

MASS TRANSPORTATION AUTHORITY



Federal Transit Administration (FTA) Triennial DBE Goal-Setting Methodology for FFY 2021 – FFY 2023 (October 1, 2020 – September 30, 2023)

*Submitted in accordance with:
Title 49 Code of Federal Regulations Part 26
(49 CFR Part 26)*

MASS TRANSPORTATION AUTHORITY
Triennial DBE Goal-Setting Methodology
FFY 2021 – FFY 2023
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I. INTRODUCTION

Pursuant to Title 49 Code of Federal Regulations (CFR) Part 26 “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”, the MASS TRANSPORTATION AUTHORITY (MTA) sets forth its Triennial Disadvantaged Business Enterprise (DBE) Goal and corresponding goal-setting methodology for the three-year Federal Fiscal Year (FFY) goal period of 2021–2023 (October 1, 2021 through September 30, 2023), on August 1 of the specified year.

The purpose of the DBE goal setting process is to ensure nondiscrimination in the award and administration of U.S. Department of Transportation (DOT)–assisted contracts, to create a level playing field on which DBEs can compete fairly for those contracts, and to ensure the DBE Program is narrowly tailored in accordance with applicable law.

II. BACKGROUND

MTA is a recipient of U.S. DOT Federal Transit Administration (FTA) funding in excess of \$250,000. As a condition of receiving this financial assistance, MTA has assured that it will comply with the FTA’s DBE requirements. Therefore, in accordance with 49 CFR § 26.45(a)(1), MTA is required to develop and submit a Triennial Overall DBE goal for its DOT–assisted projects.

The overall goal submission includes: the goal (including the breakout of estimated race neutral and race conscious participation, as appropriate); a copy of the methodology, worksheets, etc. used to develop the goal; a summary of information and comments received during the public participation process and our responses; and proof of publication of the goal in media outlets.

III. DBE DIRECTORY

MTA utilizes the directory maintained by the Michigan Unified Certification Program (MUCP), for all firms certified by the MUCP (including those certified by other states.) The MUCP Directory contains the information required by 26.31 and is available to the public via the internet at www.mi.gov. The directory is available in print at:

Michigan Department of Transportation

425 W. Ottawa

P.O. Box 30050

Lansing, MI 48909

IV. CERTIFICATION

MTA is a participant in the MUCP. The MUCP makes all certification decisions on behalf of all DOT recipients in the state with respect to participation in the DOT DBE program. All obligations of the MTA with respect to certification and non-discrimination are carried out by MUCP. The MTA ensures that only firms certified as eligible DBEs by the MUCP are counted as participants in the MTA DBE program.

V. DBE FINANCIAL INSTITUTIONS

MTA has investigated the availability of financial institutions owned and controlled by socially and economically disadvantaged individuals in the Flint and Genesee County community and to date have found none.

VI. DBE LIAISON OFFICER (DBELO)

The MTA DBE Liaison Officer (DBELO) shall have direct, independent access to the General Manager concerning DBE program matters. The liaison officer shall work with the Procurement staff to implement all aspects of the MTA's DBE program. The MTA DBE Liaison Officer is:

Shawnice Dorsey

Grants Administrator

Mass Transportation Authority

1401 S. Dort Hwy

Flint, MI 48503

810 780-8849

sdorsey@mtaflint.org

The DBELO duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Works with all departments to set DBE goals.
3. Identifies contracts and procurements so that DBE goals are included in solicitations (both race neutral methods and contract specific goals attainment) and identifies ways to improve progress.
4. Analyzes MTA's progress toward goal attainment.
5. Participates in pre-bid meetings.
6. Reviews documentation provided contractors to ensure compliance with this DBE program and 49 CFR Part 26.

7. Participates in DBE training seminars.
8. Acts as liaison to the Michigan Unified Certification Program (MUCP).
9. Provides outreach to DBE's and community organizations to advise them or opportunities.

