

Note

This recording replaces the following older FTA presentations:

- TVM Goal Methodology Refresher Training
- Targeting Common Deficiencies
- TVM Goal Methodology: Independent Assessment
- TVM Introductory Program Training

FTA

FEDERAL TRANSIT ADMINISTRATION

TVM DBE Certification:

*Guidance on the DBE Program and
Goal Requirements*



U.S. Department of Transportation
Federal Transit Administration

FTA Office of Civil Rights
June 2019

Presentation Outline

- Purpose of the DBE Program
- TVM Eligibility
- DBE Program Elements
- DBE Goal Methodology Requirements
- DBE Goal Approval/Disapproval Process

Purpose of the DBE Program

Purpose?

- The Disadvantaged Business Enterprise (DBE) program is one dedicated to helping small businesses owned and controlled by socially and economically disadvantaged individuals, including minorities and women, in participating in contracting opportunities created by DOT financial assistance programs.

What is a DBE?

- A for-profit small business concern that is at least 51 percent owned and operated by one or more individuals who are both socially and economically disadvantaged

Purpose of the DBE Program

DBE Program Objectives

- Ensure Nondiscrimination
- Create Level Playing Field
- Narrowly Tailor Program
- Ensure Only Firms Meeting Eligibility Standards Can Participate
- Remove Barriers to DBEs
- Develop DBE Firms to Compete Outside of Program
- Provide Recipient Flexibility

What do we mean by TVM?

- **Transit Vehicle Manufacturer (TVM)** means any manufacturer whose primary business purpose is to build vehicles specifically for public mass transportation.
 - Such vehicles include, but are not limited to, buses, rail cars, trolleys, ferries and vehicles manufactured specifically for paratransit purposes.
- The definition includes producers of vehicles that receive post-production alterations or retrofitting to be used for public transportation purposes.
- **NOTE:** Businesses that manufacture vehicles solely for personal use and for sale “off the lot” are *not* considered transit vehicle manufacturers.

FTA Vehicle Procurements: Federal Regulatory Requirements

49 CFR § 26.49:

If you are an *FTA recipient*, you must require that each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA-assisted transit vehicle procurements, certify that it has complied with the DBE regulatory requirements.

- A transit vehicle manufacturer may obtain this certification by submitting its DBE goal and program plan to the FTA Office of Civil Rights

If you are a *transit vehicle manufacturer*, you must establish and submit for FTA's approval an annual overall percentage goal, known as the goal methodology, and a DBE program plan.

TVM Eligibility

- Only those transit vehicle manufacturers listed on FTA's eligible TVMs list, or that have submitted a goal methodology to FTA that has been approved or has not been disapproved at the time of solicitation are eligible to bid.
- A TVM's failure to implement the DBE program in the manner prescribed by 49 CFR Part 26 may result in removal from FTA's certified TVM list and the inability to bid on future FTA-assisted vehicle procurements.

TVM Eligibility

Before bidding on FTA-assisted vehicle procurements:

- Submit DBE goal to FTA
- Submit DBE program plan to FTA
- Submit the TVM certification to transit agencies with bid package



TVM Eligibility

To obtain certification:

- Must submit a DBE goal methodology
- Must submit a DBE program plan
 - Annual submittal is not required as long as it remains in compliance. However, significant changes in the program must be submitted for approval.

To maintain certification:

- To remain eligible, TVMs must submit an annual DBE goal methodology to FTA by **August 1 of each year.**
- Further, TVMs must submit the Uniform Report of DBE Awards/Commitments and Payments on **June 1** and **December 1** of each fiscal year (FY).

What is in the DBE Program?

DOT's DBE program has 12 elements:

1. Program Plan
2. Policy Statement
3. DBE Liaison Officer
4. Financial Institutions
5. DBE Directory
6. Overconcentration Analysis
7. Business Development Programs
8. Determining and Meeting Goals
9. Required Contract Provisions
10. Certification Standards and Procedures
11. Record Keeping and Monitoring
12. Monitoring and Enforcement Mechanisms

DBE Program Elements

1) Program Plan:

- Details your implementation of your DBE program according to federal guidelines
- When significant changes occur, update your DBE Program and submit for FTA approval

2) Policy Statement:

- Affirms your participation in the DBE program, identifies the objectives of your DBE program, identifies your DBELO, how your company will disseminate this statement internally and externally, and must be signed and dated by your current Chief Executive Officer

DBE Program Elements

3) DBE Liaison Officer:

- Undertakes the responsibilities associated with DBE program implementation and has a direct reporting relationship with the CEO
- DBELO must have adequate staff and authority to administer the program

4) Financial Institutions:

- You must conduct a thorough search for DBE financial institutions and make this information available to contractors
- Availability should be reevaluated periodically (e.g., 1-2 years)

DBE Program Elements

5) DBE Directory:

