

# **DRAFT: FOR REVIEW AND COMMENT**

**(Comment Period Ends: July 21, 2016)**

**Fiscal Year 2017 – Fiscal Year 2019**

## **DBE Goal Update**

### **OVERALL GOAL CALCULATION**

**Name of Recipient:** North Central Texas Council of Governments

**Goal Period:** October 1, 2016 through September 30, 2019

**Anticipated U.S. DOT-Assisted Contract Amount:** Approximately \$13.13M

**DBE Goal:** 25%

**Anticipated DBE Expenditures:** Approximately \$3.25M

Pursuant to Section 49 Code of Federal Regulations Part 26, the North Central Texas Council of Governments (NCTCOG) has proposed an overall goal of 25% for the participation of Disadvantaged Business Enterprises (DBEs) in its Transportation Department contracts funded by the U.S. Department of Transportation (DOT), through the Federal Aviation Administration (FAA), Federal Highway Administration (FHWA), and the Federal Transit Administration (FTA), effective October 1, 2016 through September 30, 2019.

The following is a list of categories that NCTCOG anticipates issuing consultant/contractor procurements utilizing U.S. DOT funds for Fiscal Year (FY) 2017 - FY 2019.

1. Urban Planning/Engineering
2. Advertising/Public Relations/Marketing
3. Software Development/Computer Services
4. Equipment

For FTA-assisted vehicle procurements, vehicle manufacturers must certify compliance with 49 CFR Part 26. Procurements for transit vehicles will not be considered in calculating the overall DBE goal.

It is the policy of NCTCOG to award a fair share of contract awards to DBE firms without regard to the funding source utilized. NCTCOG will apply the principles of the DBE program for non U.S. DOT-assisted contracting and service provision opportunities to the fullest extent possible.

## **MARKET AREA**

The market area for the DBE availability analysis is the Dallas-Fort Worth-Arlington Metropolitan Statistical Area (MSA) which includes Collin, Dallas, Denton, Ellis, Hood, Hunt, Johnson, Kaufman, Parker, Rockwall, Somervell, Tarrant, and Wise counties. DBE availability was determined utilizing data from the Texas Uniform Certification Program (TUCP). Firms certified through the TUCP identify work districts and regions where they conduct business. Several firms do business in multiple work districts and regions throughout the State.

### **Determination of Market Area:**

The Dallas-Fort Worth-Arlington MSA was used as the market area because:

- a. A substantial majority of the bidders (contractors and subcontractors) are based in the Dallas-Fort Worth region and
- b. A substantial majority of the contracting dollars will be expended in the Dallas-Fort Worth region.

## **METHODOLOGY**

The methodology employed to develop the overall DBE Goal for FY 2017 – FY 2019 was a two-step process. First, NCTCOG analyzed data to develop a percentage of ready, willing, and able DBE firms in the Dallas-Fort Worth market area to perform the work anticipated to be awarded during this period. NCTCOG projected the types of procurements and potential contract awards and developed data to determine the number of DBE firms ready, willing, and able to perform those functions. NCTCOG assumed that a DBE firm was ready, willing and able to perform the types of work anticipated if the firm had a current DBE certification for that business classification code. The Step 1 figure was developed without regard to the previous DBE goal, past performance, or the national aspirational goal. NCTCOG reviewed DBE availability weighted by the value of the potential contract award compared with a non-weighted average. The result of Step 1 was the development of a base figure for the DBE goal.

Second, in order to develop a more precise DBE goal, NCTCOG analyzed data to determine whether any adjustments to the base figure were warranted. NCTCOG checked for availability of disparity studies, reviewed other agencies DBE goals, reviewed NCTCOG's past performance on DBE participation, and reviewed NCTCOG's previous participation goals and associated availability. These items were evaluated to determine whether to adjust the base figure developed under Step 1.

### **STEP 1**

In order to determine an overall goal, the following data sources were utilized to determine a base figure for the relative availability of DBEs:

- 2014 Dallas-Fort Worth-Arlington Metropolitan Statistical Area Business Patterns
  - <http://www.census.gov/econ/cbp/>

- 2016 State of Texas – Texas Unified Certification Program (TUCP) DBE Directory
  - <https://txdot.txdotcms.com/FrontEnd/VendorSearchPublic.asp?TN=txdot&XID=2340>

After identifying the anticipated types of contracts that will be awarded in FY 2017 – FY 2019, Business Pattern Data for all firms in the Dallas-Fort Worth-Arlington MSA was identified for the applicable contracting areas. The Dallas-Fort Worth-Arlington MSA was used as the local market area, since the majority of contractors and subcontractors that bid on NCTCOG proposals are located in this area. The TUCP consolidates all DBE firms certified by six different agencies into one centralized DBE Directory for DOT funded contracts.

