

FY26-28 Program Update

# DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

DBE Consultant Workshop June 20, 2025

exits are marked by an exit sign and can be found nearby.



# AGENDA

Introduction

DBE Program Overview

DBE in the Federal Landscape

DBE Goal Update/Availability Analysis

Participation in Contracting Process

Schedule

Discussion on Process



# DBE PROGRAM GUIDANCE & THRESHOLDS

DBE Program is Congressionally Authorized, not authorized by Executive Orders

## **Who is required to have a DBE Program:**

Certain Recipients of Federal Funds (FTA, FHWA)

Required under 49 Code of Federal Regulations Part 26 (as of June 16, 2025)



## **Requirements:**

Updated DBE Goal Every Three Years (new goal due August 1, 2025)

Current Goal of 17% Active through September 30, 2025, covered FY2023-2025

Publication of DBE goal as part of RFP

Certification of DBE Eligibility

(Texas Unified Certification Program, NCTCOG does not make DBE Certifications)



# 2025 DBE Updates



## Executive Orders (no direct impact to DBE)

01/20/25 – Ending Radical and Wasteful Government DEI Programs and Preferencing  
01/21/25 – Ending Illegal Discrimination and Restoring Merit-Based Opportunities



## Federal Transit Administration

Updated language associated with DBE program requirements in Master Agreement Version 33



## Environmental Protection Agency

Removed M/WBE reporting requirements



# Context of DBE Goal Update

## MID-AMERICA MILLING COMPANY VS. USDOT

### (Case No. 3:23-cv-00072-GFVT)

Mid-America filed a lawsuit in the U.S. District Court in Eastern District of Kentucky in 2023 challenging the constitutionality of the DBE program.

Challenge is based on the use of race- and sex-based presumptions under the equal protection component of the Due Process Clause of the 5<sup>th</sup> Amendment.

May 28, 2025 – Joint Consent Order filed (not signed) with the Court

Defendants (USDOT) have stipulated the DBE Program's use of race- and sex-based presumptions are unconstitutional.

USDOT re-evaluated prior position based on Supreme Courts decision in *Students for Fair Admissions, Inc. v. President & Fellows of Harvard College*

Joint Consent Order if signed would end DBE contract goals based on race and sex presumptions.



# **Context of DBE Goal Update**

## **MID-AMERICA MILLING COMPANY VS. USDOT**

**(Case No. 3:23-cv-00072-GFVT)**

Various Minority Contracting Associations have been granted authority to Intervene and are opposing the Entry of the Joint Consent Order.

Appeal of Consent Order, whether entered or not, is expected.

Staff is monitoring this case for implications.

As of June 16, 2025, DBE rules and requirements are still in place.



# DBE PROGRAM OVERVIEW

Ensure non-discrimination

Create a level playing field/fair competition

Narrowly tailor program to meet Federal law

Ensure DBE Firms Meet Required Eligibility Standards

Help Remove Barriers to DBE Participation

Assist in Development of Firms to Compete Outside



# U.S. DOT DEFINITIONS

## Disadvantaged Business Enterprise (DBE)

- At Least 51 Percent Ownership by Socially and Economically Disadvantaged Individuals
- Management and Daily Operations Controlled by Socially and Economically Disadvantaged Individuals (Owners)
- Small Business Concern (Less than \$26.29 Million Gross Receipts)

## Socially and Economically Disadvantaged\*

\*Race and sex-based presumptions are being challenged in federal court

- Must be US Citizen or Lawful Permanent Resident
- Women
- Black Americans
- Hispanic Americans
- Native Americans
- Asian-Pacific Americans
- Subcontinent Asian Americans
- Others as determined by Small Business Administration (SBA)



# DBE CERTIFICATIONS ACCEPTED

## Texas Unified Certification Program (TUCP)

- North Central Texas Regional Certification Agency
- City of Austin
- City of Houston
- City of Corpus Christi
- TxDOT
- South Central Texas Certification Agency

