

## RESOLUTION NO. 24-82

### **A RESOLUTION OF THE CITY OF COUNCIL OF THE CITY OF COMMERCE, CALIFORNIA, APPROVING THE ADOPTION OF THE DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM PARTICIPATION GOALS FOR FEDERAL FISCAL YEARS (FFY) 2024-2025 THROUGH 2026-2027 FOR SUBMISSION TO THE FEDERAL TRANSIT ADMINISTRATION (FTA)**

WHEREAS, local agencies applying for Federal funds shall comply with all the elements of Title 49, Part 26 of the Code of Federal Regulations (CFR) entitled Participation by Disadvantaged Enterprises in Department of Transportation Financial Assistance Programs; and

WHEREAS, the State of California Department of Transportation (Caltrans) will monitor local agencies' procedures to assure compliance with Title VI and Title VIII of the Civil Rights Act of 1964 and 1968, respectively; and

WHEREAS, the City of Commerce receives Federal financial assistance from the Federal Highway Administration (FHWA) and the Federal Transit Administration (FTA); and

WHEREAS, adopting and implementing a Disadvantaged Business Enterprise (DBE) Program are required before submitting a Request for Authorization to proceed with a Federal-aid Project.

### **NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COMMERCE DOES HEREBY RESOLVE, DECLARE AND DETERMINE AS FOLLOWS:**

Section 1: The City Council of the City of Commerce hereby finds and declares that the foregoing recitals are true and correct, and incorporates them herein as findings and as a substantive part of this Resolution.

Section 2. The City of Commerce Disadvantaged Business Enterprise (DBE) Program Participation Goals for Federal Fiscal Year 2024-2025 through 2026-2027 is hereby adopted.

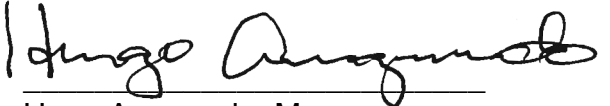
Section 3. The City of Commerce's overall goal for the Federal Fiscal Years (FFY) 2024-2025 through 2026-2027 is 7% of the Federal financial assistance in FTA-assisted contracts.

Section 4. The Director of Transportation shall administer the terms of the Program on behalf of the City.

Section 5. The Mayor is authorized to execute this Resolution for and on behalf of the City of Commerce.

Section 6. This Resolution shall become effective immediately.

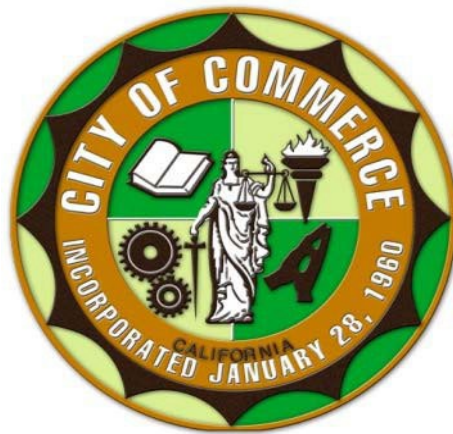
PASSED, APPROVED, and ADOPTED this 27<sup>th</sup> day of August, 2024.

  
\_\_\_\_\_  
Hugo Argumedo, Mayor

ATTEST:

  
\_\_\_\_\_  
Lena Shumway, City Clerk

# **CITY OF COMMERCE TRANSPORTATION DEPARTMENT**



## **Overall Disadvantaged Business Enterprise (DBE) Goal and Methodology Federal Fiscal Years 2025– 2027**

(Covering the period of October 1, 2024 through September 30, 2027)

### **Contracts Assisted by the Federal Transit Administration**

**DBE Goal Updated: August 27, 2024**

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## I. INTRODUCTION

The City of Commerce Transit (CCT) is required to develop and submit a Disadvantage Business Enterprise (DBE) Overall Goal for DBE participation as a condition of receiving federal assistance, pursuant to 49 CFR Part 26 “Participation by Disadvantage Business Enterprises in the United States Department of Transportation Programs “and the Federal Transportation Administration (FTA) Master Funding Agreement.

