



**METROLINK.**

# Southern California Regional Rail Authority's

---

---

## **Federal Transit Administration (FTA) - Overall DBE Goal Setting Methodology for FFY 2016/18 Goal Period**

*Submitted in fulfillment of:*

*Section 1101 of the Transportation Equity Act for the 21<sup>st</sup> Century  
49 Code of Federal Regulations Part 26  
and*

*Federal Register / Vol. 75, No. 22 [Docket No. OST-2010-0021]*

This analysis is prepared exclusively for the Southern California Regional Rail Authority; it is non-transferable and is not to be duplicated.

**THE SOUTHERN CALIFORNIA REGIONAL RAIL AUTHORITY  
(AUTHORITY)  
DISADVANTAGED BUSINESS ENTERPRISE (DBE)  
PROPOSED OVERALL GOAL AND METHODOLOGY  
FOR  
Federal Fiscal Year (FFY) Period 2016/18  
(October 1, 2015 to September 30, 2018)**

## I. INTRODUCTION

The Southern California Regional Rail Authority (Authority) is required to develop and submit a Disadvantaged Business Enterprise (DBE) Overall Goal for DBE participation as a condition of receiving federal assistance, pursuant Moving Ahead for Progress in the 21<sup>st</sup> Century; 49 CFR Part 26 “Participation by Disadvantaged Business Enterprises in U.S. Department of Transportation Programs” and the Federal Transportation Administration (FTA) Master Funding Agreement.

## II. BACKGROUND

Effective March 3, 2010, the United States Department of Transportation (“DOT”) issued a final rule affecting the implementation and management of the Department’s Disadvantaged Business Enterprise (“DBE”) program. The final rule, requires submission of a goal-setting methodology on a three-year cycle. Pursuant to this final rule, THE AUTHORITY is still required to conduct an annual review to account for changes that may warrant an adjustment to the overall goal or make an adjustment based on changed circumstances (i.e. significant change in the legal standards governing the DBE program, new contracting opportunities presented by the availability of new or different grant opportunities, etc.) to ensure the goal and program as a whole are narrowly tailored throughout the goal period. Under the three-year schedule, the Authority’s DBE goal and methodology submission is due to FTA on August 1, 2015 for proposed FTA funded contracting activities for Federal Fiscal Years (FFY) 2016/18.

***The Authority herein presents its Proposed Overall DBE Goal Methodology for FFY 2016/18 goal period, which resulted in a 25% Overall DBE Goal.***

## III. FTA-ASSISTED CONTRACTING PROGRAM FOR FFY 2016/18

**Table 1** represents the Authority’s U.S. DOT-assisted (FTA) defined contracting program, which includes five (5) projects considered in preparing its ***Proposed Overall DBE Goal-Setting Methodology***. All of the projects have viable subcontracting possibilities and corresponding availability of DBEs, a required criterion for Overall Goal consideration, and are anticipated to be awarded within the respective goal period. The 5 projects include contracting opportunities in both the areas of Construction Services and Materials & Supplies:

**Table 1**

<b>PROJECT</b>	<b>Total Estimated Project Cost</b>	<b>Estimated Federal Dollar Share of Construction</b>	<b>Estimated Federal Dollar Share of Professional Services</b>	<b>Estimated Federal Dollar Share of Materials &amp; Supplies</b>
Ventura Sub (VC) Bridge Replacement Construction	\$1,054,777.00	\$738,343.90	\$0.00	\$0.00
Orange Sub Bridge Repair & Slope Stabilization Construction	\$1,324,482.00	\$728,465.10	\$0.00	\$0.00
Orange Sub Culvert & Bridge Rehabilitation	\$5,600,000.00	\$3,696,001.00	\$0.00	\$280,000.00
Rescope: Apply funds from Gen1 LED lighting, HVAC and Door Operator overhaul to comprehensive overhaul of Gen1 cars	\$611,600.00	\$611,600.00	\$0.00	\$0.00
Procure Lex-Ray System	\$500,000.00	\$400,000.00	\$0.00	\$100,000.00
<b>TOTAL</b>	<b>\$9,090,859.00</b>	<b>\$6,174,410.00</b>	<b>\$0.00</b>	<b>\$380,000.00</b>

Table 2 provides a summary of work grouped by two (2) primary categories: Construction & Materials & Supplies, utilizing the North American Industry Classification System (NAICS) primary work categories. Table 2 also serves to identify the estimated Federal Dollar Share and the Percent of Federal funding, as follows:

**Table 2**

<b>CONTRACT CATEGORY</b>	<b>NAICS WORK CATEGORIES<sup>1</sup></b>	<b>ESTIMATED FEDERAL DOLLAR SHARE</b>	<b>% OF FEDERAL FUNDING (Rounded)</b>
<b>Construction</b>	237310	\$6,174,410.00	94%
<b>Materials &amp; Supplies</b>	327390	\$380,000.00	6%
<b>TOTAL</b>		<b>\$6,554,410.00</b>	<b>100%</b>

**IV. GOAL METHODOLOGY**

<sup>1</sup> Refer to Attachments I and II for corresponding detail of all work trades grouped under the primary NAICS Codes.

