

Butte County Association of Governments



Proposed DBE Goal-Setting Methodology for FFY's 2015/17

Submitted in fulfillment of:

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

* This analysis is prepared exclusively for the Butte County Association of Governments, it is non-transferable and is not to be duplicated

**BUTTE COUNTY ASSOCIATION OF GOVERNMENTS
DISADVANTAGED BUSINESS ENTERPRISE (DBE)
OVERALL DBE GOAL AND METHODOLOGY
FOR**

**FEDERAL FISCAL YEAR (FFY) 2015/17
(Covering the period of October 1, 2014 to September 30, 2017)**

I. INTRODUCTION

Butte County Association of Governments (BCAG) herein sets forth its Proposed Overall Disadvantaged Business Enterprise (DBE) Goal and corresponding federally prescribed goal-setting methodology for the three-year Federal Fiscal Year (FFY) goal period of 2015/17, pursuant to Section 1101 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users; 49 CFR Part 26 “Participation by Disadvantaged Business Enterprises in U.S. Department of Transportation Programs”; and the Federal Transportation Administration (FTA) Master Agreement and Federal Register / Vol. 75, No. 22 [Docket No. OST–2010–0021], dated February 3, 2010.

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 rule, which effectively amended the prior provision requiring annual submission of DBE goals and methodology, requires submission of a goal-setting methodology on a three-year cycle. Pursuant to this final rule, BCAG 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 new schedule, the BCAG’s next DBE goal and methodology submission is due to FTA on August 1, 2017.

BCAG herein presents its Proposed Overall DBE Goal Methodology for FFY 2015/17 goal period.

III. FTA-ASSISTED CONTRACTING PROGRAM FOR FFY 2015/17

Table 1 represents the BCAG’s U.S. DOT-assisted (FTA) defined contracting program, which includes one (1) project that was considered in preparing its **Proposed Overall DBE Goal-Setting Methodology**. The one project, which includes contracting opportunities in the categories of Construction Services, Professional Services, and Materials & Supplies, has viable subcontracting possibilities and corresponding availability of DBEs, a required criterion for Overall Goal consideration, and is anticipated to be awarded within the respective goal period:

Table 1

PROJECT	Total Estimated Project Cost (Federal Share)	Estimated Federal Dollar Share of Construction	Estimated Federal Dollar Share of Professional Services	Estimated Federal Dollar Share of Materials & Supplies
Butte Regional Operations Center	\$36,000,000.00	\$18,000,000.00	\$2,000,000.00	\$16,000,000.00
TOTAL	\$36,000,000.00	\$18,000,000.00	\$2,000,000	\$16,000,000.00

Table 2 provides a summary of work grouped by three (3) primary categories: Construction Services, Professional Services, and 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

CONTRACT CATEGORY	NAICS WORK CATEGORIES¹	ESTIMATED FEDERAL DOLLAR SHARE	% OF FEDERAL FUNDING (Rounded)
Construction Services	236220, 237110, 237310, 237990, 238110, 238120, 238140, 238190, 238210, 238220, 238390, 238910, 238990	\$18,000,000.00	50%
Professional Services	541330, 541611, 541618, 561110, 561730	\$2,000,000.00	6%
Materials & Supplies	324121, 423320, 423610, 444190	\$16,000,000.00	44%
TOTAL		\$36,000,000.00	100%

IV. GOAL METHODOLOGY

Step 1: Determination of a Base Figure (26.45)²

To establish BCAG’s Base Figure of the relative availability of DBEs to all comparable firms (DBE and Non-DBEs) available to propose on the BCAG’s FFY 2015/17 FTA-assisted contracting opportunities projected to be solicited during the respective goal period, the BCAG 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 *2012 U.S. Census Bureau County Business Patterns (CBP) Database*.

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

² 26.45 represents Title 49 CFR Part 26 regulatory goal setting methodology reference.

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Comparisons were made within BCAG’s market area (defined as Butte, El Dorado, and Sacramento) and by specified industries and types of businesses identified in Table 2. BCAG’s local market area represents where the substantial majority of where BCAG’s contracting dollars are expended and/or where the substantial majority of contractors and subcontractors bids or quotes are received.

The Base Figure was further weighted by scope and corresponding contract value. The Base Figure resulting from this weighted calculation is as follows:

BCAG 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 *Attachments I and II*.