## II PROPOSED OVERALL GOAL FOR FFY 2025 - 2027

The United States Department of Transportation (DOT) requires the submission of a goal-setting methodology on a three-year cycle. CCT is also required to conduct an annual review to account for changes that may warrant an adjustment to the overall goal or make an adjustment based on changes in circumstances (i.e., significant change in the legal standards governing the DBE Program, new contracting opportunities presented by the availability of new or different grant opportunities, etc.) to ensure the goal and program as a whole are narrowly tailored throughout the goal period.

Under the three-year cycle schedule, CCT’s DBE goal and methodology submission is due to FTA on August 1, 2024, for proposed FTA-funded contracting activities for Federal Fiscal Years (FFy) 2025-27. **CCT's overall goal for the FFYs 2025, 2026, and 2027 is 7%.** The overall goal is expressed as a percentage of all FTA-assisted funds that CCT will expend to applicable FTA-assisted contracts in the triennial goal period.

## III LOCAL MARKET AREA

CCT has defined its local market area as Los Angeles, Orange, and Riverside Counties. This is where most of the contractors and subcontractors with which CCT does business are located and where CCT spends most of its contracting dollars.

## IV DOT-ASSISTED CONTRACTING PROGRAM FOR FFY 2025-2027

Table 1 below represents all FTA-assisted projects (and projected FTA-share) with possible contracting and subcontracting opportunities considered in the overall goal setting for federal fiscal years 2025, 2026, and 2027. The projects are anticipated to be awarded during the triennial period. CCT does not pass any FTA funds to any sub-recipients.

**Note: The City will use the Transit Vehicle Manufacturers (TVM) process to procure the battery electric transit bus project to meet the DBE requirement.**

**Plumbing** CCT plans to procure plumbing services for the new zero-emission transit facility project, including installing, repairing, and maintaining pipes, valves, fittings, drainage systems, and fixtures such as toilets, sinks, and water heaters.

**Construction Management** CCT plans to hire a construction contractor to help with the architecture and design phase, review drawings, assess construction feasibility, estimate costs, create work packages for the bidding process, and oversee the construction of the new zero-emission transit

facility project.

**Civil Engineering** CCT plans to acquire the services of an engineering firm to help with creating blueprints using computer-aided design (CAD), coordinating with architects, subcontractors, and City staff, and ensuring that the new zero-emission transit facility project complies with all legal requirements and meets health and safety standards.

**Bus Stop Amenities** CCT will purchase new bus shelters and solar lighting to enhance safety at the bus stops throughout the City of Commerce and service area.

**Industrial Equipment** CCT plans to acquire industrial equipment, including pneumatic tools, air compressors, power generators, an aerial boom lift, work tool attachments, and a forklift for the new zero-emission transit facility project.

**Asset Management Services**

CCT plans to acquire maintenance and asset management software to manage assets and track work orders centrally. The software will help meet regulatory requirements, optimize parts management, and reduce road calls.

**Real-Time Information Signage** CCT plans to buy real-time information signage that will enable CAD/AVL system data to be displayed on street signs and other web-based applications. These signs will be placed at high-ridership bus stops and major transfer points. CCT intends to purchase ready-made signs that can be installed by CCT staff on existing poles.

**IV OVERALL GOAL SETTING METHODOLOGY**

The two-step goal-setting process required by the regulations was used to determine the recommended overall goal for FFY 2025-2027. The two steps for setting an overall goal are to:

1. Establish a base figure for the relative availability of DBE's; and
2. Determine the base figure adjustment, if necessary.

The base figure is intended to measure the current ready, willing, and able DBEs as a percentage of all businesses ready, willing, and able to perform the recipient's anticipated FTA-assisted contracts.

**VI STEP ONE - BASE FIGURE CALCULATION**

The annual goal methodology used is in accordance with the United States Department of Transportation (DOT) DBE Program Final Rule, 49 Code of Federal Regulation (CFR), Part 26. The two-step goal-setting process has been used to determine the recommended overall goal for FFY 2025-2027.