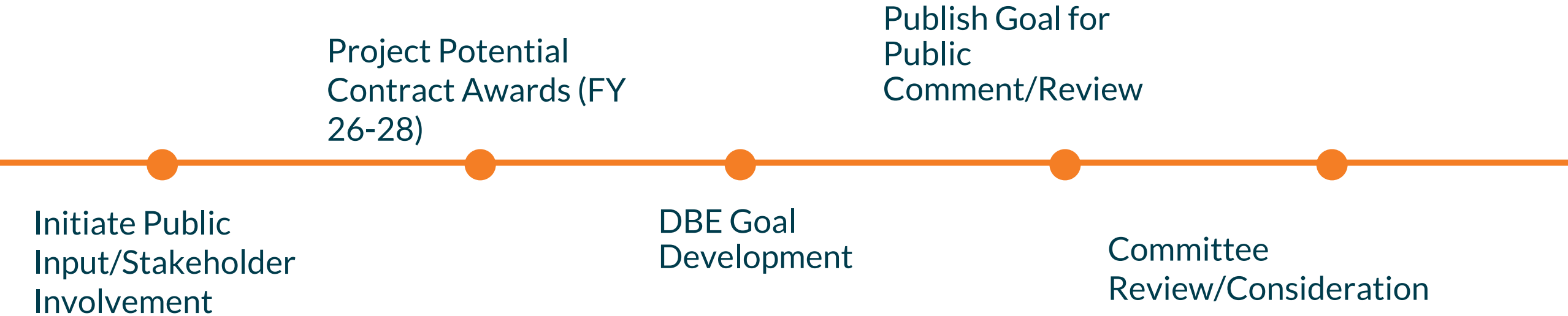
## United States Department of Transportation (U.S. DOT)

### Interstate Certification Program

Certification Based on Same Definition of Ownership and Control as US DOT



# PROCESS TO UPDATE DBE GOAL



# Development of DBE Goal

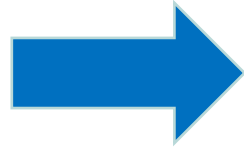
## Step 1:

**Determine Relative Availability of Ready, Willing & Able DBE Firms**

- Determined by Market Area
  - DFW MSA (NCTCOG)
  - Individual Market Area Transit Subs (County)
- Includes weighting by Contract opportunities for FY26-28
  - NCTCOG & Subs
  - Funding Source

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Establishes Base Figure



## Step 2:

**Consideration of Other DBE Data**

- Historical DBE Expenditures
- DBE goals from other, similar agencies in DFW Market area
- Stakeholder comment
- Public comment

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Adjustments to Base Figure



# Potential Awards

## *NCTCOG and Subrecipients*

Procurement Type	Potential Awards (in \$1,000s) FTA	Potential Awards (in \$1,000s) FHWA	Potential Awards (in \$1,000s) Other	Potential Awards (in \$1,000s) TOTAL
Construction	\$1,621	\$0	\$957	\$2,578
Marketing, Advertising, and Public Relations	\$126	\$390	\$0	\$516
Office Supplies & Equipment (Rental & Purchase)	\$758	\$0	\$0	\$758
Operational Administrative, Communications, Support Services	\$8,101	\$0	\$460	\$8,561
Planning/Engineering	\$975	\$4,618	\$595	\$6,188
Software and Ancillary Information Technology Professional Services	\$990	\$2,050	\$150	\$3,190
Transportation Equipment	\$1,225	\$19,592	\$2,000	\$22,817
Vehicle Maintenance and Operations Support	\$7,093	\$0	\$0	\$7,093
<b>TOTAL</b>	<b>\$20,889</b>	<b>\$26,650</b>	<b>\$4,162</b>	<b>\$51,701</b>



# Preliminary DBE Availability Analysis

## *NCTCOG and Subrecipients*

Procurement Type	Potential Awards (in \$1,000s)	DBE Firms	Total Firms	DBE Goal
Construction	\$2,578	3,947	1,2692	31.1%
Marketing, Advertising, and Public Relations	\$516	351	1,503	23.4%
Office Supplies & Equipment (Rental & Purchase)	\$758	13	870	1.5%
Operational Administrative, Communications, Support Services	\$8,561	973	13,968	7.0%
Planning/Engineering	\$6,188	1,520	4,920	30.9%
Software and Ancillary Information Technology Professional Services	\$3,190	472	5,235	9.0%
Transportation Equipment	\$22,817	103	4,910	2.1%
Vehicle Maintenance and Operations Support	\$7,093	74	2,416	3.1%
TOTAL	\$51,701	7,453	46,514	16%
<b>Total Weighted Summary</b>				<b>8.6%</b>