- ⇒ **For the numerator:** *California UCP DBE Database of Certified Firms*
- ⇒ **For the denominator:** *2012 U.S. Census Bureau’s Business Pattern Database (CBP)*

To determine the relative availability of DBEs, BCAG divided the numerator³ representing the ratio of ready, willing and able DBE firms, by the denominator⁴ representing all firms (DBE and Non-DBEs) available in each work category. Application of this formula yielded the following baseline information:

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

The Base Figure was further weighted by scope and corresponding contract value. The Base Figure resulting from this weighted calculation is as follows:

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

CONSTRUCTION 236220	CONSTRUCTION 237110
Base Figure = $\left(\frac{2\% \text{ (DBEs in NAICS 236220)}}{\text{(CBPs in NAICS 236220)}} \right)$	Base Figure = $\left(\frac{0\% \text{ (DBEs in NAICS 237110.)}}{\text{(CBPs in NAICS 237110)}} \right)$
Base Figure = $\left(\frac{.02 \frac{123}{218}}{} \right)$	Base Figure = $\left(\frac{.00 \frac{84}{55}}{} \right)$
Base Figure = .02 (.5642)	Base Figure = .00 (1.5273)
Base Figure= .0113	Base Figure = .0000
CONSTRUCTION 237310	CONSTRUCTION 237990

Numerator represents all DBE firms established within BCAG’s market area.
Denominator represents all comparable available established firms.

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<p>Base Figure = $\left(0\% \frac{(\text{DBEs in NAICS 237310})}{(\text{CBPs in NAICS 237310})} \right)$</p> <p>Base Figure = $\left(.00 \frac{144}{63} \right)$</p> <p>Base Figure = .00 (2.2857)</p> <p>Base Figure= .0000</p>	<p>Base Figure = $\left(0\% \frac{(\text{DBEs in NAICS 237990})}{(\text{CBPs in NAICS 237990})} \right)$</p> <p>Base Figure = $\left(.00 \frac{100}{24} \right)$</p> <p>Base Figure = .00 (4.1667)</p> <p>Base Figure = .0000</p>
<p>CONSTRUCTION 238110</p>	<p>CONSTRUCTION 238120</p>
<p>Base Figure = $\left(1\% \frac{(\text{DBEs in NAICS 238110})}{(\text{CBPs in NAICS 238110})} \right)$</p> <p>Base Figure = $\left(.01 \frac{69}{144} \right)$</p> <p>Base Figure = .01 (0.4792)</p> <p>Base Figure= .0048</p>	<p>Base Figure = $\left(0\% \frac{(\text{DBEs in NAICS 238120})}{(\text{CBPs in NAICS 238120})} \right)$</p> <p>Base Figure = $\left(.00 \frac{39}{23} \right)$</p> <p>Base Figure = .00 (1.6957)</p> <p>Base Figure = .0000</p>
<p>CONSTRUCTION 238140</p>	<p>CONSTRUCTION 238190</p>
<p>Base Figure = $\left(2\% \frac{(\text{DBEs in NAICS 238140})}{(\text{CBPs in NAICS 238140})} \right)$</p> <p>Base Figure = $\left(.02 \frac{18}{79} \right)$</p> <p>Base Figure = .02 (.2278)</p> <p>Base Figure= .0046</p>	<p>Base Figure = $\left(1\% \frac{(\text{DBEs in NAICS 238190})}{(\text{CBPs in NAICS 238190})} \right)$</p> <p>Base Figure = $\left(.01 \frac{23}{25} \right)$</p> <p>Base Figure = .02 (.9200)</p> <p>Base Figure = 0.0092</p>
<p>CONSTRUCTION 238210</p>	<p>CONSTRUCTION 238220</p>