Calculations were performed to establish the CCT Base Figure for the relative availability of Disadvantaged Business Enterprises (DBEs) to all comparable firms for CCT contracting and subcontracting opportunities identified for the next three years. DBEs are those who, by definition in local databases, are ready, willing, and able to compete for contracts.

## **Base Figure Calculation Steps**

**Step 1** – Determine the weight of each type of work according to the NAICS Code.

**Step 2** – Determine the relative availability of DBEs by NAICS Code(s).

**Step 3** – Multiply the (Work Type Weight) by (DBE Relative Availability) = Weighted Base Figure.

The DBE database used to identify available DBE firms was the California Unified Certification Program (CUCP) Statewide DBE Directory, available on the CUCP website. Los Angeles, Orange, and Riverside Counties were the areas used to identify the number of DBEs. The 2021 United States Census Bureau's Business Pattern Database (CBP) for Los Angeles, Orange, and Riverside Counties was used to identify all available firms in the local market area. Most contractors in the City of Commerce are drawn from these nearby areas.

Table 1 shows the data availability for each contracting opportunity by NAICS code (North American Industry Classification System) from the California Unified Certification Program (CUCP) database (DBEs available), PlanetBids, and the Census Bureau database (all listed available).

To determine the relative availability of DBEs, CCT divided the number of all-ready, willing, and able DBE firms established within its market areas by the number of all firms (DBE and Non-DBE) available in each work category.

Then, to determine the appropriate weighting percent by NAICS, the estimated dollar value by NAICS was divided by the total estimated federal dollars CCT expects to spend between FFY2025-2027. The weighting percent by NAICS was then multiplied by the Relative Availability of DBE Firms percentage to determine the Base Figure Percentage by NAICS. See Table 1.

## **VII STEP TWO - BASE FIGURE ADJUSTMENT**

### **Adjusting the Base Figure**

Upon establishing the Base Figure, CCT reviewed and assessed other known evidence potentially impacting the relative availability of DBEs within CCTs market area, in accordance with provisions set forth under 49CFR Part 26.45 Step 2: DBE Goal Adjustment Guidelines. Evidence in determining whether to adjust the Base Figure included CCTs past DBE goal attainments, market area disparity studies, CCTs Planetbids list, and a review of the DBE goal methodology of other transit agencies in CCTs area with comparable Federal funding and project types. The final determination resulted in an adjustment to the base figure. Determining factors are detailed As follows:

#### **A. Past DBE Goal Attainments**

During the past three Federal Fiscal Years, CCT successfully used race-neutral measures to attain and/or progress toward its DBE goal of 6.10%. CCT had two main projects that allowed for possible DBE participation: the architecture and design of a new zero-emission transit facility project and the environmental testing phase (NEPA / CEQA) for the new zero-emission transit facility project. CCT architecture and design of a new zero-emission transit facility project allowed CCT to unbundle the contract to allow for additional opportunities, and the contract was awarded in DBE FFY 2022. The environmental scope of work allowed for a

smaller, biddable part with opportunities for DBE participation using designated federal funds.

FFY22	FFY23	FFY24
4.97%	64.61%	9.15%
<b>The total median percentage of three-year DBE participation is 9.15%</b>		

For the FFY25-27 goal, CCT adjusted the Base Figure based on its historical DBE goal attainments on similar contracts to those contracting opportunities identified and considered in the Overall DBE Goal Analysis for the Federal Fiscal Years 2022 through 2024. Three years of DBE participation data, which included some projects of a similar variety and scope of work, were reviewed. Based on historical data from FFY 2022 through 2024 (4.97%, 64.61%, 9.15%), the historical median percentage of DBE attainment, excluding the year where participation was unusually high, was 9.15%. Using the formula in the “Tips for Goal-Setting in the Disadvantage Business Enterprise Program” document, the adjusted DBE goal should be the sum of the historical median and base figure divided by 2 ( $14.20\% / 2 = 7.10\%$ ). After analyzing the relevant factors, particularly Commerce’s past DBE attainments, the final **Overall DBE Goal is 7%**. Rounded to 7% per FTA guidelines.