The Procurement staff responsibilities include:

1. Ensures bid notices and requests for proposals are available to DBE's in a timely manner.
2. Identifies contracts appropriate for a small business set aside and issues invitations to bid to small businesses, including DBE's that meet SBA 8a criteria.
3. Identifies contracts and procurements so the DBE goals are included in solicitations (both race neutral methods and contract specific goals attainment) and identifies ways to improve progress.
4. Provides DBE's with information and assistance in preparing bids, obtaining bonding, and insurance.
5. Requires contractors provide documentation of good faith efforts to retain DBE subcontractors, pay records, invoices and any other records necessary to verify compliance with DBE requirements.

VII. MONITORING AND ENFORCEMENT

MTA will monitor and enforce the appropriate use of certified DBEs, including but not limited to determination of good faith efforts, ensuring appropriate DBE certification, verifying DBE subcontractors, subcontractor work performance, and timely pay of subcontractors.

VIII. DBE GOOD FAITH EFFORTS

MTA makes a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements.

The following is a list of types of actions in which MTA considers as part of the bidder's good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

- Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
- Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.
- Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.
- Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.
- A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

- Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.
- Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.
- Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
- Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

IX. COUNTING DBE PARTICIPATION

MTA will count DBE participation toward overall and contract aspirational goals as provided in 49 CFR, Section 26.55:

Only the work actually performed by a DBE will be counted toward the DBE goal. The cost of supplies and materials obtained by the DBE or equipment leased (except from the prime contractor or its affiliate) may also be counted.

Expenditures may only be counted from a DBE manufacturer, and on hundred percent of the cost will be counted. If the materials and supplies are purchased from a DBE regular dealer, sixty percent of the cost will be counted.

DBE achievement will not be counted toward the overall goal until the DBE has been paid. The MTA will track the participation of DBEs in goal specific contracts separately from the participation of DBEs that are considered race neutral. Additionally, if certification is removed

during the performance of the contract, the MTA will not count the portion of DBE participation that is achieved after certification of the DBE has been removed.

X. OVERCONCENTRATION

MTA researches the availability of DBE forms to perform the types of work funded through DOT contracts when setting the DBE goal. There is no overconcentration of DBE firms in any of the NAICS codes corresponding to grant funded procurements anticipated over the next three-year period 2021-2023.

XI. FOSTERING SMALL BUSINESS PARTICIPATION

MTA's DBE Program includes an element to facilitate competition by small business concerns, taking all reasonable steps to eliminate obstacles to their participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors.

To implement this program element MTA will utilize the following strategies:

- (1) Establish a race neutral small business set-aside for prime contracts under the amount of \$25,000.
- (2) In multi-year design-build contracts or other large contracts, requiring bidders on the prime contract to specify elements of the contract or specific subcontracts that are of a size that small businesses, including DBE's, can reasonably perform.
- (3) Identifying alternative acquisition strategies and structuring procurements to facilitate the ability of consortia or joint ventures consisting of small businesses, including DBE's, to compete for and perform prime contracts.
- (4) Ensuring that a reasonable number of prime contracts are of a size that small businesses including DBE's can reasonably perform.

XII. DOT-ASSISTED CONTRACTING PROGRAM FOR FFY 2021-2023

FTA ASSISTED CONTRACTING PROGRAM FOR FY2021-2023

TABLE 1 represents MTA's FTA assisted contracting program which consists of projects considered in preparing this goal methodology.

