  
**[www.marintransit.org/purchasing.html](http://www.marintransit.org/purchasing.html)**.

Comentarios escritos estarán aceptados por Marin Transit y FTA para 30 días después de publicación de la noticia presente. La meta del año fiscal 2020-2022 del Distrito puede ser ajustado por los comentarios recibidos.

Se anima a los interesados a enviar sus observaciones a:

Amy Van Doren, DBE Oficial  
Marin County Transit District  
711 Grand Avenue, Suite 110  
San Rafael, CA 94901

Los comentarios también se pueden enviar a la Administración Federal de Transito, Region IX, Attention: Civil Rights Officer, San Francisco Federal Building, 90, 7th Street, Suite 15-300, San Francisco, CA 94103

