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SLO Transit Methodology for Calculating the Proposed DBE Goal for Federal Fiscal Year 2021 through 2023 (FFY21-23)

Overview

The City of San Luis Obispo is centrally located along California's Central Coast, halfway between San Francisco and Los Angeles. San Luis Obispo is the County Seat and as such, is also the governmental, economic, medical, employment and educational hub for the other cities in the county. San Luis Obispo has a population of roughly 45,119 (Source: 2010 Census) with an estimated additional population of 20,000 students when California Polytechnic State University (Cal Poly) is in session.



Fixed Route Public Transit

SLO Transit is the local fixed-route transit operation for the City of San Luis Obispo, operating directly out of the City's Public Works Department. SLO Transit operates 15 vehicles at peak along eight fixed routes within the 23 square miles of the city limits and Cal Poly State University campus. Operations & Maintenance of transit vehicles is outsourced to a third party. Other services and goods purchases for the transit program are procured in accordance with City adopted Purchasing Policies which do not conflict with State or Federal procurement policies. The Transit program is financially supported by a combination of local, state and federal sources.

DBE Goal Background

The Department of Transportation (DOT) Disadvantaged Business Enterprise (DBE) Program seeks to ensure nondiscrimination in the award and administration of federally assisted contracts in the Department's highway, transit, and airport financial assistance programs and to create a level playing field on which DBE's can compete fairly for contracts.

There is a predefined, and yet flexible, methodology and public input process for establishing a DBE Goal program. 1) A DBE goal is required of agencies with procurements of more than \$250,000 in federal assistance. 2) A DBE is defined as a women or minority owned business with a personal net worth of less than \$1,320,000 cap and 3) Goals are established based on several factors, herein elaborated upon.



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The Federal Transit Administration (FTA) Office of Civil Rights is responsible for monitoring FTA recipients' DBE programs and ensuring their compliance with DOT's DBE regulations found at CFR 49 Part 26. FTA requires a calculated DBE goal on a triennial basis. Although the City of San Luis Obispo receives more than \$250,000 in federal assistance there are no significant projects currently approved in the Transit financial plan for the potential award of contract equal too or in excess of \$250,000 with the assistance of federal dollars. Therefore, in accordance with the requirements of 49 C.F.R. Part 26 (Participation by Disadvantaged Business Enterprises in U.S. Department of Transportation (DOT) Programs), a revised down goal for overall Disadvantaged Business Enterprise (DBE) goal has been developed for FFY 2021-23.

However, there are ongoing and minor administrative and maintenance purchases which DBE's could be potentially and proportionately be awarded. Or, should new projects with contracts equal to or in excess of \$250,000 federally funded projects arise, the City will revise, notify and publicize the public of a new goal using criteria described herein below.

Local Market Area

An initial step in establishing a DBE goal is identifying the "local market area." A local market area is defined as the geographic area in which the substantial majority of the potential contractors and subcontractors are located in. The identified local market area varies depending on the nature of the contracting opportunities. A high dollar or highly specialized project(s) might include a broader geographic area to attract and ensure a larger pool of qualified bidders. While, smaller, more general and common project(s) with lower dollar values may likely only draw bidders within a smaller geographic area.

The adopted 2019-21 San Luis Obispo Transit Operating Budget establishes approved contracting and capital purchase opportunities for the next two years, with some expectations for outlying years. Regarding the FFY 2019-21 budgets, there are no "significant or specialized projects" to be awarded using the assistance of federal dollars. Contracting opportunities with DBE's and non-DBE's will be limited to those that support current administrative, maintenance and minor goods purchases.

Therefore, considering the limited contract and purchase award opportunities, SLO Transit will use CalTrans District 5 as its established Local Market Area when calculating its FFY 2021-23 DBE Goal.

Caltrans District 5

Caltrans District 5 is made up of five counties which cover an expansive contiguous geographic area. The five counties of District 5 are (north to south) Santa Cruz, San Benito, Monterey, San Luis Obispo and Santa Barbara County. There is approximately a 3-hour driving time from the most northern end of the District to the City of San Luis Obispo and almost 2 hour driving time to the most southern end of the District. There are 33 cities and 7,788,809 acres in the five-county district, with a population of over 1.3 million





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people and a plethora of businesses, both DBE and non-DBE. The geographic divide of Los Padres National Forest, along District 5's eastern border, and the distances and time required to reach major populations in Fresno, King, Tulare or Kern County (District 6) make them unlikely participants for the limited and low dollar value contract opportunities with SLO Transits federally assisted projects.

Additional projects may be undertaken if additional funds become available; the local area market and overall DBE goal will then be adjusted if necessary.