PROJECT NAME/DESCRIPTION			Total Estimated FTA Assistance
	Operations Building CNG Retrofit	Construction	\$3,070,625
	Grand Blanc Your CNG Retrofit	Construction	\$500,000
	Operations Parking Lot Resurfacing	Construction	\$315,000
	Private Roadway and Parking Lot Construction	Construction	\$899,000
	Grand Blanc CNG Maintenance/Garage	Construction	\$4,587,775
	Various Construction Related Projects	Construction	\$200,000
	Purchase vehicles for Your Ride Fleet	Procurement & Misc	\$2,098,424
	Purchase buses for Fixed Route	Procurement & Misc	\$1,793,800
	Purchase service vehicles	Procurement & Misc	\$336,000
	Other vehicle purchases	Procurement & Misc	\$142,272
	Cashless Farebox System and Software	Procurement & Misc	\$2,000,000
	Various automotive capital parts and equipment	Procurement & Misc	\$3,597,000
	Bluebird Bus Rehab	Procurement & Misc	\$160,000
	IT TAM Project Implementation	Procurement & Misc	\$3,568,050
	Various IT Hardware, Software and components	Procurement & Misc	\$750,000
	Various Furniture/Fixtures for expansion project	Procurement & Misc	\$192,500
	Various automotive repair	Procurement & Misc	\$3,460,300
	General Engineering Construction Management	Service	\$130,000
	General Engineering Consultant (GEC) Services	Service	\$520,000
	Enhanced Mobility Management Service	Service	\$415,109
	TOTAL		\$28,735,855

XIII. GOAL METHODOLOGY

Step 1: Determination of Base Figure (Relative Availability of DBEs)

To establish a base figure of the relative availability of DBEs to all comparable firms (DBEs and OBEs) available to participate on MTA's DOT-assisted contracting opportunities, MTA utilized its in-house tracking system, a comprehensive database of DBEs and OBEs that captures information on all bidders, both successful and unsuccessful. The MTA identified the number of all vendors located in Michigan that match the pertinent NAICS codes through 2012 Census provided by MDOT.

This base figure expresses the availability of DBEs as a percentage of all firms for each NAICS code for which there will be contracting and subcontracting opportunities. As reflected in Table 2, the relative availability of DBEs to all firms per NAICS code is factored against the anticipated total Federal dollars by NAICS code, thereby providing a weighted participation per NAICS code.

NAICS CODE/DESCRIPTION			Total Estimated FTA Assitance	Michigan Total Firms	Total DBE Firms	DBE Availability	DBE Total Dollars
236220	Commercial and Institutional Building Construction	Construction	\$2,193,000	990	33	3.33%	\$73,100
237310	Highway, street, and bridge construction	Construction	\$693,000	243	30	12.35%	\$85,556
237990	Other heavy and civil engineering construction	Construction	\$190,000	138	4	2.90%	\$5,507
238110	Poured concrete foundation and structure contractors	Construction	\$662,000	651	12	1.84%	\$12,203
238120	Structural steel and precast concrete contractors	Construction	\$750,000	70	4	5.71%	\$42,857
238140	Masonry contractors	Construction	\$100,000	539	1	0.19%	\$186
238150	Glass and glazing contractors	Construction	\$30,000	144	0	0.00%	\$0
238160	Roofing Contractors	Construction	\$750,000	413	1	0.24%	\$1,816
238190	Other foundation,structure, and building exterior con	Construction	\$960,000	80	0	0.00%	\$0
238210	Electrical contractors and other wiring installation con	Construction	\$1,083,000	1858	13	0.70%	\$7,578
238220	Plumbing, HVAC contractors	Construction	\$1,160,000	2528	11	0.44%	\$5,047
238290	other building equipment contractors	Construction	\$187,000	233	1	0.43%	\$803
238310	Drywall and insulation contractors	Construction	\$50,000	425	4	0.94%	\$471
238320	Painting and wall covering contractors	Construction	\$25,000	854	5	0.59%	\$146
238330	Flooring contractors	Construction	\$30,000	350	4	1.14%	\$343
238340	Tile and terrazzo contractors	Construction	\$30,000	215	1	0.47%	\$140
238350	Finish carpentry contractors	Construction	\$30,000	700	1	0.14%	\$43
238390	other building finishing contractors	Construction	\$314,400	186	2	1.08%	\$3,381
238910	Site preparation contractors	Construction	\$50,000	1071	24	2.24%	\$1,120
238990	All other speciality trade contractors	Construction	\$285,000	867	7	0.81%	\$2,301
333318	Other commercial and service industry machinery mar	Procurement & Misc	\$50,000	55	0	0.00%	\$0
339950	Sign manufacturing	Procurement & Misc	\$197,500	162	4	2.47%	\$4,877
423120	Motor vehicle supplies & new parts merchant wholesa	Procurement & Misc	\$1,900,000	207	0	0.00%	\$0
441110	New vehicle dealers	Procurement & Misc	\$4,370,496	720	0	0.00%	\$0
441310	Automotive parts and accessories stores	Procurement & Misc	\$3,097,000	1396	1	0.07%	\$2,218
442110	Furniture stores	Procurement & Misc	\$100,000	586	0	0.00%	\$0
442210	Floor covering stores	Procurement & Misc	\$75,000	313	0	0.00%	\$0
44314	Radio, television, other electronics stores	Procurement & Misc	\$4,318,050	1622	3	0.18%	\$7,987
444120	Paint and wallpaper stores	Procurement & Misc	\$10,000	184	1	0.54%	\$54
444130	Hardware stores	Procurement & Misc	\$395,000	660	0	0.00%	\$0
444190	Other building material dealers	Procurement & Misc	\$25,000	971	4	0.41%	\$103
444210	Outdoor power equipment	Procurement & Misc	\$60,000	187	0	0.00%	\$0
811111	General automotive repair	Procurement & Misc	\$3,460,300	2533	0	0.00%	\$0
811192	Truck and bus washes	Procurement & Misc	\$40,000	582	2	0.34%	\$137
561730	Landscaping Services	Service	\$15,000	3138	19	0.61%	\$91
541300	Architectural, Engineering and Related Services	Service	\$520,000	2906	2	0.07%	\$358
541350	Building Inspections Services	Service	\$100,000	142	0	0.00%	\$0
541611	Admin mgmt & general mgmt consulting services	Service	\$415,109	1300	75	5.77%	\$23,949
541620	Environmental Consulting Services	Service	\$15,000	190	17	8.95%	\$1,342
			\$28,735,855	30409	286	0.94%	\$283,712

