

15. Disadvantaged Business Enterprise

Caltrans DMT receives planning, capital, and/or operating assistance and awards prime contracts exceeding \$250,000 in FTA funds each fiscal year and is required to have a DBE program. According to FTA, subrecipients must adhere to the Caltrans DBE Program Plan (49 CFR Part 26) as it applies to local agencies. Failure to do so will be treated as a violation of the Grant Agreement or Standard Agreement. Subrecipients must determine if the project has subcontracting opportunities.

When ‘other equipment’ is procured through the grant, the applicant is required to complete and submit a DBE Awards/Commitments Form to Caltrans along with three like-kind bids for Caltrans final purchase approval. Subrecipients are also required to submit the DBE Vehicle Certification Form to the DMT Procurement and Grants Management Branch, if applicable. More information regarding Transit Vehicle Manufacture requirements can be found at [Transit Vehicle Manufacturers \(TVM's\)](#) website. Once a bid is approved, the applicant purchases the approved equipment from the approved vendor. Upon acceptable delivery, the applicant will submit an Actual Payments Form to Caltrans along with their request for reimbursement for the equipment. Caltrans will report the DBE participation, if applicable, to Caltrans’ Office of Business and Economic Opportunity.

The Office of Business and Economic Opportunity also maintains a list of current Caltrans certified DBEs that applicants can query to determine if there is a DBE available for bidding purposes. The list can be queried at the following link: http://www.dot.ca.gov/hq/bep/find_certified.htm

15.1 DMT Subrecipient Contracts

The DMT has established procedures to take necessary and reasonable steps to ensure that all small businesses that meet the requisite federal size standards, including DBEs, have the maximum opportunity to compete for and perform contracts. Sub-recipients of Sections 5310, 5311, and 5339 funds are subject to the regulations in 49 CFR Part 26. The DBE program is discussed at the DMT-sponsored training sessions for its federal grant programs.

In the Section 5339 program, funds are available for capital projects only. In the remaining two Sections, funds are available for capital, planning, and operating assistance projects. Capital projects include both vehicle and non-vehicle projects. Typical non-vehicle projects include mobile radios, computer hardware and software, bus shelters, and intermodal facilities.

For transit vehicles, the manufacturer works directly with FTA to satisfy the race-neutral DBE Program requirements. The DMT is responsible for acquiring a certification of DBE compliance from each manufacturer receiving FTA funds through one of its FTA programs during the solicitation process. For other project categories (non-vehicle capital, operating assistance, planning), sub-recipients satisfy race-neutral DBE Program requirements by following the procedures below.

Caltrans has established a “one plan” philosophy in which sub-recipients must adhere to the Caltrans DBE Program Plan. All DMT, sub-recipients must have on file a DBE Race Neutral Implementation Agreement with their signed project contract (Standard Agreement). The model language and instructions are available on the DMT Web site at: <http://www.dot.ca.gov/hq/MassTrans/index.html>.

Sub-recipients letting FTA-assisted contracts must use the DBE procurement language provided by DMT (also found at the Web site above). Prior to advertising request for proposals, invitations to bid, or other solicitation methods, sub-recipients must submit procurement documents to DMT for review and approval. Once the solicitation process is complete and a successful bidder is identified, the sub-recipient notifies DMT of the successful bidder and whether the bidder is a DBE firm.

Sub-recipients must create and maintain a Bidders List of DBE and non-DBE firms that bid or quote on its FTA-assisted contracts and subcontracts. The Bidder's List must include the following: firm name, firm address, DBE/non-DBE status, the firm's number of years in business and the firm's annual gross receipts. Sub-recipient's approved purchases are made with local money, and then billing documents are submitted to DMT for reimbursement with FTA funds.

15.2 Reporting Requirements

Semi-annually, DMT submits data regarding awards or commitments and payments on all FTA-assisted contracts (both DMT's and sub-recipient's) to the FTA.