# GUIDING PRINCIPLE

## OPEN, FAIR, AND COMPETITIVE PROCESS

### RFP Issuance & Advertisement:

- All procurement documents posted on [www.nctcog.org/rfp](http://www.nctcog.org/rfp)
  - NCTCOG is currently transitioning to Bidnet Direct by SOVRA, a regional e-procurement solution. NCTCOG invites all vendors to register at: [www.bidnetdirect.com/Texas/nctcog](http://www.bidnetdirect.com/Texas/nctcog)
- Consultants registered in our database received notifications of procurements matching their expertise
- Advertisements issued in the Texas Register and newspapers:
  - Dallas Morning News, Dallas Examiner, Al Dia, Tre Magazine
- Posted on various social media

### Opportunities for Questions:

- Pre-proposal conference (determined project to project)
- Written questions & answers



# OVERVIEW OF PROCUREMENT PROCESS

## Proposal Submittal

- Formatting, number of printed or electronic copy requirements detailed in RFP
- Proposals typically include:
  - Project Understanding
  - Scope of Services & Schedule
  - Consultant Qualifications
  - Compliance Requirements

## Consultant Selection Committee & Interviews

- Comprised of NCTCOG & Non-NCTCOG members
- Interview dates, if needed, are published at the time RFP is published

## Selection Criteria

- Published in RFP
- Typical Criteria:
  - Planning Services
  - Engineering Services (qualifications-based selection)
  - Other- Equipment, Vehicles, etc.



# OVERVIEW OF PROCUREMENT PROCESS

## Contract Award

- Selection Committee makes recommendation to NCTCOG Executive Board
- Executive Board approval is required,
- Selection process is complete, Contract Execution can proceed

## Contract Development

- Often occurs simultaneous to NCTCOG Executive Board approval
- Scope
- Budget (prime & subs)
- Additional compliance documents:
  - Disadvantaged Business Enterprise Participation
  - Debarment Certification (prime & subs)
  - Lobbying Certification (prime & subs)
  - Affirmative Action (if applicable)
- Requirement: Form 1295 (prime)



# RESOURCES TO MONITOR ANTICIPATED PROCUREMENTS

## Committee Agendas

- Surface Transportation Technical Committee (STTC)
- Regional Transportation Council

## Department Work Activities

- Development of Unified Planning Work Program (UPWP) every 2 years
- Modifications to the Work Program (approximately every quarter)

- Executive Board
- Available online at:  
[www.nctcog.org/trans/about/committees](https://www.nctcog.org/trans/about/committees)  
DBE Information Page:  
[NCTCOG - Disadvantaged Business Enterprise \(DBE\) Program](#)

- Available online at:  
<https://www.nctcog.org/trans/study/unified-planning-work-program>

## Upcoming Events

- **DBE Networking: July 22, 2025**



# Schedule

TASK	DATE	STATUS
Consultation Meeting with DBE Stakeholders	June 20	✓
STTC Meeting: Information Item on Proposed Goal	June 27	
RTC Meeting: Information Item on Proposed Goal	July 10	
Public Meeting on DBE Goal Update Process & Opening of Public Comment Period	July 14	
Procurement/DBE Networking Open House	July 22	
Executive Board Meeting: Information on Proposed Goal	July 24	
STTC Action: Approval of DBE Goal	July 25	
Submit Draft Electronically to FTA	August 1	
End of Public Comment Period	August 14	
RTC: Action Item on DBE Goal	August 14	
Executive Board: Action Item on DBE Goal	August 21	
Submit Final Approved DBE Goal to FTA	August 22	
DBE Program Update and Goal Effective	October 1	



# POTENTIAL DISCUSSION TOPICS

- Any comments regarding NCTCOG's initial evaluation of the 3-year DBE availability analysis?
- Are there specific practices (by NCTCOG or non-DBE firms) that hinder efforts to gain DBE participation? Are there any practice recommendations that would help gain more participation?
- Are there better avenues for advertising upcoming Request for Proposals?
- Are there potential barriers to NCTCOG's contracting process?
- Are there comments or feedback about NCTCOG's DBE Program that you would like to share?





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