

Management & Transportation Committee

Meeting date: Transportation Committee (July 10, 2017) & Management Committee (July 12, 2017)

For the Metropolitan Council meeting of July 26, 2017

Subject: Approve the Metropolitan Council Triennial FTA DBE Program Goal.

District(s), Member(s): All

Policy/Legal Reference: United States Department of Transportation Disadvantaged Business Enterprise Program (49 C.F.R. 26; 26.45)

Staff Prepared/Presented: Wanda Kirkpatrick, Director, Office of Equal Opportunity, 651-602-1085; Aaron Koski, Assistant Director, Office of Equal Opportunity, 651-602-1426; Tracey Jackson, Manager of Small Business Programs, 612-349-7695

Division/Department: Office of Equal Opportunity/Regional Administration

Proposed Action

That the Metropolitan Council approve the Triennial FTA DBE Program Goal.

Background

The U.S. Department of Transportation requires that agencies like the Council administer a DBE program on projects receiving federal funding. The DBE regulations describe many requirements the Council must satisfy to remain eligible for future USDOT funding. One requirement is that the Council engage in an analysis of future transportation spending to set an overall triennial DBE program goal. This program goal helps the Council set subcontracting inclusion goals on specific transportation projects that receive USDOT funding.

The Council is recommending a 15% overall DBE goal for FY 2018-2020.

Rationale

Staff from the Office of Equal Opportunity followed a methodology described by the DBE regulations. To arrive at the recommended 15% DBE program goal, OEO staff:

1. Calculated the availability of DBE companies compared to all businesses in the Minneapolis – Saint Paul statistical area that can perform work typically used on projects that receive USDOT funds;
2. Estimated future Council spending on transportation projects;
3. Weighed this future spending with the availability of DBEs in the region; and
4. Adjusted these figures by considering the levels of past DBE participation on Council projects.

OEO staff met with the following partners to gain information on the health of DBEs in the region. Our staff spoke with representatives from:

Association of Women Contractors
National Association of Minority Contractors
Associated General Contractors
Metropolitan Economic Development Association

The Council held a public comment period from June 7 through July 7th to gather feedback on the proposed DBE program goal. As of June 21st, OEO has received 9 comments from the public, which include general statements of support (or lack of it) for the Met Council and the Southwest project, requests to increase or decrease the goal, and technical questions that OEO staff have answered.

OEO staff hosted 2 open houses during the public comment period: one in Minneapolis on June 13 and a second in Saint Paul on June 20. A total of nine people attended the open houses. OEO staff received several questions during these open houses, including questions about the methodology used to arrive at a 15% program goal, general questions on how the Council administers its DBE program, clarifications about the ecosystem in the region for small business and certification programs, and questions about doing business with the Council.

The Council distributed notice of the public comment period and open houses through a variety of groups that included over 15,000 recipients.

Thrive Lens Analysis

The DBE program seeks to ensure nondiscrimination in how DOT funded projects are awarded and administered. The triennial DBE program goal methodology helps the Council implement a program that is narrowly tailored, while creating a level playing field and removing barriers for DBEs, as well as promoting their use on Council transportation projects.

This 15% recommendation reflects the level of DBE participation that the Council would expect absent the effects of discrimination in the region.

Overall, approval of the triennial DBE program goal advances equity and other Thrive outcomes. This approval helps ensure that the Council's DBE program remains in federal compliance, thereby retaining the Council's eligibility to receive future USDOT funding. In addition, this action supports the region's women and minority owned small business community by removing barriers which prevent subcontracting inclusion.

The Council doesn't envision any scenarios where Thrive outcomes would be compromised by approving the Council's triennial DBE program goal.

Funding

The Council's triennial DBE program goal and the implementation of the DBE program are achieved using general operating funds.

Known Support / Opposition

There is no known opposition to the proposed action.

The following is a summary of the method used to calculate the weighted relative availability and other values in the table.

I. Step One

The base figure was calculated using the relative availability of ready, willing and able (RWA) DBEs weighted by budget estimates and scopes of future projects.

The availability of RWA DBEs was determined by what percentage DBEs represent of all RWA in the Minneapolis-Saint Paul Metropolitan Statistical Area (MSA), as outlined by the Office of Management and Budget. The Minneapolis-Saint Paul MSA was chosen as the local market area for contractors and subcontractors for the Metropolitan Council because it represents the geographical area in which the majority of contractors are located. This area includes the seven counties under Metropolitan Council jurisdiction, as well as nine additional surrounding counties in Minnesota and western Wisconsin. Census data provides the overall pool of RWA firms in the Minneapolis-Saint Paul MSA by NAICS code. The DBE Directory can be used to find the pool of RWA DBEs in the Minneapolis-Saint Paul MSA by NAICS code, as well.

Budget estimates and scopes of future projects provide the breakdown of how funding will be allocated to different functions as determined by NAICS code. This provides a percentage of future funding that will be used on a project for individual NAICS codes.

By weighting the percentage of RWA DBEs and future spending estimates for each NAICS code, a more accurate measure for the actual relative availability of DBEs to perform future contracts. These calculations yield an unadjusted base figure of **11.7%**.