The initial calculation of DBE availability was accomplished using data from the most recent County Business Pattern Data for the Dallas-Fort Worth-Arlington MSA (2014) and the 2016 TUCP data. The North American Industry Standard Classification (NAICS) codes used in the calculation for the DOT-assisted contracts for FY 2017 – FY 2019 are reflected in Table 1.

Table 1 below identifies the potential contracting opportunities, number of DBE firms, total firms, and percentage of DBE firms by type of work. Based on the availability analysis in Table 1, DBE firms comprise approximately 18.78% of the total number of firms ready, willing, and able to perform the services anticipated for FY2017 – FY 2019. Since the DBE percentages and potential contract awards by type of work are not uniform, NCTCOG weighted the DBE availability by the amount of the potential contract awards resulting in a weighted average of 25.67%.

**Table 1**

**DBE Availability Based on the 2014 Dallas-Fort Worth-Arlington Metropolitan Statistical Area Business Patterns and 2016 Texas Unified Certification Program Data**

NAICS	Type of Work	\$ of Contract (Projected)	Total DBE Firms^	Total Firms^	DBE %
<b>Planning/Engineering</b>					
541310	Architectural Services (Urban Planning)	\$8,470,000	93	451	<b>31.92%</b>
541330	Engineering Services		443	1228	
			<u>536</u>	<u>1679</u>	
<b>Advertising/Public Relations</b>					
541810	Advertising Agencies	\$2,382,000	50	335	<b>21.62%</b>
541820	Public Relations Agencies		79	125	
541830	Media Buying Agencies		5	24	
541840	Media Representatives		6	50	
541850	Outdoor Advertising		9	69	
541860	Direct Mail Advertising		5	86	
541870	Advertising Mail Distribution Services		4	19	
541890	Other Services Related to Advertising		37	192	
541910	Marketing Research/Public Opinion Polling		26	122	
				<u>221</u>	
<b>Software Development/Computer Services</b>					
511210	Software Publishers	\$817,000	2	213	<b>8.17%</b>
541512	Computer Systems Design Services		127	1726	
541519	Other Computer Related Services		53	290	
			<u>182</u>	<u>2229</u>	
<b>Equipment</b>					
423860	Transportation Equipment & Supplies (except Motor Vehicle) Merchant Wholesaler	\$1,467,000	6	102	<b>5.88%</b>
			<u>6</u>	<u>102</u>	
	<b>TOTAL</b>	<b>\$13,136,000</b>	<b>945</b>	<b>5032</b>	<b>18.78%</b>
	<b>Weighted by Contract Award</b>				<b>25.67%</b>

^Numbers reflect firms serving or located in the Dallas-Fort Worth-Arlington Metropolitan Statistical Area.

**STEP 2**

The Step 2 analysis involved the consideration of data from the following sources: 1) DBE goals from other similar agencies in the Dallas-Fort Worth Market area; 2) analysis of NCTCOG's DOT assisted contracts for Fiscal Years 2006 – 2016; and 3) NCTCOG's previous DBE participation goals and associated availability. These factors were used to determine if adjusting the Step 1 availability figure was necessary.

NCTCOG researched its market area for any disparity studies which may have been conducted in the last three years. No applicable disparity studies were identified.

NCTCOG reviewed the overall DBE goals of the following agencies:

Dallas Area Rapid Transit – overall DBE goal of 28% (Proposed).

Fort Worth Transportation Authority – overall DBE goal of 25% for FY2014-2016.

Denton County Transportation Authority – overall DBE goal of 5% for FY 2016-2018.

NCTCOG also examined its overall DBE participation for Fiscal Years 2006 - 2016. The average percentage of achievements for all similar projects for 2006 – 2016 are:

- 2006-2010 DBE contract participation is 24.1%
- 2011-2013 DBE contract participation is 27.0%
- 2014-2016 DBE contract participation is 31.69%

NCTCOG’s DBE goal for the 2011-2016 timeframe has been 25% based on the availability of ready, willing, and able DBE firms severing this market area. The actual DBE expenditure rates for that time period exceed the DBE goal by 2%-4%.

After comparing these figures, NCTCOG determined to adjust the base figure of 25.67% to 25% as the previous DBE goal of 25% has resulted in DBE participation in excess of the proposed goal.

**Table 2**

**NCTCOG Transportation Department DBE Accomplishments  
for DOT- Assisted Contracts**

<b>Fiscal Year</b>	<b>Total Contract Amount</b>	<b>DBE Goal</b>	<b>DBE Contract %</b>	<b>DBE Expenditure %</b>
2006-2010	\$17,028,000	13%	22%	24.10%
2011-2013	\$7,122,596	25%	22.5%	27.00%
2014-2016*	\$14,485,947	25%	29.81%	31.69%
<b>TOTAL</b>	<b>\$38,636,543</b>	<b>19.71%**</b>	<b>25.02%**</b>	<b>27.48%**</b>

\*through May 1, 2016

\*\*Weighted based on total contract amounts

**Breakout of Estimated Race Neutral (RN) and Race Conscious (RC) Participation**

NCTCOG will meet the maximum feasible portion of its overall goal by using RN means of facilitating DBE participation.