**Step 1: Determination of a Base Figure (26.45)<sup>2</sup>**

To establish the Authority’s Base Figure of the relative availability of DBEs to all comparable firms (DBE and Non-DBEs) available to propose on the Authority’s FFY 2016/18 FTA-assisted contracting opportunities projected to be solicited during the respective goal period, the Authority followed one of the five prescribed federal goal-setting methodologies in accordance with 49 CFR Part 26 regulations. This was accomplished by accessing the *California Unified Certification Program (CUCP) Directory of Certified DBE Firms* and the *2013 U.S. Census Bureau County Business Patterns (CBP) Database*. Comparisons were made within the Authority’s market area (defined as Orange, Los Angeles, Riverside, San Bernardino, San Diego, and Ventura County) and by specified industries and types of businesses identified in Table 2. The Authority’s local market area represents where the substantial majority of the Authority’s contracting dollars are expended and/or where the substantial majority of contractors and subcontractors bids or quotes are received.

The Authority made a concerted effort to ensure that the scope of businesses included in the numerator was as close as possible to the scope included in the denominator. For corresponding detail of all work category classifications grouped, refer to Table 3 below.

- ⇒ **For the numerator:** *California UCP DBE Database of Certified Firms*
- ⇒ **For the denominator:** *2013 U.S. Census Bureau’s Business Pattern Database (CBP)*

To determine the relative availability of DBEs, the Authority divided the numerator<sup>3</sup> representing the ratio of ready, willing and able DBE firms, by the denominator<sup>4</sup> representing all firms (DBE and Non-DBEs) available in each work category. Application of this formula yielded the following baseline information:

$$\frac{\text{Number of Ready, Willing and Able DBEs}}{\text{Number of All Available Firms (including DBEs and Non-DBEs)}} = \text{BASE FIGURE}$$

**Step 1: Base Figure (weighted by type of work to be performed and corresponding contracting dollars)**

**Table 3**

237310 Highway, Street, and Bridge Construction	237990 Other Heavy and Civil Engineering Construction
Base Figure = $\left( \frac{8.5\% \text{ (DBEs in NAICS 237310)}}{\text{(CBPs in NAICS 237310)}} \right)$	Base Figure = $\left( \frac{12.9\% \text{ (DBEs in NAICS 237990)}}{\text{(CBPs in NAICS 237990)}} \right)$
Base Figure = $\left( .085 \frac{199}{344} \right)$	Base Figure = $\left( .129 \frac{125}{174} \right)$
Base Figure = .085 (0.58)	Base Figure = .129 (.72)
Base Figure= <b>.049</b>	Base Figure = <b>.093</b>

<sup>2</sup> 26.45 represents Title 49 CFR Part 26 regulatory goal setting methodology reference.

<sup>3</sup> Numerator represents all DBE firms established within the Authority’s market area.

<sup>4</sup> Denominator represents all comparable available established firms.