$$\begin{aligned}
 1. \text{ Calculation of Relative Availability} &= \frac{\text{Number of DBES}}{\text{All Firms (including DBEs \& Non DBEs)}} \\
 &= \frac{286}{30409} \\
 &= .94\%
 \end{aligned}$$

Step 2: Adjusting the Base Figure Past DBE Goal Attainments

As historical DBE participation attainments provide demonstrable evidence of DBE availability and capacity to perform, MTA proceeded to calculate past DBE participation attainments for the three (3) federal fiscal years, for which DBE attainment data is available.

The table below reflects the demonstrated capacity of DBEs (measured by actual historical DBE participation attainments) on FTA–assisted contracts awarded by MTA within the last three (3) federal fiscal years.

After establishing the base figure, MTA examined available evidence to determine what adjustment, if any, would be required to ensure a narrowly–tailored goal. Since future contracting opportunities are very similar to past years, MTA analyzed past participation to determine the feasibility of an adjustment to the base figure. Table below reflects DBE achievement on closed contracts for the previous three fiscal years.

Past Participation

FY15 DBE Participation	FY16 DBE Participation	FY17 DBE Participation
1.35%	1.54%	3.71%
Median = 1.54%		

The historical median for past participation is 1.54%. When applying the federally–prescribed formula (i.e., the average of the median past participation and the step one base figure), the resultant adjusted figure is the same as the step one base figure. The Final DBE goal was calculated as the average of the Relative Availability and the Past Participation Median.

$$= (.94\% + 1.54\%) / 2$$

$$= 1.24\%$$

In previous years, MTA has applied the practice of rounding their calculated overall goal either up or down (within 0.5%). When applying this practice to both the base figure and the adjusted goal, the resultant figure is the same. Therefore, MTA has determined that an adjustment to the base figure is not warranted.

Accordingly, the final proposed overall DBE Goal for FFY 2021–2023 for MTA’s DOT–assisted contracts is 1.24%. The coincides with MDOT DBE Goal of 1.36%.