**B. CCT Bidders List**

CCT maintains a bidders list (Planetbids) for each project. The list demonstrates CCT's efforts in seeking qualified DBE firms to work on CCT projects, similar to projects within the 2025-2027 goal period.

**C. Evidence from Studies**

CCT determined that conducting its independent availability/disparity study was not feasible. Therefore, CCT identified Disparity Studies from two agencies, the Los Angeles County Metropolitan Transportation Authority (2023) and the California Department of Transportation (2022), which provided the most relevant information regarding the CCT DBE Goal and whether to consider a Race-Conscious DBE program.

The Los Angeles County Metropolitan Authority (Metro) 2023 Disparity Study was reviewed and considered during the evaluation of the adjustment of the Base Figure. LA Metro’s analyses of marketplace conditions in Los Angeles County indicate that Persons of Color (POC) and women face various barriers in industries relevant to Metro’s contracting and procurement. Existing research and primary research indicated that disparities exist in acquiring human capital, accruing financial capital, and owning and operating successful businesses. In many cases, there is evidence those disparities exist even after accounting for various personal and business factors.

There is also evidence that many disparities are due – at least, in part, to race- or gender-based discrimination. Barriers in the marketplace likely have important effects on the ability of POCs and women to start businesses in relevant industries- construction, professional services, goods, and other services, as well as transit services – and operate those businesses successfully. Any difficulties those individuals face in starting and operating businesses may reduce their availability for government work and the degree to which they



can successfully compete for such projects.

Metro's study and the breadth of historical new transit facility projects reviewed emphasized the use of prime and subcontractor construction, engineering, and architectural contracts similar in scope to the projects that CCT intends to conduct in the upcoming triennial period. Given that 49 CFR Part 26 states that there must be a relationship between the data used to make the adjustment and the actual numerical adjustment made. As such, CCT adjusted its FFY 2025-2027 Base Figure for its overfall DEB goal.

CCT also analyzed the State of California Department of Transportation's (Caltrans) 2022 Disparity Study in its DBE setting. CCT determined that the study did not apply to CCT due to geographic coverage, as Caltrans examined opportunities throughout the State instead of a more concentrated market area like the City of Commerce uses. The Study's Disparity Analysis results indicated that several racial/ethnic and gender groups show disparities in the contracts that Caltrans and sub-recipient local agencies awarded during the study period, even though Caltrans applied DBE contracts to many of those contracts. CCT reviewed the results and determined that the Caltrans Study is not applicable due to the broad scope of the market area. Additionally, there was a significant difference in the types, breadth, and complexity of contracting opportunities provided in the Caltrans study, making applicability to CCT incomparable.

#### Summary

In conformance with the Ninth Circuit Court decision regarding FTA-assisted projects, CCT adjusted its based figure for FFY2025-2027. CCT will continue to review applicable Disparity Studies and consider modifying its DBE Program if it cannot obtain sufficient DBE participation.

**D.** CCT surveyed the goals of other FTA recipients in our local market area with similar available Federal funding, contracting programs, and transit projects to assess whether an adjustment to our goal could be warranted.

**E. Other Evidence**

CCT did not receive any evidence to the contrary, nor are we aware of any other factors that would have a material effect on the ability of DBEs within our market area to participate (i.e., meet bonding, insurance, and financial requirements) in CCT's FTA-assisted contracting programs.

### **VIII RACE AND GENDER-NEUTRAL MEASURES**

CCT will use race—and gender-neutral measures to meet the FFY 2025-2027 established DBE goal, conforming to Title 49 CFR Part 26: Participation by Disadvantaged Business Enterprises in Department of Transportation Programs. CCT will implement Race-Neutral measures to meet its Overall DBE Goal objectives in accordance with 49 CFR Part 26.51, including but not limited to:

- Encouraging participation of DBEs in pre-bid conferences.
- Unbundling larger projects to make them more accessible to small businesses and DBEs.
- Outreach to DBE trade associations to provide information on CCT contracting opportunities.
- Soliciting the support of DBE trade associations to distribute bid announcements, including bid specifications.
- Encouraging DBEs to discuss their capabilities with prime contractors at pre-bid conferences.
- Using an eProcurement system will allow targeted distribution to register DBEs.
- Using online advertising of solicitations such as DBEGoodFaith.com to increase outreach to small, minority, veteran, and disabled business communities.

