

**THE SAN JOAQUIN REGIONAL RAIL COMMISSION
(SJRRRC)**

**FFY 2014 - 2016
DISADVANTAGED BUSINESS ENTERPRISE GOAL
AND GOAL-SETTING METHODOLOGY REPORT**

**SJRRRC BOARD OF COMMISSIONERS
APPROVAL: _____**

**SUBMITTED TO
U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL TRANSIT ADMINISTRATION
SAN FRANCISCO, CALIFORNIA**

EXECUTIVE SUMMARY

The San Joaquin Regional Rail Commission (“SJRRRC”) has completed its analysis for the annual overall Disadvantaged Business Enterprise (“DBE”) goal applicable to the SJRRRC’s contracting opportunities funded in whole or in part by the Federal Transit Administration (“FTA”) in Federal Fiscal Year (“FFY”) 2014 - 2016.

The annual overall DBE goal represents the percentage of DBE firms who are ready, willing and able to participate in the SJRRRC’s FTA-assisted contracting opportunities each fiscal year. The goal is expressed as a percentage of all FTA funds the SJRRRC anticipates expending in the fiscal year.

The SJRRRC has chosen the following methodology to establish the annual overall goal in accordance with the Department of Transportation (“DOT”) federal regulations governing the DBE program and recent guidance from DOT.

STEP 1.

The SJRRRC determined a base figure for the relative availability of DBEs in the specific areas of expertise involved in the SJRRRC’s FTA-assisted contracting opportunities for FFY 2014 by using the Unified Certification Program (“UCUP”) database of DBE’s; the most recent national U.S. Census Bureau’s County Business Pattern database for the State of California and then weighting each area of expertise according to the amount of FTA assistance that is projected to be spent in the area. The base figure for FFY 2014- 2016 is 5.5%.

STEP 2.

The SJRRRC examined other evidence regarding DBE availability for the SJRRRC’s geographic and contracting market to determine if any adjustments to the base figure were needed in order to arrive at a narrowly tailored annual overall goal. *No adjustments were made.*

Based upon this analysis, the SJRRRC proposes an **annual overall DBE goal of 5.5% for FFY 2014 - 2016 for FTA-assisted contracts.**

I. SJRRC FTA-ASSISTED CONTRACTING OPPORTUNITIES IN FFY 2014

The SJRRC has identified and analyzed the FTA-assisted contracting opportunities for FFY 2014 by federal dollar amounts and the North American Industry Classification Codes “NAICS” codes for the relevant types of work. The total contracting amount of FTA assistance the SJRRC anticipates awarding in FFY 2014 - 2016 is \$16,080,000 (see **Table 1**). The SJRRC has determined that the FTA-assisted contracting opportunities will involve work in (14) 2007 NAICS codes, some of which have been grouped into major two and three digit NAICS classifications to more accurately reflect the availability of DBEs (see **Table 2**).

II. RELEVANT AVAILABLE INFORMATION

The SJRRC examined the following sources to determine which would provide relevant information to its goal-setting methodology:

1. California Unified Certification Program (CUCP) Database

Effective on March 13, 2002, DOT approved the California Unified Certification Program. The California Department of Transportation (“Caltrans”), as the repository agency for the CUCP data, has assembled information from other DOT recipients and compiled a complete central directory of DBE firms in California. SJRRC used the CUCP adopted the 2007 NAICS code system for this year’s goal setting analysis. A list of the 2007 NAICS codes used for this year’s goal setting is available in **Table 2**.

2. Small Business Administration (SBA) Certified Firms

SBA databases were not used to determine availability of DBE firms due to the limited experience the SJRRC has had with SBA firms competing for SJRRC’s FTA-funded contracts.

3. Census Bureau’s County Business Pattern (CBP) Database

SJRRC used the 2007 U.S. Census Bureau’s County Business Pattern (CBP) database to obtain the number of all firms (DBEs and non-DBEs) ready, willing and able to bid for the FTA-assisted contracts. The data was used in Step One of the goal-setting process.

4. Bidders List

The SJRRC has begun development of a Bidders List for use in the goal setting process.

5. Goal of Another DOT Recipient

For the goal setting process for FFY 2014 - 2016, SJRRC reviewed the proposed goals of several other DOT recipients and decided not to use the DBE goal of another DOT recipient.

6. Sources from other Organizations and Institutions

SJRRC did not obtain any additional information about past discrimination in public contracting; discrimination in private contracting; discrimination in credit, bonding or insurance data on employment, self-employment, training or union apprenticeship programs; and/or data on firm formation which could be used for the goal-setting process. SJRRC however, held a public meeting in coordination with other transit agencies and received several public comments and information, which was considered in the goal setting process

III. GOAL METHODOLOGY

1. Determining a Base Figure

The SJRRC developed a base figure to express the relative availability of DBEs in the specific areas of expertise involved in the SJRRC's FTA-assisted contracting opportunities in FY 2014 - 2016 by comparing data from the CUCP DBE database (comprised of the Caltrans maintained CUCP DBE database) and the U.S. Census Bureau's County Business Pattern database. The SJRRC then weighted each area of expertise according to the amount of FTA assistance that is projected to be spent in that area. For each NAICS code, County Business Pattern data from the State of California was used to determine the total number of businesses. The total number of DBEs for each for each NAICS code was determined by using the most closely matched 2007 NAICS codes from the CUCP DBE database. Duplicate DBEs were eliminated and DBEs from outside of the local market area were deleted. The total number of DBEs was compared to the total number of all firms to show the percentage of DBEs available in each area of expertise (see **Table 3**).