Sub-recipients will report Awards/Commitments and Actual Payments to DMT semi-annually for the reporting periods from October 1st through March 30th and April 1st through October 31st. Due dates for each reporting period to be determined by the DMT Compliance Manager.

15.3 Monitoring DBE Participation

Construction Contracts

At the start of the contract, the subrecipient submits a list of the DBE's to be utilized on the contract and the description of work they will be performing. During the performance of that work, the District Transit Representative (DTR) conducts on-site monitoring and notes who (what company as well as the person's name) is performing the work. In addition, the subrecipient submits the DBE certification form with the request for reimbursement (RFR). This is then compared against the DTR's notes. If they do not match or the subrecipient fails to submit the required documentation, RFR will not be processed until the issue(s) is resolved.

Non-Construction Contracts

The procedures for monitoring DBE participation on non-construction contracts is the same as that of construction contracts except for the on-site monitoring requirements.

15.3 DBE Goal and Methodology

Based on the State Management Review conducted by the FTA in 2013, Caltrans will conduct an Availability and Disparity Study to implement the FTA DBE Program effectively. Upon completion of the Availability and Disparity Study, Caltrans will submit a revised goal and methodology to the FTA for consideration. The revised goal and methodology will determine the direction of the Caltrans FTA DBE Program. The anticipated completion date of the Availability and Disparity Study is December 2014.

Currently and until the completion of the Availability and Disparity Study, DMT will be adhering to the FTA approved DBE Goal and Methodology from Federal Fiscal Years (FFY) 2011-2013, this overall goal is expected to be achieved through wholly race neutral measures and is currently set at 4%.

15.1 DBE Goal

~~For Federal Fiscal Years (FFY) 2011–2013, Caltrans’ DBE goal, for its FTA projects, is four percent, without any Step Two adjustments. This overall goal is expected to be achieved through wholly race-neutral measures. Caltrans submits this goal and methodology to the FTA for review and approval pursuant to 49 CFR 26.45 for federally assisted transit contracts. Caltrans acknowledges the February 3, 2010, final rule change that will have Caltrans submit the overall goal triennially rather than annually. For the most updated DBE Goal and Methodology, please see the Caltrans FTA DBE Goal and Methodology Federal Fiscal Years 2011–2013.~~

15.2 DBE Methodology

~~Caltrans’ two-step process for setting its overall DBE goal includes the following:~~

- ~~• Step One describes the calculation of a base figure for the relative availability of DBEs.~~
- ~~• Step Two is the examination of all the evidence available to determine if an adjustment to the base figure is needed to arrive at the overall goal.~~

1. Step One Base Figure Section 26.45(e)

~~In order to establish the base figure, Caltrans commissioned an Availability and Disparity Study (Study) completed by BBC Research & Consulting (BBC) in July 2007. The Study:~~

- ~~• Analyzed use and availability of minority/women-owned firms in California transportation contracts.~~
- ~~• Examined other quantitative analysis of marketplace conditions.~~
- ~~• Reviewed anecdotal information from in-depth interviews with nearly 100 business owners and others across California.~~
- ~~• Analyzed oral and written testimony from businesses, trade associations, and other organizations at the 14 public hearings held by Caltrans in March and April 2007; two hearings in Los Angeles; and one hearing each in Eureka, Stockton, Bishop, Fresno, San Luis Obispo, San Diego, Sacramento, San Jose, Redding, Irvine, San Bernardino, and Oakland.~~

2. Step Two Adjustments Section 26.45(d)

~~Caltrans examined a broad range of evidence in the Study when considering possible Step Two adjustments to the base figure. The Study contained the types of information for a possible Step Two adjustment that are outlined in the DBE Program, including:~~

- ~~Current capacity of DBEs to perform work on FHWA assisted contracts, as measured by the volume of work DBEs have performed in recent years.~~
- ~~Data on employment, self-employment, education, training, and union apprenticeship programs.~~
- ~~Information on the ability of OBEs to obtain financing, bonding, and insurance.~~