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<p>Base Figure = $\left(\frac{13\% \text{ (DBEs in NAICS 238210)}}{\text{(CBPs in NAICS 238210)}} \right)$</p> <p>Base Figure = $\left(.13 \frac{73}{335} \right)$</p> <p>Base Figure = .13 (.2179)</p> <p>Base Figure= .0283</p>	<p>Base Figure = $\left(\frac{24\% \text{ (DBEs in NAICS 238220)}}{\text{(CBPs in NAICS 238220)}} \right)$</p> <p>Base Figure = $\left(.24 \frac{25}{406} \right)$</p> <p>Base Figure = .24 (.0616)</p> <p>Base Figure = .0130</p>
<p>CONSTRUCTION 238390</p>	<p>CONSTRUCTION 238910</p>
<p>Base Figure = $\left(\frac{4\% \text{ (DBEs in NAICS 238390)}}{\text{(CBPs in NAICS 238390)}} \right)$</p> <p>Base Figure = $\left(.04 \frac{15}{46} \right)$</p> <p>Base Figure = .04 (.3261)</p> <p>Base Figure= .0000</p>	<p>Base Figure = $\left(\frac{2\% \text{ (DBEs in NAICS 238910)}}{\text{(CBPs in NAICS 238910)}} \right)$</p> <p>Base Figure = $\left(.02 \frac{95}{186} \right)$</p> <p>Base Figure = .02 (.5108)</p> <p>Base Figure = .0102</p>
<p>CONSTRUCTION 238990</p>	<p>PROFESSIONAL 541330</p>
<p>Base Figure = $\left(\frac{1\% \text{ (DBEs in NAICS 238990)}}{\text{(CBPs in NAICS 238990)}} \right)$</p> <p>Base Figure = $\left(.01 \frac{120}{179} \right)$</p> <p>Base Figure = .01 (.6704)</p> <p>Base Figure = .0067</p>	<p>Base Figure = $\left(\frac{1\% \text{ (DBEs in NAICS 541330)}}{\text{(CBPs in NAICS 541330)}} \right)$</p> <p>Base Figure = $\left(.01 \frac{268}{336} \right)$</p> <p>Base Figure = .01 (.7976)</p> <p>Base Figure = .0080</p>
<p>PROFESSIONAL 541611</p>	<p>PROFESSIONAL 541618</p>

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<p>Base Figure = $\left[0\% \frac{(\text{DBEs in NAICS 238140})}{(\text{CBPs in NAICS 238140})} \right]$</p> <p>Base Figure = $\left[.00 \frac{405}{324} \right]$</p> <p>Base Figure = .0 (1.2500)</p> <p>Base Figure= .0000</p>	<p>Base Figure = $\left[0\% \frac{(\text{DBEs in NAICS 541618})}{(\text{CBPs in NAICS 541618})} \right]$</p> <p>Base Figure = $\left[.00 \frac{400}{16} \right]$</p> <p>Base Figure = .00 (25.000)</p> <p>Base Figure = .0000</p>
<p>PROFESSIONAL 561110</p>	<p>PROFESSIONAL 561730</p>
<p>Base Figure = $\left[1\% \frac{(\text{DBEs in NAICS 561110})}{(\text{CBPs in NAICS 561110})} \right]$</p> <p>Base Figure = $\left[.01 \frac{51}{151} \right]$</p> <p>Base Figure = .01 (.3377)</p> <p>Base Figure= .0034</p>	<p>Base Figure = $\left[4\% \frac{(\text{DBEs in NAICS 561730})}{(\text{CBPs in NAICS 561730})} \right]$</p> <p>Base Figure = $\left[.04 \frac{30}{387} \right]$</p> <p>Base Figure = .04 (.0775)</p> <p>Base Figure = 0.0031</p>
<p>MATERIAL AND SUPPLIES 324121</p>	<p>MATERIAL AND SUPPLIES 423320</p>
<p>Base Figure = $\left[42\% \frac{(\text{DBEs in NAICS 324121})}{(\text{CBPs in NAICS 324121})} \right]$</p> <p>Base Figure = $\left[.42 \frac{2}{7} \right]$</p> <p>Base Figure = .42 (.2857)</p> <p>Base Figure= .1200</p>	<p>Base Figure = $\left[1\% \frac{(\text{DBEs in NAICS 423320})}{(\text{CBPs in NAICS 423320})} \right]$</p> <p>Base Figure = $\left[.01 \frac{9}{22} \right]$</p> <p>Base Figure = .1 (.4091)</p> <p>Base Figure = .0041</p>
<p>MATERIAL AND SUPPLIES 423610</p>	<p>MATERIAL AND SUPPLIES 444190</p>

$\text{Base Figure} = \left(\frac{0\% (\text{DBEs in NAICS 423610})}{(\text{CBPs in NAICS 423610})} \right)$ $\text{Base Figure} = \left(0 \frac{55}{42} \right)$ <p>Base Figure = .00 (1.3095)</p> <p>Base Figure= .0000</p>	$\text{Base Figure} = \left(\frac{1\% (\text{DBEs in NAICS 444190})}{(\text{CBPs in NAICS 444190})} \right)$ $\text{Base Figure} = \left(.01 \frac{21}{33} \right)$ <p>Base Figure = .01 (.6364)</p> <p>Base Figure = .0064</p>
BASE FIGURE	
<p>Base Figure = 0.0113 + 0.0048 + 0.0046 + 0.0092 + 0.0283 + 0.0148 + 0.0130 + 0.0102 + 0.0067+ 0.0080 + 0.0034+ 0.0031 + 0.1200 + 0.0041 + 0.0064</p> <p>Base Figure= (.2478) 100 = 24.78 = (.2478)(.5*) (100) = 12.39 = <u>12%</u>**</p> <p><i>* Adjustment to account for BCAG’s solicitation language, requiring prime contractors to self-perform at minimum 50% of the project dollars.</i></p> <p><i>**Rounded to the nearest whole number</i></p>	

