

Disadvantaged Business Enterprise (DBE) Federal Fiscal Year 2006 Annual Goal Proposal

Presented by:

Gwen Harris-Gale, Ed.D.

Director, Materiel

The Office of Procurement & Materiel

July 7, 2005

Purpose

1. Provide an overview of the Authority's federally funded Disadvantaged Business Enterprise (DBE) participation program and provide an understanding of the requirements for the submission of the annual DBE goal to the FTA
2. Inform the Administration Committee of the new branch in the Office of Procurement and Materiel
3. Seek the Administration Committee's approval and recommendation of the Federal Fiscal Year (FFY) 2006 annual DBE goal to the Board of Directors

Reorganization

- The DBE program was reorganized from the Office of Civil Rights to the Department of Procurement & Materiel, effective February 14, 2005, which now reports to WFDA
 - **Vision** - create a new office with three distinct functions:
 - Vendor Relations, outreach and technical assistance
 - Disadvantaged Business Enterprise (DBE)
 - Small & Local Preference Program

Reorganization (cont'd)

- Allows for a more aggressive program with better coordination between the contracting and DBE branches
- Provides for closer compliance monitoring of contractors for both goal attainment and payment purposes
- Provides for enhanced technical assistance and outreach services to DBE and small contractors as envisioned in the DBE regulations
- Strengthens the certification process for both DBE and Small and Local Preference Businesses
- Allows for more efficient goal setting
- Allows for more timely and accurate internal reporting as well as external reporting (FTA)

The DBE Program

- The DBE program responsibilities involve the implementation of 49 C.F.R . Part 26 including:
 - maintaining program data
 - maintaining a directory of DBE firms
 - certifying eligible DBE firms
 - compliance monitoring
 - evaluating contractors' good faith efforts
 - counting DBE participation toward the annual goal
 - implementing a Unified Certification Program (UCP) between WMATA and the District of Columbia, and
 - applying appropriate enforcement actions

Federal Regulations Overview

- The Department of Transportation (DOT) DBE Program Regulations require the Authority to establish an annual overall goal for DBE participation in Department of Transportation (DOT) funded contracts. The overall goal must be established using a two-step process prescribed by the regulation
- DOT also authorizes the Authority to use both race-conscious and race-neutral measures to facilitate DBE participation

Goal Bifurcation

1. Race-neutral - race neutral is defined as a measure or program that can be used to assist all small businesses
2. Race-conscious - race conscious is defined as a measure or program that focuses specifically on assisting DBE firms only

Race conscious goals are only established on federally funded contracts with sub-contracting opportunities

Goal Methodology

- Source Document: “Tips for Goal Setting in the Disadvantaged Business Enterprise (DBE) Program” by the Department of Transportation (January 5, 2005)
- Step One establishes a “base figure” based upon the availability of DBEs in the market area.
 - DBE Directory
 - Vendor Registration System
 - Statistics from the U. S. Census
- The Result: The base figure equals 10.86%

Goal Methodology (cont'd)

- Step Two adjusts the “base figure” by examining evidence in the market area that might impact the overall goal
 - Historical evidence from prior years
- The Result:
 - The adjusted base figure equals 16.31%
 - The bifurcated figure equals 15% for race-conscious and 1% for race-neutral

Background

DBE Goals and Achievements: FFY99 to FFY04

Year	FFY99	FFY00	FFY01	FFY02	FFY03	FFY04
Goal	23.0%	20.0%	15.0%	15.0%	21.0%	21.0%
Achievement	45.0%	38.3%	16.8%	22.5%	21.0%	19.0%

Conclusion

- The goal will be achieved through various programmatic efforts including
- Vendor outreach - new vendor programs - vendor training
- Upgrading and maintaining a DBE Directory in hard copy and electronic format
- Monitoring contract compliance - establishment of an advisory committee, finalize complaint procedures
- Improving the data collection process - enhance our BizTrack System
- Ongoing training for staff and customers
- Enhance our Intranet website

In accordance with 49 C.F.R. Part 26.45, the Authority has informed the public of the proposed goal and has provided the opportunity for comment.

Recommendation

That the Administration Committee approve and recommend to the Board of Directors to adopt a DBE goal of **16%** for Federal Year 2006 for implementation of the FTA Regulations for federally funded contracts, recognizing that the overall goal will be achieved through **15%** race-conscious and **1%** race-neutral measures and be established on a contract-by-contract basis



METRO ELECTRONIC ACTION DOCUMENT

IDENTIFICATION			
MEAD ID:	94131	ACTION:	N/A
AWARD VALUE:	(Not yet awarded)	CONTRACT: (Proposed)	
FUND SOURCES: (View)		CONTRACTOR:	
LAST MODIFIED:	06/20/2005		

DESCRIPTION	
SUBJECT:	To request Board approval of the Authority's 2006 DBE Program Goal.
PURPOSE:	The purpose of this MEAD is to request Board approval of the Authority's Federal Fiscal Year (FFY) 2006 annual DBE Program Goal.