<b>238110</b> <b>Poured Concrete</b>	<b>238120</b> <b>Structural Steel and Precast Concrete Contractors</b>
Base Figure = $\left[ 19.4\% \frac{\text{(DBEs in NAICS 238110)}}{\text{(CBPs in NAICS 238110)}} \right]$	Base Figure = $\left[ 5.6\% \frac{\text{(DBEs in NAICS 238120)}}{\text{(CBPs in NAICS 238120)}} \right]$
Base Figure = $\left[ .194 \frac{92}{831} \right]$	Base Figure = $\left[ .056 \frac{60}{224} \right]$
Base Figure = .194 (.11)	Base Figure = .056 (.27)
Base Figure= <b>.022</b>	Base Figure = <b>.015</b>
<b>238210</b> <b>Electrical Contractors and Other Wiring Installation Contractors</b>	<b>238910</b> <b>Site Preparation</b>
Base Figure = $\left[ 6.1\% \frac{\text{(DBEs in NAICS 238210)}}{\text{(CBPs in NAICS 238210)}} \right]$	Base Figure = $\left[ 27.8\% \frac{\text{(DBEs in NAICS 238910)}}{\text{(CBPs in NAICS 238910)}} \right]$
Base Figure = $\left[ .061 \frac{137}{4150} \right]$	Base Figure = $\left[ .278 \frac{122}{1132} \right]$
Base Figure = .061 (.03)	Base Figure = .278 (.11)
Base Figure= <b>.002</b>	Base Figure= <b>.030</b>
<b>484220</b> <b>Specialized Freight (except used goods) Trucking, Local</b>	<b>488210</b> <b>Support Activities for Rail Transportation</b>
Base Figure = $\left[ 4.5\% \frac{\text{(DBEs in NAICS 484220)}}{\text{(CBPs in NAICS 484220)}} \right]$	Base Figure = $\left[ 9.3\% \frac{\text{(DBEs in NAICS 488210)}}{\text{(CBPs in NAICS 488210)}} \right]$
Base Figure = $\left[ .045 \frac{226}{821} \right]$	Base Figure = $\left[ .093 \frac{12}{41} \right]$
Base Figure = .045 (.28)	Base Figure = .093 (.29)
Base Figure= <b>.012</b>	Base Figure= <b>.027</b>
<b>334310</b> <b>Audio and Video Equipment Manufacturing</b>	<b>332312</b> <b>Bridge sections, prefabricated metal, manufacturing</b>

Base Figure = $\left( \frac{1.5\% \text{ (DBEs in NAICS 334310)}}{\text{(CBPs in NAICS 334310)}} \right)$ Base Figure = $\left( 0.15 \frac{1}{87} \right)$ Base Figure = .015 (.01) Base Figure= <b>.000</b>	Base Figure = $\left( \frac{2.6\% \text{ (DBEs in NAICS 332312)}}{\text{(CBPs in NAICS 332312)}} \right)$ Base Figure = $\left( 0.26 \frac{12}{142} \right)$ Base Figure = .026 (.08) Base Figure= <b>.002</b>
<b>327390</b>	
<b>Girders and beams, prestressed concrete, manufacturing</b>	
Base Figure = $\left( \frac{1.7\% \text{ (DBEs in NAICS 327390)}}{\text{(CBPs in NAICS 327390)}} \right)$ Base Figure = $\left( 0.17 \frac{3}{62} \right)$ Base Figure = .017 (.05) Base Figure= <b>.001</b>	
<b>BASE FIGURE</b>	
Base Figure = 0.049 + 0.093 + 0.022 + 0.015 + 0.002 + 0.030 + 0.012 + 0.027 + 0.000 + 0.002 + 0.001 = 0.253 <b>Base Figure= (.253) 100 = 25.3 = <u>25%*</u></b>	

*\*Rounded to nearest whole number*

***Step 2: Adjusting the Base Figure***

Upon establishing the Base Figure, the Authority reviewed and assessed other known evidence potentially impacting the relative availability of DBEs within the Authority’s market area, in accordance with prescribed narrow tailoring provisions set forth under 49 CFR Part 26.45 Step 2; DBE Goal Adjustment guidelines.

Evidence considered in making an adjustment to the Base Figure included the Authority’s *Past Median DBE Participation (attainments), Past Median DBE Participation (awards), Bidders List, Disparity Studies, and Other Evidence*, as follows:

**A. *Past Median DBE Goal Attainments***

The following table below reflects the demonstrated capacity of DBEs (measured by actual historical

DBE participation attainments) on FTA-assisted contracts completed by the Authority within the last three (3) Federal Fiscal Years:

**Table 4**

Year	Attainment
FFY 2012	17.81%
FFY 2013	0%
FFY 2014	0%
Median of Past Attainments = 0%, <u>0%</u> , 17.81% = 0% Median Past Participation on DOT-assisted closed contracts. FFY 2015 still in progress as of the date of methodology preparation, so FFY 2012 was used in lieu of FFY 2015	

The Authority considered an adjustment to the Base Figure based on historical DBE goal attainments on DOT-assisted contracts completed within the past three FFYs (2012/14). Based on the Authority’s review of the completed DOT-assisted contracts within the (2012/14) period, the Median Past Participation was found to be 0%. The Step 1 Base Figure (25%) was added to the Median Past Participation (0%) and divided by two (2), the Adjusted Base Figure resulting from the application of this formula follows:

$$\frac{\text{Base Figure (25\%)} + \text{Median Past Participation (0\%)}}{2} = \text{Adjusted Base Figure}$$

Median Past Participation = 0%
Step 1 Base Figure + Median Past DBE Participation (attainments) 25% + 0% = 25%
Adjusted Base Figure = $\frac{25\%}{2} = 12.5\%$
Adjusted Base Figure = <b>12.5%</b>

The formula resulted in a downward adjustment to the Base Figure from 25% to **12.5%**.