Step 2: Adjusting the Base Figure

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

Evidence considered in making an adjustment to the Base Figure included BCAG’s Past DBE Goal Attainments, other Local Agencies’ Disparity Studies within BCAG’s jurisdiction and Other Evidence. A summary of these considered follows:

A. Past DBE Goal Attainments

BCAG considered an adjustment to the Base Figure based on historical DBE goal attainments on similar contracts to those contracting opportunities identified and considered in the Overall DBE Goal Analysis for the federal fiscal years 2015/17 but as there were no federally-funded projects let in the past 4 years, BCAG was unable utilize past DBE attainment and utilization data.

B. BCAG’s Bidders List

While BCAG’s Vendor/Consultant and Plan holder Databases were assessed and utilized to verify BCAG’s market area, BCAG’s database is currently undergoing refinement to facilitate analysis by contract type and corresponding NAICS codes. Therefore, BCAG will not make an adjustment to the Base Figure based on the Bidders List. BCAG will continue to capture the required information from all

bidders/proposers at the time of bid/proposal submission and will utilize such information in future Overall DBE Goal setting analyses.

C. Disparity Study

BCAG considered the State of California Department of Transportation's (Caltrans) completed Disparity Study (Study). The Study was initiated to determine the existence of discrimination or its effects within the state of California. As the Study was completed in 2007, BCAG found that the data included in the Study was far too outdated to be considered in making an adjustment to the base figure. Pending completion of a new Disparity Study, BCAG will review the results and assess the need for an adjustment to their base figure. BCAG did not make an adjustment to the base figure at this time.

D. Other Evidence

BCAG did not receive any other anecdotal evidence nor is aware of any other factors or adverse considerations that would have had a material effect on DBEs availability within BCAG's market place, or on DBEs ability to participate (meeting bonding, insurance and financial requirements) in BCAG's FTA-assisted contracting programs. Therefore, no goal adjustment was made in consideration of this factor. However, BCAG will continue to explore and consider all available evidence that materially would affect the opportunities for DBEs to form, grow, and compete in BCAG's FTA-assisted contracting programs.

PROPOSED OVERALL DBE GOAL:

The Overall DBE Goal for FFY 2015/17 goal period for BCAG's FTA-assisted contracts is 12%.

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 BCAG'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 MEASURES

The Overall DBE Goal for FFY's 2015/17 for BCAG's DOT-assisted contract is 12%. BCAG will implement race-neutral measures to meet its Overall DBE Goal objectives in accordance with 49 CFR Part 26.51, including but not limited to:

- Arranging timely solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitate DBEs and other small business firms' participation.
- 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 work forces.
- Providing technical assistance and other services to small businesses, including DBE firms.

- Providing information and communications programs on contracting procedures and specific contract opportunities.
- Providing assistance to small businesses in overcoming limitations in obtaining bonding, lines of credit and building financing capital.

VI. PUBLIC PARTICIPATION AND FACILITATION

Prior to establishment or adoption of BCAG's proposed overall goal, ASI identified minority, women's and general contractor groups and organizations within BCAG's market area to reach out to for consultation, feedback pertaining to the methodology utilized by BCAG to develop their proposed overall goal and any additional information they may have pertaining to effects of discrimination on opportunities for DBE's. Identified groups and organization were solicited and requested to join a public forum to discuss and share their valuable experience and input. Any information received by these groups and organizations would have been incorporated as a step 2 process of ASI's goal development.

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

BCAG consults minority groups and organizations year round via event attendance and vendor programs to solicit any input they have on DBE opportunities. BCAG will also issue a Public Notice in a general circulation media and in at least one other minority focused media publishing BCAG's proposed Overall Goal for the FFY 2015/17 DOT-assisted contract. The Notice informed the public that the proposed goal and rationale are available for inspection at BCAG's principal office during normal business hours for 30 days following the date of the Public Notice and that BCAG will accept comments on the goal analysis for 45 days from the date of the Public Notice. BCAG will give full consideration to all comments and input and assess its impact on the proposed Overall DBE Goal. If no impact and/or comments are received during the public participation process the Goal will be considered final.