ORIGINATION					
INITIATOR			DEPARTMENTAL APPROVAL		
GWENDOLYN HARRIS on 04/27/2005			Not Approved Yet		
PHONE:	202-962-5554	OFFICE:	PRMT	DEPT:	Secretary and Chief of St

COORDINATION (ROUTING)		
OFFICE	NAME	ACTION/DATE
AGMW (5100)	SCOTT II, WILLIAM	Approved 06/27/2005
COUN (1410)	O'KEEFE, CAROL	Approved 06/21/2005
PRMT (7400)	ZINGALE, JAMES	Approved 04/28/2005
SCOS (7100)	BARTLETT, HAROLD	Approved w/ Comments 04/29/2005
GMGR (1100)	WHITE, RICHARD	<i>Richard White</i>

FINAL APPROVALS	
OFFICE	NAME/ACTION
BEMR	Approved w/ Comments for SCOS by HAROLD BARTLETT on 04/29/2005
HR_CMTE	Approved for AGMW by WILLIAM SCOTT II on 06/27/2005
BOARD	BOARD WMATA (Not Yet Approved)



Washington Metropolitan Area Transit Authority
METRO ELECTRONIC ACTION DOCUMENT

NARRATIVE

As a recipient of Federal financial assistance, the Authority is required to establish an annual DBE goal. Section 26.45(f)(3) prescribes that the overall goal be allocated between a percentage that will be achieved through race-neutral measures and a percentage that will be achieved through race-conscious measures.

Local recipients of Department of Transportation (DOT) funds are required to design their DBE programs to reflect local conditions and circumstances unique to the recipient in order to narrowly tailor the remedial measures to eliminate the effects of discrimination. Part 26.45(a) requires that the Authority use a two step process to establish the goal.

In Step One, the "base figure" was based upon the availability of DBEs in the market including the DBE Directory, the Authority's Vendor Registration System (VRS) and statistics from the U.S. Census. In Step Two, the "base figure" was adjusted by examining evidence in the market that might impact the overall goal. Historical evidence from prior years was used to make the appropriate adjustment.

Closely following the guidance provided by the Department of Transportation to analyze and research the outcome, the staff recommends an overall goal of 16% which will be bifurcated as follows:

15% race-conscious, and
1% race-neutral.

These goals will be achieved through various programmatic efforts including vendor outreach; upgrading and maintaining a DBE directory in hardcopy and electronic format; monitoring contract compliance; improving data collection; reorganizing the staff for better coordination between the contracting and DBE branches; and, ongoing training for staff, DBEs and customers.

IMPACT ON FUNDING:

None.

DISADVANTAGED BUSINESS ENTERPRISE (DBE) REQUIREMENTS:

None.

ALTERNATIVES:

Establishing a DBE goal is required by the FTA as long as WMATA receives federal funding. The percentage may vary but it cannot be less than 10%.

The DBE Branch followed guidance from the General Counsel of the Department of Transportation entitled *Tips for Goal-Setting in the Disadvantaged Enterprise (DBE) Program*, which was published on January 5, 2005. The alternative is to use a different methodology to establish the goal. A different method would yield a different

percentage.

RECOMMENDATION:

That the Board adopt a DBE annual goal for Federal Fiscal Year 2006 for implementation of the FTA Regulations for federally-funded contracts, recognizing that the overall goal will be achieved through 15% race-conscious and 1% race-neutral measures and be established on a contract by contract basis.

PROPOSED & ADOPTED:

SUBJECT: FY 2006 OVERALL DISADVANTAGED BUSINESS ENTERPRISE GOAL

PROPOSED
RESOLUTION
OF THE
BOARD OF DIRECTORS
OF THE
WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

WHEREAS, The Washington Metropolitan Area Transit Authority (WMATA), is a recipient of federal assistance from the U.S. Department of Transportation (DOT), and the Federal Transit Administration (FTA); and

WHEREAS, It is the policy of WMATA that businesses owned and controlled by minorities and women shall have the opportunity to participate in WMATA federally-assisted contracts; and

WHEREAS, The DOT enacted 49 C.F.R. Part 26, effective March 4, 1999, under which recipients of federal financial assistance are required to submit a revised Disadvantaged Business Enterprise (DBE) Program, which includes an annual goal; and

WHEREAS, The annual DBE goal is required to be bifurcated between race-conscious and race-neutral measures; and

WHEREAS, in accordance with 49 C.F.R. Part 26.45, the Authority has informed the public of the proposed goal and provided the opportunity for comment; now, therefore be it

RESOLVED, That the Board of Directors of WMATA affirms the policy of nondiscrimination and compliance with federal requirements for engaging in affirmative action in contracting; and be it further

RESOLVED, That it is the policy of the WMATA Board of Directors that neither the Authority, nor any of its contractors or vendors, shall discriminate on the basis of race, color, national origin, sex or any other unlawful basis in the award and performance of contracts or subcontracts; and be it further

RESOLVED, That the required public comment period was held from June 5-July 20, 2005, and all questions were answered; and be it further

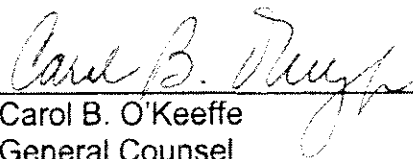
RESOLVED, That the Board of Directors adopts a final DBE annual goal of 16% for Federal Fiscal Year 2006 for implementation of the FTA Regulations for federally-funded contracts, recognizing that the overall goal will be achieved through 15% race-conscious

and 1% race-neutral measures and be established on a contract-by-contract basis; and be it further

RESOLVED, That the General Manager and Chief Executive Officer is hereby authorized to submit the foregoing goal to the FTA; and be it finally

RESOLVED, That this Resolution shall be effective immediately.

Reviewed as to form and legal sufficiency,



Carol B. O'Keeffe
General Counsel