



## **DISADVANTAGED BUSINESS ENTERPRISE POLICY STATEMENT**

Mass Transportation Authority (MTA), a recipient of federal financial assistance from the Federal Transit Administration (FTA), has established a Disadvantaged Business Enterprise (DBE) in accordance with regulations of the U.S. Department of Transportation (US DOT), 49CFR Part 26. As condition of receiving FTA funding, MTA signed an assurance agreement that it will comply with 49 CFR Part 26.

It is the policy of MTA to ensure that DBEs defined in Part 26.1 and 23 have an equal opportunity to receive and participate in US DOT-assisted contracts. It is also our policy:

1. Ensures bid notices and requests for proposals are available to DBEs in a timely manner.
2. Identifies contracts appropriate for a small business set aside and issues invitations to bid for small businesses, including DBE's that meet SBA 8a criteria.
3. Identify contracts and procurements so the DBE goals are included in solicitations (both race neutral methods and contract specific goals attainment) and identify ways to improve progress.
4. Provides DBEs 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.

MTA's Director of Training and Grant Administration has been delegated as the DBE Liaison Officer and in that capacity is responsible for implementing all aspects of the program. While the DBE Liaison Officer reports directly to the Chief Operating Officer of Fixed Routes, Safety, Security, and Training, he/she has direct independent access to the General Manager/CEO on all matters concerning the DBE program. The legal obligations incurred by the Authority in its financial assistance agreements. It is hereby directed that this DBE policy Statement be posted for all MTA employees to read and be disseminated to all DBE and non-DBE business communities that perform work for MTA on US DOT-assisted contracts. This policy will be distributed electronically (i.e. MTA's webpage) and included in all US DOT-assisted bid opportunities.

A handwritten signature in black ink, appearing to read 'Shawnee Dorsey', is written over a horizontal line.

Shawnee Dorsey, Director of Training and Grant Administration/DBELO

A handwritten signature in black ink, appearing to read 'Edgar H. Benning', is written over a horizontal line.

Edgar H. Benning, General Manager/ CEO

3/17/2025

# **MASS TRANSPORTATION AUTHORITY**



## **Federal Transit Administration (FTA) Triennial DBE Goal-Setting Methodology and Program for FFY 2024 – FFY 2027 (October 1, 2023 – September 30, 2027)**

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

**MASS TRANSPORTATION AUTHORITY  
Triennial DBE Goal-Setting Methodology and Program**

**FFY 2024 – FFY 2027  
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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 2024-2027 (October 1, 2023 through September 30, 2027), 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. TERMS AND DEFINITIONS

The definition of terms is essential in understanding the elements of an effective disadvantaged business program. At the same time, it is apparent that no set of definitions, however drafted, can cover all of the potential questions that will arise during the execution of the program. The definitions will be interpreted to achieve the objectives of utilizing disadvantaged business enterprises to the maximum practicable extent. The following definitions serve to aid COTA in interpreting the various elements so the objectives will be achieved. Affiliation has the same meaning the term has in the Small Business Administration (SBA) regulations, 13 CFR part 121.

1) Except as otherwise provided in 13 CFR part 121, concerns are affiliates of each other when, either directly or indirectly:

- (i) One concern controls or has the power to control the other; or
- (ii) A third party or parties controls or has the power to control both; or
- (iii) An identity of interest between or among parties exists such that affiliation may be found.

2) In determining whether affiliation exists, it is necessary to consider all appropriate factors, including common ownership, common management, and contractual relationships. Affiliates must be considered together in determining whether a concern meets small business size criteria and the statutory cap on the participation of firms in the DBE program.

**Alaska Native** means a citizen of the United States who is a person of one-fourth degree or more Alaskan Indian (including Tsimshian Indians not enrolled in the Metlaktla Indian Community), Eskimo, or Aleut blood, or a combination of those bloodlines. The term includes, in the absence of proof of a minimum blood quantum, any citizen whom a Native village or Native group regards as an Alaska Native if their father or mother is regarded as an Alaska Native.

**Alaska Native Corporation (ANC)** means any Regional Corporation, Village Corporation, Urban Corporation, or Group Corporation organized under the laws of the State of Alaska in accordance with the Alaska Native Claims Settlement Act, as amended (43 U.S.C. 1601, et seq.).

**Assets** mean all the property of a person available for paying debts or for distribution, including one's respective share of jointly held assets. This includes, but is not limited to, cash on hand and in banks, savings accounts, IRA or other retirement accounts, accounts receivable, life insurance, stocks and bonds, real estate, and personal property.