**B. Past Median DBE Participation on Awarded Contracts**

As an additional consideration, the Authority assessed the past DBE participation commitments as its awarded DOT-assisted contracts for the same federal fiscal year periods (FFY 2012-FFY 2014) consistent with 49 CFR Part 26.47c “Shortfall Regulatory Requirements.” The results of this viable indicators are illustrated in the tables below:

**Table 5**

Year	DBE Participation Commitment
FFY 2012	10.6%
FFY 2013	.1%
FFY 2014	11.5%
Median of Past DBE Participation Commitments on Awarded Contracts = .1%, <b>10.6%</b> , 11.5% = 10.6% Median Past Participation on DOT-assisted closed contracts. FFY 2015 still in progress as of the date of methodology preparation, so FFY 2012 was used in lieu of FFY 2015	

$$\frac{\text{Adjusted Base Figure (12.5\%)} + \text{Median Past Participation (10.6\%)}}{2} = \text{Adjusted Base Figure}$$

<p>Median Past Participation = 10.6%</p> <p>Adjusted Step 1 Base Figure + Median Past DBE Participation (awards) 12.5% + 10.6% = 23.1%</p> <p>Adjusted Base Figure = <math>\frac{23.1\%}{2} = 11.6\%</math></p> <p>Adjusted Base Figure = <b>11.6%</b></p>
--

The formula resulted in a downward adjustment to the base figure from 12.5% to **11.6%**.

**C. The Authority's Bidders List**

The Authority considered an adjustment to the Base Figure based on its review of the Bidder's List compiled from contracts that contained similar contracting opportunities to those identified and considered in this triennial DBE Goal Analysis for federal fiscal years 2016/18. The Bidder's List provided was assessed for DBE participation in comparison to the total pool of bidders (DBE and non-DBE). The Authority's Bidder's List included a total of 818 firms. Of the 818 firms, 74 were found to be DBEs which resulted in a DBE participation value of 9%. The Adjusted Step 1 Base Figure (9%) was added to the DBE Bidder's List participation percentage (10%) and divided by two (2), the Adjusted Base Figure resulting from the application of this formula follows:

$$\frac{\text{Adjusted Base Figure (11.6\%)} + \text{Bidder's List of DBE Participation (9\%)}}{2} = \text{Adjusted Base Figure}$$



DBE Bidder's List Participation = 9%

Step 1 Base Figure + DBE Bidder's List Participation 11.6% + 9% = 20.6%

Base Figure Adjusted =  $\frac{20.6\%}{2} = 10.3\%$

Adjusted Base Figure = 10%\*

\*Rounded to nearest whole number

The formula resulted in a downward adjustment to the Adjusted Base Figure from 11.6% to **10%**.

***D. Evidence from Disparity Studies***

***Barriers to Entry: Employment, Self Employment, Education and Training, Business Ownership Rates and Access to Capital***

The Authority submitted a request (in accordance with 49 CFR 26.15) to implement a race-conscious goal based on its Disparity Study and apply race-conscious measures to its DBE program to the Department of Transportation in July of 2010.

The Authority reinstated race-conscious measures, coupled with race-neutral measures in April 2014 based on results received from the Southern California Regional Disparity Study, The Authority's analysis of its past utilization data and an examination of similar market area Disparity Studies.

The Authority will take these results and the forthcoming projects into consideration upon developing the breakout of Race-neutral/Race-Conscious measures in the implementation of The Authority's Overall Goal within Section V below.

***E. Other Evidence***

The Authority did not receive any anecdotal evidence nor is it aware of any other factors or adverse considerations that would have had a material effect on DBEs availability within the Authority's marketplace, or on DBEs' ability to participate (meeting bonding, insurance and financial requirements) in the Authority's FTA-assisted contracting programs at this time. However, as part of the Authority's 30 day period public facilitation process, it will request comments/input from industry groups both representing DBEs and non-DBEs to determine whether further consideration in making an adjustment is warranted. The Authority will consider all input received during the public comment period and determine if changes are required prior to finalizing the goal.

