



**June 23, 2021**

**To:** Finance and Administration Committee

**From:** Darrell E. Johnson, Chief Executive Officer

**Subject:** Proposed Overall Disadvantaged Business Enterprise Goal for Federal Transit Administration-Assisted Contracts for Federal Fiscal Years 2022-24

### **Overview**

An overall Disadvantaged Business Enterprise goal was developed for the Orange County Transportation Authority's federally assisted contracts in compliance with federal regulations set forth in Title 49 Code of Federal Regulations, Part 26, which requires the submission of a three-year Disadvantaged Business Enterprise goal and goal setting methodology. The proposed overall Disadvantaged Business Enterprise goal for the three federal fiscal years 2022 through 2024 is 11 percent.

### **Recommendation**

Adopt the proposed overall Disadvantaged Business Enterprise goal of 11 percent for all Federal Transit Administration-assisted contracts issued during the federal fiscal years 2022 through 2024 in accordance with Title 49 Code of Federal Regulations, Part 26.

### **Background**

The Orange County Transportation Authority (OCTA) is required to develop and submit a three-year Disadvantaged Business Enterprise (DBE) overall goal for DBE participation as a condition of receiving federal assistance, pursuant to Section 1101 of the Fixing America's Surface Transportation Act; Title 49 Code of Federal Regulations (CFR) Part 26; and the Federal Transit Administration (FTA) Master Agreement.

A DBE is a for-profit, small business concern that is at least 51 percent owned and controlled by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, is one in which 51 percent of the stock is owned and controlled by one or more socially and economically

disadvantaged individuals. A socially and economically disadvantaged individual is defined by federal regulations to be a citizen or lawfully admitted permanent resident of the United States who is a Black American, Hispanic American, Native American, Asian-Pacific American, Subcontinent Asian American, a woman, or a member of any additional group that can demonstrate that he or she is socially or economically disadvantaged.

### ***Discussion***

The proposed overall goal reflects staff's determination of the level of DBE participation based upon DBE availability in contrast to all firms available to propose or bid on federally funded projects as identified in OCTA's Fiscal Year 2021-22 Budget, as well as anticipated projects through federal fiscal year (FFY) 2024 in accordance with the requirements set forth in Title 49 CFR Part 26. The establishment of the overall DBE goal for FTA-assisted projects uses the federally required two-step goal setting methodology. Step 1 establishes a base figure utilizing quantifiable evidence of the relative availability of DBEs within specified industries corresponding to OCTA's FTA-assisted contracting opportunities anticipated to be awarded within the respective goal period. Step 2 of the process requires OCTA to survey and assess other known relevant evidence to determine what additional adjustments, if any, are needed to narrowly tailor the base figure to the OCTA market area. Factors considered in the adjustment to the base figure include incorporating recommendations from regional disparity studies, OCTA's historical DBE data and current capacity of DBEs measured by actual goal attainments, bidders list, and other evidence within OCTA's market area. Based on the prescribed methodology, OCTA is proposing an 11 percent overall DBE goal using both race-conscious and race-neutral methods. OCTA's previous goal for FFY 2019-2021 was also 11 percent using both race-conscious and race-neutral methods. OCTA's median historical DBE participation on FTA-assisted contracts awarded by OCTA within the last three federal fiscal years was 12.8 percent.

In order to meet the required FTA-assisted public participation process, a public notice regarding the proposed overall DBE goal was sent to all registered vendors via OCTA's procurement website, CAMM NET. The proposed overall DBE goal and the methodology used to derive the proposed goal will be available for 30 days for review and comment following the date of the public notice. The public notice was posted on the OCTA's website on June 8, 2021, and informational emails were sent to cities, minority chambers, and organizations to directly solicit their input. OCTA 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.

In addition to establishing contract-specific DBE goals, OCTA is currently implementing a number of race- and gender-neutral measures to promote DBE participation in its federally assisted contracts. Additionally, OCTA partners with other organizations serving small businesses in Southern California, in an effort to meet its overall DBE program goals and objectives.

The following represents a sampling of these measures:

- Conducting pre-bid/pre-proposal conferences with a networking component and distribution of DBE availability lists;
- Hosting and participating in “How to Do Business” workshops, which includes a review of upcoming contract opportunities;
- Conducting “Meet the Contract Administrator” meetings;
- Scheduling solicitation timelines in ways that facilitate DBEs and other small business firms’ participation including the presentation of bids, quantities, specifications, and delivery schedules;
- 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 on contracting opportunities through meetings, workshops, and the CAMM NET website to facilitate timely notifications of contracting opportunities that correspond to their industry classification codes;
- Conducting in-service training to ensure OCTA staff is fully knowledgeable and acclimated to the program; and
- Conducting DBE summits to encourage DBE participation on federally funded projects.

### ***Summary***

In summary, staff recommends adoption of the proposed three-year overall DBE goal of 11 percent for FFYs 2022 through 2024 for FTA-assisted contracts in accordance with Title 49 CFR, Part 26.

***Attachment***

- A. Orange County Transportation Authority's Federal Transit Administration (FTA) – Overall DBE Goal Setting Methodology for Federal Fiscal Years 2022-2024 Goal Period

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