**Business, business concern or business enterprise** means an entity organized for profit with a place of business located in the United States, and which operates primarily within the United States or which makes a significant contribution to the United States economy through payment of taxes or use of American products, materials, or labor.

**Compliance** means that a recipient has correctly implemented the requirements of this part.

**Contingent Liability** means a liability that depends on the occurrence of a future and uncertain event. This includes, but is not limited to, guaranty for debts owed by the applicant concern, legal claims and judgments, and provisions for federal income tax.

**Contract** means a legally binding relationship obligating a seller to furnish supplies or services (including, but not limited to, construction and professional services) and the buyer to pay for them. For purposes of this part, a lease is considered to be a contract.

**Contractor** means one who participates, through a contract or subcontract (at any tier), in a DOT-assisted highway, transit, or airport program.

**Days** mean calendar days. In computing any period of time described in this part, the day from which the period begins to run is not counted, and when the last day of the period is a Saturday, Sunday, or Federal holiday, the period extends to the next day that is not a Saturday, Sunday, or Federal holiday. Similarly, in circumstances where the recipient's offices are closed for all or part of the last day, the period extends to the next day on which the agency is open.

**Department or DOT** means the U.S. Department of Transportation, including the Office of the Secretary, the Federal Highway Administration (FHWA), the Federal Transit Administration (FTA), and the Federal Aviation Administration (FAA).

**Disadvantaged business enterprise or DBE** means a for-profit small business concern—

1. That is at least 51 percent owned by one or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one or more such individuals; and
2. Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it.

**DOT-assisted contract** means any contract between a recipient and a contractor (at any tier) funded as a whole or in part with DOT financial assistance, including letters of credit or loan guarantees, except a contract solely for the purchase of land.

**Good faith efforts** means efforts to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, can reasonably be expected to fulfill the program requirement.

**Home state** means the state in which a DBE firm or applicant for DBE certification maintains its principal place of business.

**Immediate family member** means father, mother, husband, wife, son, daughter, brother, sister, grandfather, grandmother, father-in-law, mother-in-law, sister-in-law, brother-in-law, and domestic partner and civil unions recognized under State law.

**Indian tribe** means any Indian tribe, band, nation, or other organized group or community of Indians, including any ANC, which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or is recognized as such by the State in which the tribe, band, nation, group, or community resides. See definition of “tribally owned concern” in this section.

**Joint venture** means an association of a DBE firm and one or more other firms to carry out a single, for-profit business enterprise, for which the parties combine their property, capital, efforts, skills and knowledge, and in which the DBE is responsible for a distinct, clearly defined portion of the work of the contract and whose share in the capital contribution, control, management, risks, and profits of the joint venture are commensurate with its ownership interest.

**Liabilities** mean financial or pecuniary obligations. This includes, but is not limited to, accounts payable, notes payable to bank or others, installment accounts, mortgages on real estate, and unpaid taxes. **Native Hawaiian** means any individual whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

**Native Hawaiian Organization** means any community service organization serving Native Hawaiians in the State of Hawaii which is a not-for-profit organization chartered by the State of Hawaii, is controlled by Native Hawaiians, and whose business activities will principally benefit such Native Hawaiians.

**Noncompliance** means that a recipient has not correctly implemented the requirements of this part. **Operating Administration or OA** means any of the following parts of DOT: the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and Federal Transit Administration (FTA). The “Administrator” of an operating administration includes his or her designees.

**Personal net worth** means the net value of the assets of an individual remaining after total liabilities are deducted. An individual's personal net worth does not include: The individual's ownership interest in an applicant or participating DBE firm; or the individual's equity in his or

her primary place of residence. An individual's personal net worth includes only his or her own share of assets held jointly or as community property with the individual's spouse.

**Primary industry classification** means the most current North American Industry Classification System (NAICS) designation which best describes the primary business of a firm. The NAICS is described in the North American Industry Classification Manual—United States, which is available on the Internet at the U.S. Census Bureau Web site: <http://www.census.gov/eos/www/naics/>.

**Primary recipient** means a recipient which receives DOT financial assistance and passes some or all of it on to another recipient.

**Principal place of business** means the business location where the individuals who manage the firm's day-to-day operations spend most working hours. If the offices from which management is directed and where the business records are kept are in different locations, the recipient will determine the principal place of business.