XIV. RACE/GENDER–NEUTRAL AND RACE/GENDER–CONSCIOUS DIVISION OF GOAL

In accordance with federal regulations and USDOT guidance, MTA will attempt to meet the maximum feasible portion of its proposed 1.24% overall DBE goal through the use of race- and

gender-neutral measures. MTA will continue its current procedures for ensuring the participation of DBEs and other small business enterprises (SBE) in all of its contracting activities. These processes consist of, but are not limited to:

- Generating email notifications of all upcoming contracting opportunities – disseminated to all DBEs/SBEs in MTA’s directory.
- Generating project-specific email notifications providing pre-solicitation meeting information, bid/proposal submittal deadlines, general scope overview, MTA contracting and DBE office personnel contact information.
- Ensuring participants at pre-solicitation meetings are informed of MTA’s DBE Program and its requirements.
- Partnering with the local Flint Chamber of Commerce and PTAC.
- Providing one-on-one technical assistance to existing DBEs and other small business Enterprises.
- Ensuring standard form contracts include prompt payment clauses for subcontractors.
- Hosting outreach events to broadcast contracting opportunities as well as encouraging networking among majority contractors and small businesses. However, the number of DBE vendors certified with the state of Michigan is low regionally. There are currently only on **ten (10)** DBE Contractors that reside in the Flint/Genesee County area according to the MDOT DBE Marketplace Map. Most of the DBE vendors are based in the Detroit area and do not conduct business in the Flint and surrounding areas. Often the projects are small enough that the financial payoff is not attractive to vendors who must travel great distances in order to provide services. Other DBE vendors are small businesses that lack the capacity to take on large capital/construction projects.

Therefore, MTA believes the best way to foster DBE participation is to have a goal that incorporates both race neutral and race conscious means (I.e., DBE contract goals).

Based on the foregoing, MTA recommends splitting the overall goal of 1.24% with 1% race/gender-neutral and .24% race/gender-conscious.

XV. GOAL ADVERTISEMENT AND PUBLIC PARTICIPATION PROCESS

In accordance with the goal-setting and public participation regulatory requirements, MTA conducted the following activities to facilitate public participation in the overall DBE goalsetting process:

MTA will issue a Public Notice on MTA’s website, publishing the Draft Proposed FTA Overall DBE Goal-Setting Methodology for FFY 2021-2023. The notice informed the public that the proposed goal and rationale were available for inspection at MTA’s Administration office during normal business hours for 30 days following the date of the Public Notice, and that MTA would accept comments on the goal analysis for 30 days from the date of the Public Notice.

In accordance with Public Participation Regulatory Requirements of Title 49 CFR Part 26. Our agency didn’t receive any specific feedback during the 30 days.

Staff has also attended outreach events to encourage DBE participation within the local community. At these events, MTA passes out information on how to become a vendor for MTA along with handout that covers the general criteria for certification as a DBE. Listed below are a couple events staff attended in the last three years:

- DBE Small Business Symposium
- Zoom Call with Flint & Genesee Chamber of Commerce - offer to connect or encourage local businesses (particularly minority-owned) to bid on opportunities
- Partnering with PTAC (Procurement Technical Assistance Center for seminar on Making Connections: Doing Business with MTA
- DBE Small Business Development Conference
- Attending COMTO Michigan Meeting
- MDOT DBE Networking Session for primes, subcontractors and construction consultants
- PTAC/MTA/STARS DBE Conference

In conclusion, MTA will continue to analyze the DBE awards and commitments reported to the FTA on a semi-annual basis. If the DBE awards/commitments are less than the overall DBE goal,

MTA will develop and submit a written analysis of the shortfall, as well as the corrective actions which will be implemented to remedy the shortfall. Also, if any significant changes are made to MTA's DOT-assisted contracting program, MTA will re-calculate the overall DBE goal and, if warranted, submit an adjusted overall DBE goal for FTA approval.

Public Comment

We want your feedback on the above Draft Goal Methodology Comments can be provided via the following:

- Email: sdorsey@mtaflint.org
- Mail: DBE Public Comment 1401 S. Dort Hwy, Flint, Michigan 48503

<https://www.mtaflint.org/wp-content/media/MTA-DBE-GOAL-METHODOLOGY-Rev.-4.pdf>