## **IX PUBLIC PARTICIPATION AND FACILITATION**

In accordance with Title 49 CFR Part 26's public participation regulatory requirements, minority, women, local business chambers, and community organizations within the City of Commerce's market area will be consulted and provided an opportunity to review the goal analysis and provide input. The City of Commerce will prepare Outreach Consultation Letters advising the business above the community of the proposed DBE goal analysis and its availability for review and comment.

Additionally, CCT will host a virtual public consultation meeting for interested organizations and stakeholders who could be expected to have information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and efforts to establish a level playing field for DBE participation. CCT's Outreach Consultation Letters will provide interested organizations and stakeholders with pertinent logistical information regarding the City's virtual public consultation meeting.

The City of Commerce will also post a Public Notice regarding the City of Commerce's proposed Overall Goal for FFY 2025-2027 FTA-assisted contracts on the website. The Public Notice will inform the public that the proposed goal and rationale are available for inspection both online or at CCT's administrative office during normal business hours for thirty (30) days following the date of the Public Notice and that CCT will accept comments on the goal analysis for forty-five (45) days from the date of the Public Notice.

CCT will fully consider all comments/input and assess any impacts on the Overall DBE Goal; if the goal percentage changes from the proposed 7%, staff will return to the City Council to approve the adjusted goal. The goal will be considered final if no impact and/or comments are received during the public participation process. The final goal and methodology will be submitted to the FTA.

**TABLE 1 - CITY OF COMMERCE TRANSIT - DBE CONTRACTING OPPORTUNITIES**

Project	NAICS Code	NAICS Description(s)	Available DBEs	All Available Firms	Relative Availability of DBE Firms	Project Federal Funding	Weighted By Budget Expense	% of Project (Weight) X % Relative Availability of DBE Firms
Plumbing	238220 333415	Plumbing services for the new zero-emission transit facility project, including installing, repairing, and maintaining pipes, valves, fittings, drainage systems, and fixtures such as toilets, sinks, and water heaters.	25	2,236	1.1%	\$1,035,684	6.7%	0.1%
Construction	236220 236210	Construction contractor to help with the architecture and design phase, review drawings, assess construction feasibility, estimate costs, create work packages for the bidding process, and oversee the construction of the new zero-emission transit facility project.	99	2,108	4.7%	\$9,866,693	64.3%	3.0%
Civil Engineer	541330 237130	Acquire the services of an engineering firm to help with creating blueprints using computer-aided design (CAD), coordinating with architects, subcontractors, and City staff, and ensuring that the new zero-emission transit facility project complies with all legal requirements and meets health and safety standards.	94	855	11.0%	\$1,654,287	10.8%	1.2%
Bus Stop Amenities	335122 335129	Purchase new bus shelters and solar lighting to enhance safety at the bus stops throughout the City of Commerce and service area.	94	855	11.0%	\$845,000	5.5%	0.6%
Industrial Equipment	811310 423730	Acquire industrial equipment, including pneumatic tools, air compressors, power generators, an aerial boom lift, work tool attachments, and a forklift for the new zero-emission transit facility project.	16	3,008	0.5%	\$1,600,772	10.4%	0.1%
Asset Management Software	518210 541512	Acquire maintenance and asset management software to manage assets and track work orders centrally. The software will help meet regulatory requirements, optimize parts management, and reduce road calls.	102	2,014	5.1%	\$342,564	2.2%	0.1%
<b>TOTAL</b>			<b>430</b>	<b>11,076</b>	<b>3.9%</b>	<b>\$15,345,000</b>	<b>100.0%</b>	<b>5.05%</b>

Rounded to 5.1% Per FTA guidelines

**BASED FIGURE ADJUSTMENT CALCULATIONS**

**ADJUSTMENT (BASE FIGURE 5.05%) + (MEDIAN OF PAST PARTICIPATION 9.15%) DIVIDED BY 2 = 7.10%**