**Program** means any undertaking on a recipient's part to use DOT financial assistance, authorized by the laws to which this part applies.

**Race-conscious** measure or program is one that is focused specifically on assisting only DBEs, including women- owned DBEs.

**Race-neutral** measure or program is one that is, or can be, used to assist all small businesses. For the purposes of this part, race-neutral includes gender-neutrality.

**Recipient** is any entity, public or private, to which DOT financial assistance is extended, whether directly or through another recipient, through the programs of the FAA, FHWA, or FTA, or who has applied for such assistance.

**Secretary** means the Secretary of Transportation or his/her designee.

**Set-aside** means a contracting practice restricting eligibility for the competitive award of a contract solely to DBE firms.

**Small Business Administration or SBA** means the United States Small Business Administration.

**SBA certified firm** refers to firms that have a current, valid certification from or recognized by the SBA under the 8(a) BD or SDB programs.

**Small business concern** means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to section 3 of the Small

Business Act and Small Business Administration regulations implementing it (13 CFR part 121) that also does not exceed the cap on average annual gross receipts specified in § 26.65(b).

**Socially and economically disadvantaged individual** means any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who has been subjected to racial or ethnic prejudice or cultural bias within American society because of his or her identity as a members of groups and without regard to his or her individual qualities. The social disadvantage must stem from circumstances beyond the individual's control.

(1) Any individual who a recipient finds to be a socially and economically disadvantaged individual on a case-by- case basis. An individual must demonstrate that he or she has held himself or herself out, as a member of a designated group if you require it.

(2) Any individual in the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:

(i) “Black Americans,” which includes persons having origins in any of the Black racial groups of Africa;

(ii) “Hispanic Americans,” which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;

(iii) “Native Americans,” which includes persons who are enrolled members of a federally or State recognized Indian tribe, Alaska Natives, or Native Hawaiians;

(iv) “Asian-Pacific Americans,” which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, the Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the Pacific Islands (Republic of Palau), Republic of the Northern Marianas Islands, Samoa, Macao, Fiji, Tonga, Kiribati, Tuvalu, Nauru, Federated States of Micronesia, or Hong Kong;

(v) “Subcontinent Asian Americans,” which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;

(vi) Women;

(vii) Any additional groups whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

(3) Being born in a particular country does not, standing alone, mean that a person is necessarily a member of one of the groups listed in this definition.

**Spouse** means a married person, including a person in a domestic partnership or a civil union recognized under State law.

**Transit vehicle manufacturer** means any manufacturer whose primary business purpose is to manufacture vehicles specifically built for public mass transportation. Such vehicles include, but are not limited to: Buses, rail cars, trolleys, ferries, and vehicles manufactured specifically for paratransit purposes. Producers of vehicles that receive post-production alterations or retrofitting



to be used for public transportation purposes (e.g., so-called cutaway vehicles, vans customized for service to people with disabilities) are also considered transit vehicle manufacturers. Businesses that manufacture, mass-produce, or distribute vehicles solely for personal use and for sale “off the lot” are not considered transit vehicle manufacturers.

**Tribally-owned** concern means any concern at least 51 percent owned by an Indian tribe as defined in this section.

**You** refer to a recipient, unless a statement in the text of this part or the context requires otherwise (i.e., You must do XYZ’ means that recipients must do XYZ). § 26.7 What discriminatory actions are forbidden

### III. BACKGROUND

MTA is a recipient of U.S. DOT Federal Transit Administration (FTA) funding in excess of \$250,000 and \$670,000. 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.

#### § 26.21 Who must have a DBE program?

(a) If you are in one of these categories and let DOT-assisted contracts, you must have a DBE program meeting the requirements of this part:

(1) All FHWA primary recipients receiving funds authorized by a statute to which this part applies;

(2) FTA recipients receiving planning, capital and/or operating assistance who will award prime contracts (excluding transit vehicle purchases) the cumulative total value of which exceeds \$250,000 in FTA funds in a Federal fiscal year;

(3) FAA recipients receiving grants for airport planning or development who will award prime contracts the cumulative total value of which exceeds \$250,000 in FAA funds in a Federal fiscal year.

(b)

(1) You must submit a DBE program conforming to this part by August 31, 1999 to the operating administration concerned (OA). Once the OA has approved your program, the approval counts for all of your DOT-assisted programs (except that goals are reviewed by the particular operating administration that provides funding for your DOT-assisted contracts).