**The Overall DBE Goal for FFY 2016/18 goal period for the Authority's FTA-assisted contracts is 10%.**

The proposed goal further serves to identify the relative availability of DBEs based on evidence of ready, willing, and able DBEs to all comparable firms, which are known to be available to compete for and perform on the Authority's FTA-assisted contracts. The proposed goal reflects a determination of the level of DBE participation, which would be expected absent the effects of discrimination.

## V. RACE-NEUTRAL/RACE-CONSCIOUS APPLICATION

On December 18, 2013 the Authority received approval from FTA to implement a race-conscious element to their DBE Program based on the disparity study conducted by the Authority. In response, the Authority reinstated race-conscious measures, coupled with race-neutral measures following Board approval in April of 2014 based on results received from the Southern California Regional Disparity Study, the Authority’s analysis of its past utilization data and an examination of similar market area Disparity Studies.

### A. Past History of Inability to Achieve Goals

DOT has identified the a recipient’s past inability to meet their goals in the past years as a powerful indicator that the recipient may be justified in applying race-/gender-conscious measures to achieve their goals in future Federal Fiscal Years.

The following table below reflects the demonstrated capacity of DBEs (measured by actual historical DBE participation attainments) on FTA-assisted contracts completed by the Authority within the last three (3) Federal Fiscal Years:

*Table 4*

Year	Attainment
FFY 2012	17.81%
FFY 2013	0%
FFY 2014	0%
Median of Past Attainments = 0%, <u>0%</u> , 17.81% = 0% Median Past Participation	
*FFY 2015 still in progress as of the date of methodology preparation, so FFY 2012 was used in lieu of FFY 2015	

The Authority’s historical DBE participation produced a Past Median DBE Participation of 0%, representing a 9% shortfall from the Authority’s 9% Overall DBE Goal for FFYs 2013/15. Considering the Authority’s historical attainments fall short of achieving the projected DBE goal valid during the attainment period, it is evident that race-conscious measures continue to be necessary to ensure the Authority’s success in meeting their proposed goal of 10% for FFY’s 2016/18.

Additionally, as the proposed goal for FFY’s 2016/18 is higher than the overall goal in the prior triennial period (9%) it is reasonable to assume that race-conscious measures will be necessary to enable the Authority to attain its proposed goal.

Consistent with the guidance provided and the reasons stated above the Authority has found it advisable to continue implementing race-conscious measures to the extent necessary to meet the proposed Overall DBE Goal (10%) in accordance with 49 CFR Part 26.51.

### E. Monitor DBE Participation to Determine Whether an Adjustment to the Use of Race/Gender-Conscious Measures is Necessary

The Authority will continue to monitor its DBE participation during the overall goal period to determine whether the application of race-conscious measures to the extent necessary to meet the proposed Overall DBE Goal (10%) remains on target. The Authority will adjust the application of race/gender-neutral and

race/gender-conscious measures, as necessary to ensure the Authority meets the maximum feasible portion the overall goal by using race/gender-neutral means of facilitating DBE participation.

## **VI. PUBLIC PARTICIPATION AND FACILITATION**

In accordance with Public Participation Regulatory Requirements of Title 49 CFR Part 26, minority, women, local business chambers, and community organizations within The Authority's market area will be consulted and provided an opportunity to review the goal analysis and provide input. The Authority will prepare Outreach Consultation Letters advising the aforementioned business community of the proposed DBE goal analysis and its availability for review and comment.

The Authority will also issue a Public Notice in a general circulation media and in at least one other minority focused media publishing the Authority's Proposed Overall Goal for the FFY 2016/18 FTA-assisted contracts. Such Notice will inform the public that the proposed goal and rationale are available for inspection at the Authority's website for 30 days following the date of the Public Notice and that the Authority will accept comments on the goal analysis for 30 days from the date of the Public Notice. The Authority will give full consideration to all comments and input received as a part of this process and will assess its impact on the Proposed Overall DBE Goal.

Identified groups and organization solicited by the Authority will further be requested to participate in a public forum to discuss and share their valuable experience and input pertaining to effects of discrimination on opportunities for DBE's in the Authority's market area. The Authority will invite the public as well as identified minority, women's and general contractor groups and organizations within the Authority's market area to attend, in order to provide testimony and any additional information they may have. Additionally, the Authority consults and will continue to consult with minority groups and organizations year round via event attendance and partner vendor programs to solicit any input they have on DBE opportunities.

Any information received by these groups and organizations will be incorporated as a step 2 process of the Authority's goal development. If no impact and/or comments are received during the public participation process, the Goal will be considered final.