II. Step Two

DBE past participation can be used to adjust the base figure by averaging the unadjusted base figure with the median past participation rate. DBE participation in 2014, 2015 and 2016 was 26%, 14%, and 19%, respectively. To adjust for this past participation, the median of past participation, **19%**, can be averaged with the unadjusted base figure for an adjusted overall DBE triennial goal of **15 %**:

$$\frac{(11.7\% + 19\%)}{2} = 15\%$$

Figure I – Base Figure

The table below shows the projected future spending, availability of RWA DBEs and weighted availability for each NAICS code. The column for “Weighted Relative Availability” is the product of the columns for “Percentage of Future Spending” and “DBE Availability of RWA Firms.” The final unadjusted base figure, in the bottom right cell, is the sum of all values in the “Weighted Relative Availability” column.

NAICS Code	Projected Future Spending	Percentage of Future Spending	DBE Availability of RWA Firms	Weighted Relative Availability
237110	\$282,656,516	10.7%	8.4%	0.9%
237310	\$304,648,284	11.5%	21.7%	2.5%
238110	\$20,036,166	0.8%	5.9%	0.0%
238120	\$250,178,063	9.4%	23.3%	2.2%
238140	\$7,109,565	0.3%	4.3%	0.0%
238190	\$11,103,638	0.4%	23.0%	0.1%
238210	\$385,717,596	14.5%	3.2%	0.5%
238220	\$45,559,416	1.7%	1.2%	0.0%
238290	\$61,886,002	2.3%	3.4%	0.1%
238310	\$62,557,432	2.4%	5.3%	0.1%
238320	\$852,986	0.0%	4.6%	0.0%
238350	\$10,295,055	0.4%	6.4%	0.0%
238390	\$1,500,403	0.1%	7.6%	0.0%
238910	\$38,431,716	1.4%	9.2%	0.1%
238990	\$11,929,679	0.4%	3.7%	0.0%
332323	\$111,952,459	4.2%	24.1%	1.0%
333922	\$1,356,062	0.1%	7.1%	0.0%
423310	\$119,237	0.0%	1.1%	0.0%
423320	\$1,930,220	0.1%	10.0%	0.0%
423610	\$350,050,081	13.2%	8.7%	1.2%
444190	\$2,098,280	0.1%	2.5%	0.0%
484220	\$200,353,878	7.6%	18.3%	1.4%
488510	\$37,208	0.0%	1.3%	0.0%
517919	\$1,817,927	0.1%	7.7%	0.0%
541310	\$32,577,982	1.2%	5.4%	0.1%
541320	\$3,289,241	0.1%	23.8%	0.0%
541330	\$369,417,428	13.9%	6.3%	0.9%
541340	\$450,000	0.0%	16.7%	0.0%
541360	\$3,951,384	0.1%	100.0%	0.1%
541370	\$36,184,884	1.4%	18.4%	0.3%
541380	\$4,277,344	0.2%	2.3%	0.0%
541490	\$675,000	0.0%	26.7%	0.0%
541611	\$19,405,805	0.7%	2.6%	0.0%
541614	\$5,456,082	0.2%	10.7%	0.0%
541820	\$12,179,099	0.5%	9.9%	0.0%
561730	\$932,698	0.0%	2.1%	0.0%
TOTAL	\$2,652,974,816	100%		11.7%

Appendix I – Weighting Relative Availability

The example below shows how weighting DBE relative availability by using its share of spending provides a more accurate base figure that can be used for goal setting.

Example

A project has a total budget of **\$10,000,000** with a scope of work split between two NAICS codes:

NAICS Code	Allocated Budget	Number of RWA DBEs	Number of RWA Firms	DBE Relative Availability
237310 - Highway, Street and Bridge Construction	\$8,000,000	23	106	21.7%
238910 - Site Preparation Contractors	\$2,000,000	35	382	9.2%

To calculate the relative availability of DBEs for this project, the number of RWA DBEs would be divided by the total number of RWA firms for those two NAICS codes:

$$\frac{23 \text{ DBEs in } 237310 + 35 \text{ DBEs in } 238910}{106 \text{ Firms in } 237310 + 382 \text{ Firms in } 238910} = \frac{58}{488} = \mathbf{11.9\%}$$

This would represent a base figure of **11.9%** that would be used for goal setting. However, this does not account for the fact that 80% of the project's budget is allocated to NAICS code 237310, which has a higher DBE relative availability.

In order to use the allocated budget as a weight for each NAICS code, the figure for each code's DBE relative availability would be multiplied by its share of the total budget:

$$\left(\frac{23 \text{ DBEs}}{106 \text{ Firms}} \times 80\% \text{ of budget}\right) + \left(\frac{35 \text{ DBEs}}{382 \text{ Firms}} \times 20\% \text{ of budget}\right) = (21.7\% \times 80\%) + (9.2 \times 20\%) = \mathbf{19.2\%}$$

The weighted calculation yields a base figure of **19.2%**, a value closer to the 21.7% relative availability of the type of work that will receive a majority of the project's funding.