1. Arranging solicitations, times for the presentation of bids, quantities, specifications, and delivery schedules in ways that facilitates DBE and other small business participation.
2. Carrying out information and communications programs on contracting procedures and specific contract opportunities.

3. Ensuring distribution of DBE directory, through print and electronic means, to the widest feasible universe of potential prime contractors.

NCTCOG estimates that in meeting its overall goal of 25%, 11% will be achieved through race neutral means and 14% through race conscious means. This estimation is based on data presented in Table 3 below.

**Table 3**

**NCTCOG Transportation Department Summary of  
Race Conscious (RC) and Race Neutral (RN) Expenditures**

<b>Fiscal Year</b>	<b>Total Contract Expenditures</b>	<b>Total DBE Expenditures</b>	<b>DBE Expenditures through RC Means (\$)</b>	<b>DBE Expenditures through RN Means (\$)</b>	<b>Ratio of RC v. RN Participation</b>
2014-2016*	\$8,061,597	\$2,555,293	\$1,443,164	\$1,112,130	56% : 44%

\*through May 1, 2016

Total expenditures for FY2014-2016 (Table 3) have been calculated through May 1, 2016. These expenditures correlate to the contract awards of approximately \$14.48M identified in Table 2. Many of the contracts awarded during FY2014-2016 are still ongoing and actively incurring additional expenditures. With approximately 4 months remaining in FY2016, NCTCOG anticipates increases in total contract expenditures, total DBE expenditures, and DBE expenditures achieved through RC and RN means.

NCTCOG will track actual DBE participation by RN and RC and report participation separately. For reporting purposes, RN DBE participation includes, but is not necessarily limited to, the following:

1. DBE participation through a prime contract obtained through customary competitive procurement procedures.
2. DBE participation through a subcontract on a prime contract that does not carry a DBE goal.
3. DBE participation on a prime contract exceeding a contract goal and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

**CONTRACT GOALS**

NCTCOG will use contract goals to meet any portion of the overall goal that is not projected to be met using race neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through race neutral means.

NCTCOG will establish contract goals only on those U.S. DOT-assisted contracts that have subcontracting possibilities. Pursuant to 49 CFR Part 26, contract goals are not required to be established for every contract, and the size of the contract goals will be adapted to the

circumstances of each such contract. NCTCOG will express its contract goals as a percentage of the total amount of the potential award.

## **PUBLIC PARTICIPATION**

As part of establishing the overall DBE goal, NCTCOG provided the opportunity for public participation through public meetings, a contractor open house, and through notices published in general circulation media and minority-focused media. NCTCOG directly notified individuals and organizations of the June public meetings. The consultant community was also notified of the public meetings to announce the proposed DBE goal.

The Announcements of the Proposed DBE Goal & Public Meetings were publicized in the following publications: Al Dia (Spanish), The Dallas Examiner, La Vida (The Black Voice), Star Community Newspapers, La Estrella (Spanish), Dallas Morning News, and the Fort Worth Star Telegram.

In addition, chambers of commerce, including minority and non-minority chambers as well as contracting associations, professional organizations and societies, including minority and non-minority, were notified of the contractor open house through various communication means. NCTCOG sent post-cards, letters, memos, email blasts and posted fliers with information about the topics to be discussed at the open house.

Below is a schedule of the various outreach efforts, presentations to NCTCOG committees, and public participation opportunities provided during our DBE goal update:

<b>Outreach Effort or Presentation</b>	<b>Date &amp; Location</b>
Surface Transportation Technical Committee Briefing	May 27, 2016
Media Advertisements: Announced Proposed DBE Goal & Initiated Comment Period	June 1, 2016
Public Meeting: Announced Proposed DBE Goal	June 13, 2016 (Fort Worth)
Public Meeting: Announced Proposed DBE Goal	June 14, 2016 (Plano)
Public Meeting: Announced Proposed DBE Goal	June 15, 2016 (Arlington)
Regional Transportation Council Briefing	June 16, 2016
DBE Open House	July 13, 2016
Anticipated: Surface Transportation Technical Committee Approval of 2017-2019 DBE Goal	July 22, 2016
Anticipated: Regional Transportation Council Approval of 2017-2019 DBE Goal	August 11, 2016
Anticipated: Executive Board Approval of 2017-2019 DBE Goal	August 25, 2016