(2) You do not have to submit regular updates of your DBE programs, as long as you remain in compliance. However, you must submit significant changes in the program for approval.

(c) You are not eligible to receive DOT financial assistance unless DOT has approved your DBE program and you are in compliance with it and this part. You must continue to carry out your program until all funds from DOT financial assistance have been expended.

[64 FR 5126, Feb. 2, 1999, as amended at 64 FR 34570, June 28, 1999; 65 FR 68951, Nov. 15, 2000; 79 FR 59593, Oct. 2, 2014]

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.

#### **IV. 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](http://www.mi.gov). The directory is available in print at:

Michigan Department of Transportation

425 W. Ottawa

P.O. Box 30050

Lansing, MI 48909

**\*MTA uses the acronym DBE to encompass all companies that are EDGE, MBE, WBE, and DBE certified by recognized agency listed above.**

#### **V. 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.

#### **VI. 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.

#### **VII. 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

Director of Training and Grants Administration

Mass Transportation Authority

1401 S. Dort Hwy

Flint, MI 48503

810 780-8849

[sdorsey@mtaflint.org](mailto: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 of opportunities.

The Procurement staff responsibilities include:

1. Ensures bid notices and requests for proposals are available to DBEs 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 DBEs 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.
6. Allow contractors the opportunity to conduct virtual on-site interviews, meetings, and alternative notarization methods due to COVID-19 guidance.

## **VIII. 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 prompt payment for subcontractors.

### **Prompt Payment for Subcontractors 26.29**

(a) You must establish, as part of your DBE program, a contract clause to require prime contractors to pay subcontractors for satisfactory performance of their contracts no later than 30 days from receipt of each payment you make to the prime contractor.

(b) You must ensure prompt and full payment of retainage from the prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed. You must use one of the following methods to comply with this requirement:

(1) You may decline to hold retainage from prime contractors and prohibit prime contractors from holding retainage from subcontractors.

(2) You may decline to hold retainage from prime contractors and require a contract clause obligating prime contractors to make prompt and full payment of any retainage kept by prime contractor to the subcontractor within 30 days after the subcontractor's work is satisfactorily completed.

(3) You may hold retainage from prime contractors and provide for prompt and regular incremental acceptances of portions of the prime contract, pay retainage to prime contractors based on these acceptances, and require a contract clause obligating the prime contractor to pay all retainage owed to the subcontractor for satisfactory completion of the accepted work within 30 days after your payment to the prime contractor.

(c) For purposes of this section, a subcontractor's work is satisfactorily completed when all the tasks called for in the subcontract have been accomplished and documented as required by the recipient. When a recipient has made an incremental acceptance of a portion of a prime contract, the work of a subcontractor covered by that acceptance is deemed to be satisfactorily completed.

(d) Your DBE program must include the mechanisms you will use for proactive monitoring and oversight of a prime contractor's compliance with subcontractor prompt payment and return of retainage requirements in this part. Reliance on complaints or notifications from subcontractors about a contractor's failure to comply with prompt payment and retainage requirements is not a sufficient monitoring and oversight mechanism.

(e) Your DBE program must provide appropriate means to enforce the requirements of this section. These means must be described in your DBE program and should include appropriate penalties for failure to comply, the terms and conditions of which you set. Your program may also provide that any delay or postponement of payment among the parties may take place only for good cause, with your prior written approval.

(f) Prompt payment and return of retainage requirements in this part also apply to all lower-tier subcontractors.

(g) You may also establish, as part of your DBE program, any of the following additional mechanisms to ensure prompt payment:

(1) A contract clause that requires prime contractors to include in their subcontracts language providing that prime contractors and subcontractors will use appropriate alternative dispute resolution mechanisms to resolve payment disputes. You may specify the nature of such mechanisms.

(2) A contract clause providing that the prime contractor will not be reimbursed for work performed by subcontractors unless and until the prime contractor ensures that the subcontractors are promptly paid for the work they have performed.

(3) Other mechanisms, consistent with this part and applicable state and local law, to ensure that DBEs and other contractors are fully and promptly paid.

§ 26.37 What are a recipient's responsibilities for monitoring the performance of other program participants?

(a) You must implement appropriate mechanisms to ensure compliance with the part's requirements by all program participants (e.g., applying legal and contract remedies available under Federal, state and local law). You must set forth these mechanisms in your DBE program.