Step 1. Base Figure

Methodology

The Code of Federal Regulations, Title 49 Section 26 (49 CFR 26) describes several methods to calculate a DBE goal. The method staff chose to develop SLO TRANSIT's FFY21 through FFY23 goal specifies that a simple percentage of DBE vendors in the contracted types of work be weighted by the proportion of total contract opportunities in that type of work as shown in the overall budget to determine a base goal. The base goal is to be further adjusted, as appropriate, to reflect the recipient's actual experience or other qualifying factors to narrowly tailor the goal to market conditions. The final goal is expressed as both the percentage and the monetary value of federal dollars in DBE contract opportunities.

Potential Projects

As stated previously, there are no significant projects currently approved for the potential award using the assistance of federal dollars. However, there are ongoing and minor administrative and maintenance purchases which DBE's could be potentially and proportionately be awarded.

These incidental goods and services are categorized per their North American Industry Classification System (NAICS). NAICS is the standard used by Federal statistical agencies in classifying business establishments and for collecting, analyzing, and publishing statistical data related to the U.S. business economy. These potential and minor projects include, as identified by their NAICS code, are:

- 541890 – Misc. Suppliers; promo items, printing, goods
- 541611 – Consultant, Business/Management
- 323110 – Commercial printing
- 561710 – Services to buildings

However, it should be emphasized that there is no guarantee that SLO TRANSIT will indeed need and or pursue all these goods or services but rather that there is some potential based on historical performance and budgetary allotments in the approved budget for this cycle.

Further, SLO Transit did also consider subcontracting opportunities for the Operations & Maintenance contract; however, based on past practice and experience, the prime contractor has performed primarily all functions of the operation with in-house staff and does not subcontract out services. The only possible services contracted out are a minor and incidental janitorial or



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landscaping work. These contracts are very nominal and immaterial to the overall contract and therefore weren't broken out to determine possible DBE availability.

Goal Setting Process

Staff examined the SLO TRANSIT FY19-21 budget to determine ALL possible contracts – as list prior - and their monetary value amounts, per (NIAC) type, and which could be awarded from the approved operating and capital sections of the budget. From the approved operating and capital budget of \$4 million dollars annually, \$1.4 Million dollars in Federal assistance will be provided and of those dollars there is potential contract opportunities which equal \$93,200 on an annual basis; outside of vehicle procurement during this triennial period. This amount therefore does not meet the \$250,000 federal assisted threshold. Therefore the de facto DBE goal is defaulted to 0%.

Regardless, the City is committed to the goals of the DBE program and will attempt to ensure that DBE's have access to even these limited funds on an proportionate basis, via the following methods.

The following Step 1 Table (below) shows the total monetary value and weighted percentage for each of these line-item (NIAC) projects, in comparison with the total available contracting budget (\$93,200).

Step 1 - Determine the weight of each type of work by NAICS Code:

	NAICS Code	Project	Amount of DOT funds on project:	% of total DOT funds (weight)
1)	541890	Misc. Suppliers, promo items, marketing goods	\$7,200.00	0.0773
2)	541611	Consultant, Business Management	\$11,000.00	0.1180
3)	323110	Commercial Printing	\$65,000.00	0.6974
4)	561710	Services to Buildings	\$10,000.00	0.1073
Total FTA-Assisted Contract Funds			\$93,200.00	1

The following step of the goal setting process is determining what percentage DBEs (or firms that could be certified as DBEs) represent of all firms that are ready, willing, and able to compete for DOT-assisted contracting; located within the local market area. This percentage is calculated by dividing the number of DBEs ready, willing, and able to bid for the types of work possibly funded this year (e.g. consultant, print, etc.), by the number of all firms (DBEs and non-DBEs) ready, willing, and able to bid for the types of work.

Quantifying the number of DBE firms in the identified local market area (CalTrans Dist. 5) was done using the California Unified Certification Program (CUCP) Directory, based on the NAICS codes most relevant to each contract type. Non-DBE's totals were developed using 2015 Countywide Business Patterns (CBP) data from the U.S. Census Bureau, based on the same NAICS codes. The Step 2 Table (below) establishes the total percentage of DBE's in relation to the total (DBE + Non-DBE) firms available per specific project category.



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Step 2 - Determine the relative availability of DBE's by NAICS Code:

	NAICS Code	Project	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability	
1)	541890	Misc. Suppliers, promo items, marketing goods	478	2128	0.2246	
2)	541611	Consultant, Business Management	11	540	0.0204	
3)	323110	Commercial Printing	19	780	0.0244	
4)	561710	Services to Buildings	47	645	0.0729	
	Combined Totals		555	4093	0.1356	<i>Overall availability of DBEs</i>

Following, Staff calculated the three-year DBE goal based upon the adopted SLO TRANSIT FY17-19 budget. SLO TRANSIT will have an approximate budget of \$4 million dollars each year during the next triennial period, FFY18 through 2020, whereby it will receive approximately \$1.4 million of those funds from the DOT / FTA. Approximately \$93,200 of those funds are noncommitted and could be potentially awarded to a DBE.

The percentage of the available DBE's in the Local Area Market were applied to the value amount of the possible projects and then weighted in order to determine a proportionate level of possible DBE participation.