Because the SJRRC does not anticipate expending an equal amount of FTA dollars in each area of expertise, the overall availability of each NAICS code or group of codes was weighted according to the percentage of FTA dollars the SJRRC anticipates expending in each NAICS code area. The weighted overall availability of DBEs is 5.5% (see **Table 4**).

The base figure of DBEs available to participate in the SJRRC's FTA-assisted contracting opportunities for FFY 2014 – 2016 is 5.5%.

2. Adjusting the Base Figure

The SJRRC adjusted the amount of FTA-assisted contracting opportunities available to DBEs based on the amount of FTA funds projected to be used to purchase specialized equipment for the bridge construction, concrete foundation and rail track construction for the Stockton Station Track Extension/Gap Closure Project. This adjustment was made prior to determining the base figure, therefore there were no adjustments made to the base figure.

The SJRRC proposes an annual overall DBE goal of 5.5% for FFY 2014 - 2016 for FTA-assisted contracts.

IV. RACE NEUTRAL VS. RACE CONSCIOUS MEANS TO ACHIEVE THE DBE ANNUAL OVERALL GOAL

The U.S. Dot Regulations require that the maximum feasible portion of the DBE overall annual 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. Methods to achieve “race-neutral” DBE contract awards include: (a) a DBE winning a prime contract through customary competitive procurement procedures; (b) a DBE being awarded a subcontract on a prime contract that did not carry a DBE goal, and (c) a DBE winning a subcontract (even if there is a DBE goal) from a prime contractor who did not consider its DBE status in making the award.

Additionally, the SJRRC hopes to encourage more firms to be certified as DBEs by performing CUCP certifications.

Because of the emphasis placed on race-neutral methods and the types of contracting opportunities, the SJRRC proposes that the FFY 2014 – 2016 goal will be met by race-neutral and not race-conscious measures.

SJRRC will carefully monitor its progress during the course of the year and may establish appropriate contract-specific goals if race-neutral methods do not appear sufficient to achieve the overall annual DBE participation for FFY 2014- 2016.

V. SMALL BUSINESS PROGRAM

1. Definition of a Small Business Enterprise:

For purposes of this Program and in accordance with the State of California’s definition of “microbusiness” as set forth in California Government Code section 14837, a “Small Business Enterprise” is defined as:

- a) A business that, together with its affiliates, has average annual gross receipts of two million seven hundred fifty thousand dollars (\$2,750,000) or less over the previous three years, or
- b) Is a small business manufacturer with 25 or fewer employees.

2. Compliance with State of California Small Business Eligibility Requirements:

SJRRC will utilize the State of California certification to verify the status as a small business for participation in SJRRC’ Small Business Program. Contractors will only be eligible to benefit from the Program if they are a State of California Certified Microbusiness. Accordingly, the definition of a “Small Business Enterprise” will be modified as necessary to remain consistent with the State of

California's definition and certification eligibility of "microbusiness".

3. Small Business For Contracts <\$100,000:

SJRRC will set aside contracts for Small Business Enterprises (SBEs), provided that an adequate number of qualified small businesses can compete for the work. The State of California small business directory will be consulted to determine if there is an adequate pool of certified SBE vendors in the market area¹ that are ready, willing, and able to perform. The contract opportunity will be advertised in accordance with the procurement policy, but only Small Businesses will be eligible for award. In those circumstances when only a single proposal or bid that has been solicited under this Program has been received, the contract will be re-solicited, unless there is a sound documented business reason to justify the lack of competition.

4. Self Perform Limit for Contracts >\$1,000,000:

For contracts over \$1,000,000, SJRRC shall use contract goals for SBE participation on contracts that have subcontracting possibilities. Contract goals shall be enforceable and compliance with the goal or good faith efforts to do so shall be a condition of contract award. Contract goals need not be established on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work and availability of SBEs to perform the particular type of work). The contract work items will be compared with eligible SBE contractors willing and available to work on the project. A determination will be made regarding which items are likely to be performed by the prime contractor and which ones are likely to be performed by subcontractor(s). The goal will then be incorporated into the contract documents. Contract goals will be expressed as a percentage of the total amount of a contract.