(b) Your DBE program must also include a monitoring and enforcement mechanism to ensure that work committed to DBEs at contract award or subsequently (e.g., as the result of modification to the contract) is actually performed by the DBEs to which the work was committed. This mechanism must include a written certification that you have reviewed contracting records and monitored work sites in your state for this purpose. The monitoring to which this paragraph refers may be conducted in conjunction with monitoring of contract performance for other purposes (e.g., close-out reviews for a contract).

(c) This mechanism must provide for a running tally of actual DBE attainments (e.g., payments actually made to DBE firms), including a means of comparing these attainments to commitments. In your reports of DBE participation to the Department, you must display both commitments and attainments.

## **IX. 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.

## **X. 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.

Expenditure may only be counted by a DBE manufacturer and distributor, and one hundred percent of the cost will be counted. If the materials and supplies are purchased from a DBE regular dealer, sixty percent or forty percent, respectively, for the cost of materials 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.

## **XI. 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 2024-2027.

## **XII. 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.

### **XIII. DOT-ASSISTED CONTRACTING PROGRAM FOR FFY 2024-2027**

#### **FTA ASSISTED CONTRACTING PROGRAM FOR FY2023-2024**

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
<b>TOTAL</b>			<b>\$28,735,855</b>

#### XIV. 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 Assistance	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 construction	Construction	\$960,000	80	0	0.00%	\$0
238210	Electrical contractors and other wiring installation contractors	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 specialty trade contractors	Construction	\$285,000	867	7	0.81%	\$2,301
333318	Other commercial and service industry machinery manufacturing	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 wholesalers	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

1. Calculation of Relative Availability = Number of DBES

All Firms (including DBEs & non-DBEs)

$$= 286/30409$$

$$= .94\%$$

## 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. The table below reflects DBE achievement on closed contracts for the previous three fiscal years.

### Past Participation

FY21 DBE Participation	FY22 DBE Participation	FY23 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 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, the MTA has determined that an adjustment to the base figure is not warranted.

Accordingly, the final proposed overall DBE Goal for FFY 2024-2027 for MTA's DOT-assisted contracts are 1.24%. They coincides with MDOT DBE Goal of 1.36%.

## **XV. 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.
- Being a active member of COMTO (Conference of Minority Transportation Officials) and attending conferences.
- 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 **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 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.

## **XVI. DBE REPORTING REQUIREMENTS**

Mass Transportation Authority (MTA) will complete the FTA DBE semi-annual reporting, ensure you accurately fill out the Uniform Report of DBE Awards or Commitments, adhering to specified deadlines and guidelines.

### **Key Instructions for Semi-Annual Reporting for MTA**

1. **Reporting Periods:**
  - Reports are due **June 1** and **December 1** each year.
  - [The June report should cover data from \*\*October 1 to March 31\*\*, while the December report should cover \*\*April 1 to September 30\*\*.](#)
2. **Required Information:**
  - Indicate the **DOT Operating Administration (OA)** providing your federal financial assistance.
  - [Include your \*\*Vendor Number\*\* if you are an FTA recipient and specify the federal fiscal year for the reporting period.](#)
  - [Report your \*\*annual DBE goals\*\* and provide a breakdown of specific \*\*Race Conscious and Race Neutral Goals\*\*.](#)
3. **Data Submission:**
  - Ensure that all dollar amounts reflect only the federal share of contracts awarded during the reporting period.
  - [Include all types of contracts, such as professional services, construction, and materials.](#)
4. **Compliance:**
  - Failure to submit accurate contracting data may result in noncompliance with federal regulations.

- [Contractors must meet the established DBE participation goals or provide proof of good faith efforts \(GFE\) to achieve these goals.](#)

5. **Resources:**

- [Utilize the provided templates and instructions for submission, which are typically distributed two months before the submission deadline.](#)

By following these guidelines, the Mass Transportation Authority (MTA) will ensure compliance with the FTA's DBE program requirements and facilitate the accurate reporting of DBE participation in federally assisted contracts. For more detailed instructions, refer to the official documents provided by the FTA and your state's Department of Transportation.

## **XVI. 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 goal setting process:

MTA will issue a Public Notice on MTA's website, publishing the Draft Proposed FTA Overall DBE Goal-Setting Methodology for FFY 2024-2027. 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 have 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 and COMTO National Conference
- 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](mailto:sdorsey@mtaflint.org)
- Mail: DBE Public Comment 1401 S. Dort Hwy, Flint, Michigan 48503

[MTA DBE GOAL METHODOLOGY Rev. 6a.docx](#)