Step 3 table (below) shows these calculations:

Step 3 - (Weight) x (Availability) = Weighted Base Figure

	NAICS Code	Project	Weight	x	Availability	Weighted Base Figure
1)	541890	Misc. Suppliers, promo items, marketing goods	0.07725	x	0.22462	0.0174
2)	541611	Consultant, Business Management	0.11803	x	0.02037	0.0024
3)	323110	Commercial Printing	0.69742	x	0.02436	0.0170
4)	561710	Services to Buildings	0.10730	x	0.07287	0.0078
	Total					0.0446
	Expressed as a % (*100)					4.46%
	Rounded, Weighted Base Figure:					4%

The combined monetary value of the proportionate DBE participation was then combined to determine that approximately \$4,770, or 4.46%, of the total \$93,200 in contract opportunities would constitute an initial appropriate DBE goal. SLO TRANSIT will adjust its DBE goal, if necessary, when future budgets are known or if contracting opportunities increase due to new capital federal funding sources.

Step 2. Adjusting Base Figures

Consideration of Past Participation

To obtain the final DBE goal is established using the chosen method prescribed by 49 CFR 26.45, whereby staff examined the actual rate of DBE participation during the last three years relative to the adopted DBE goals to determine if the FFY21through FFY23 base goal should be adjusted. In



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the past SLO TRANSIT attempted to achieve 1.7% DBE goal and was not successful in achieving this goal. A similar result occurred with the prior triennial DBE Goal as well.

Nonattainment of prior goals is not due to having not spent any monies with minority or women-owned business. Rather, none of the contracted firms have been certified as a DBE and have expressed no desire to do so, in spite of encouragement. Further, SLO TRANSIT has no large construction or service contracts available to bid on during the analysis period.

Staff recommends that it would be appropriated to adjust the initial DBE Goal down to 0% as the established SLO TRANSIT DBE Goal for FFY 21-23.

Race-Neutral Methods and DBE Contract Goals

The U.S. DOT regulations require that race-neutral methods be used to the maximum extent feasible to achieve the DBE overall goal. Race-neutral methods include making efforts to assure that bidding and contract requirements facilitate participation by DBE firms and other small businesses; unbundling large contracts to make them more accessible to small businesses; encouraging prime contractors to subcontract portions of the work that they might otherwise perform themselves; and providing technical assistance, communications programs, and other support services to facilitate consideration of DBE and SBE (Small Business Enterprises) firms.

SLO Transit will continue using race-neutral means to encourage their transit service prime contractor to utilize DBE firms when possible. Semi-annual meetings with the contractor will be held to discuss potential subcontracting opportunities. Relevant disparity studies for the San Luis Obispo area will be considered and used to adjust the goal split if necessary.

SLO TRANSIT's goal will be attempted to be reached through race-neutral means by doing the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goals; DBE participation on prime contract exceeding a contract goal; DBE participation through a subcontract from a prime contract that did not consider a firm's DBE status

in making the award and; encourage minority or women-owned business conducting business with SLO TRANSIT to become certified DBE's. At this time, it would not be appropriate for SLO TRANSIT to reach its goal through race-conscious contract goals.

Public Participation

A major component of the DBE Goal setting process is including public participation. Public participation helps ensure that the calculation methods take into account other quantifiable and non-quantifiable factors which will help shape an appropriate DBE goal.

The City of San Luis Obispo has a, periodically revised, longstanding Public Engagement Manual for City departments conducting public engagement. Further, SLO Transit has a transit-specific Public Notification Policy. The goal of both documents is to ensure the fullest and most equitable means to ensure the broadest public participation in the development of City policy, goals (e.g.



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DBE), service planning, service changes and fare changes. These documents indicate the means, mediums, methods, and duration of notification by which the public will be notified and as to give the best chance for engagement.

The establishment of the SLO TRANSIT DBE Goal will be finalized in accordance with both documents. Legal ads, print & tv advertisements, press releases, in-vehicle notices, website updates, social media posts, public meetings at accessible venues at varying times of day are produced as part of complying with approved public engagement techniques. Further, staff has used a extensive DBE list-serve compiled from CalTrans websites and past participants to directly invite participation in the DBE Goal development process.

If approved by the City Council, SLO TRANSIT will establish a DBE Goal of 0% for FFY21 through FFY23. SLO TRANSIT's proposed DBE Goal and supporting documents are available for public inspection through Monday, July 10, 2017, at SLO TRANSIT's website at slotransit.org, the City of San Luis Obispo Clerk's Office at 990 Palm Street, and the City of San Luis Obispo Public Works Department at 919 Palm Street. Public comments are encouraged and will be accepted: online at slotransit.org, by email at slotransit@slocity.org, or by mail to SLO Transit at 919 Palm Street, San Luis Obispo, California 93401.

All relevant public comment received during this period will be recorded and compiled, considered and recorded for posterity. Comments from the public will be used to help shape the final recommended DBE Goal for SLO Transit.