VI. PUBLIC PARTICIPATION

1. Publication of Proposed Goal

a. The proposed FFY 2014 -2016 DBE goal will be posted at SJRRC Headquarters for 30 days and on the ACE website at www.acerail.com. The notice will also advise that the SJRRC and U.S. DOT will accept public comments on the proposed goal and methodology for a period of forty-five (45) days from the date of publication. The SJRRC will adjust its goal, if necessary, based on public comment, and will formally adopt a final overall goal for FFY 2014 - 2015 only at the close of the public review and comment period.

b. Notices will publish in the following general circulation newspapers, The Stockton Record, San Jose Mercury News and the Tri-Valley Herald.

Table 1					
<i>FFY 2014 - 2016 FTA Dollars by NAICS Codes</i>					
	NAICS	Description	FTA Funds	%of FTA	
	237	Heavy Construction As a Group	\$ 584,000	0.0363	
	237110	Water and Sewer Line and Related Structures Construction			
	237210	Land Subdivision			
	237310	Highway, Street and Bridge Construction			
	237990	Other Heavy & Civil Engineering Construction			
	238	Civil and Heavy Construction As a Group	\$12,496,000	0.7771	
Stockton Track Extension	238110	Poured Concrete Foundation and Structure Contractors			
	238120	Structural Steel and Precast Concrete Contractors			
e-Ticketing	238140	Masonry Contractors			
	238210	Electrical Contractors			
Cabral Station Parking	238910	Site Preparation Contractors			
	541	Special Services As a Group	\$ 3,000,000	0.1866	
	541310	Architectural Services			
	541330	Engineering Services			
	541511	Custom Computer Programming Services			
	541512	Computer Systems Design Services			
	541620	Environmental Consulting			
Total FTA Funds				100%	\$16,080,000

*Stockton Track Extension project is setting aside \$7M not subject to DBE as it is Union Pacific specialty work

Table 2*NAICS Codes used for FFY 2014 - 2016 Goal Setting*

NAICS	Description
237	Heavy Construction As a Group
237110	Water and Sewer Line and Related Structures Construction
237210	Land Subdivision
237310	Highway, Street and Bridge Construction
237990	Other Heavy & Civil Engineering Construction
238	Civil and Heavy Construction As a Group
238110	Poured Concrete Foundation and Structure Contractors
238120	Structural Steel and Precast Concrete Contractors
238140	Masonry Contractors
238210	Electrical Contractors
238910	Site Preparation Contractors
541	Special Services As a Group
541310	Architectural Services
541330	Engineering Services
541511	Custom Computer Programming Services
541512	Computer Systems Design Services
541620	Environmental Consulting

Table 3*DBE Availability by NAICS Codes*

NAICS	Description	DBE	CBP	Availability
237110	Water and Sewer Line and Related Structures Construction	153	864	0.1771
237210	Land Subdivision	28	837	0.0335
237310	Highway, Street and Bridge Construction	280	877	0.3193
237990	Other Heavy & Civil Engineering Construction	181	377	0.4801
237	Heavy Construction As a Group	642	2955	0.2173
238110	Poured Concrete Foundation and Structure Contractors	141	1770	0.0797
238120	Structural Steel and Precast Concrete Contractors	82	411	0.1995
238140	Masonry Contractors	31	1284	0.0241
238210	Electrical Contractors	170	7063	0.0241
238910	Site Preparation Contractors	199	2333	0.0853
238	Civil and Heavy Construction As a Group	623	12861	0.0484
541310	Architectural Services	129	3066	0.0421
541330	Engineering Services	432	7778	0.0555
541511	Custom Computer Programming Services	192	9415	0.0204
541512	Computer Systems Design Services	244	5772	0.0423
541620	Environmental Consulting	339	1311	0.2586
541	Special Services As a Group	1336	27342	0.0489

Table 4*DBE Availability by FTA Dollars*

NAICS	Description	DBE	CBP	Availability	% of FTA Dollars	Weighted DBE Availability
237110	Water and Sewer Line and Related Structures Construction	153	864	0.1771		
237210	Land Subdivision	28	837	0.0335		
237310	Highway, Street and Bridge Construction	280	877	0.3193		
237990	Other Heavy & Civil Engineering Construction	181	377	0.4801		
237	Heavy Construction As a Group	642	2955	0.2173	0.0363	0.0079
238110	Poured Concrete Foundation and Structure Contractors	141	1770	0.0797		
238120	Structural Steel and Precast Concrete Contractors	82	411	0.1995		
238140	Masonry Contractors	31	1284	0.0241		
238210	Electrical Contractors	170	7063	0.0241		
238910	Site Preparation Contractors	199	2333	0.0853		
238	Civil and Heavy Construction As a Group	623	12861	0.0484	0.7771	0.0376
541310	Architectural Services	129	3066	0.0421		
541330	Engineering Services	432	7778	0.0555		
541511	Custom Computer Programming Services	192	9415	0.0204		
541512	Computer Systems Design Services	244	5772	0.0423		
541620	Environmental Consulting	339	1311	0.2586		
541	Special Services As a Group	1336	27342	0.0489	0.1866	0.0091
Total					1.0000	0.0547