- Issued by each certifying agency and may help TVMs locate ready, willing, and able certified DBEs in specific work categories

6) Overconcentration Analysis:

- Information detailing whether there is (not) an overconcentration of DBEs in a particular work category and how you will address over-concentration

DBE Program Elements

7) Business Development Programs:

- Can be a Mentor-Protégé Program
- Can also foster small business growth and development

8) Determining/Meeting Goals:

- Calculating the percentage of federal funds that will be directed towards DBE contractors and subcontractors

DBE Program Elements

9) Required Contract Provisions:

- Contracts and subcontracts language must include all federal regulatory DBE provisions when federal funds are involved

10) Certification Standards/Procedures:

- Directing potential DBEs to a local Unified Certification Program (UCP) for certification information
- Ensure that all DBEs listed on any State UCP are certified

DBE Program Elements

11) Record Keeping and Monitoring:

- Must report DBE participation and provide FTA a copy of the bidders list upon request
- Must ensure that certified DBEs are performing the work contracted to them and that they are being paid for their satisfactory performance

12) Monitoring and Enforcement Mechanisms

- Must implement appropriate mechanisms to ensure regulatory compliance by all participants in the program (i.e., contractors and subcontractors)

DBE Goal Methodology



What is a DBE Goal?

- The percentage of FTA funds a TVM anticipates awarding to ready, willing, and able DBEs who provide supplies or services during FTA-assisted vehicle procurements



DBE Goal Methodology Requirements

DBE goal methodology has 8 minimum requirements:

1. Detailed List of Contracting Opportunities
2. Geographic Market Area (GMA)
3. Step 1 Base Figure
4. Step 2 Adjustment
5. Race-Conscious/Race-Neutral Breakdown
6. List of Sources used to Establish the Goal
7. Evidence of Meaningful Consultation
8. Proof of Publication

1. Detailed List of Contracting Opportunities

- List all domestic supplies and/or services outsourced when manufacturing FTA funded vehicles
- Both contracting and subcontracting opportunities
- Classify opportunities by appropriate NAICS codes
- Include the name of the FTA recipient(s) and vehicle procurements you anticipate bidding
- Excluded the supplies and services performed with your own forces



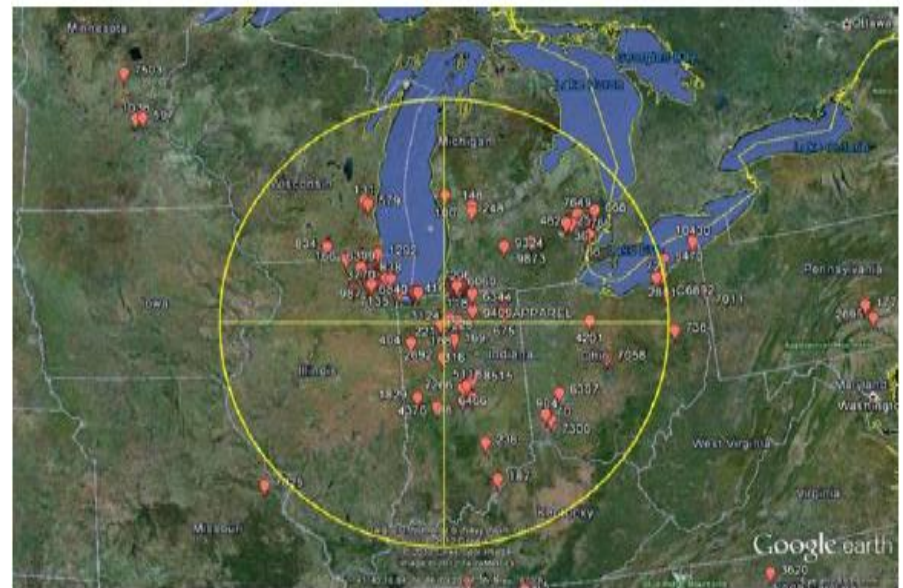
1. Detailed List of Contracting Opportunities



CDRJC7-45-3-06-EC-RADIATOR
CDRJC7-45-3-07-EC-RADIATOR COOLING FINS
CDRJC7-45-3-08-EC-FRONT COVER PLATE
CDRJC7-45-3-09-EC-STARTING CRANK HANDLE TUBE
CDRJC7-45-3-10-EC-STARTING CRANK HANDLE
CDRJC7-45-3-11-EC-HOOD TO COMPARTMENT MOUNTING PLATE
CDRJC7-45-4-01-PC-FLOOR
CDRJC7-45-4-02-PC-COMPARTMENT
CDRJC7-45-4-03-PCFRONT WINDOW PANEL
CDRJC7-45-4-03-PCFRONT WINDOW PANEL
CDRJC7-45-4-04-PC-FRONT AND REAR DOOR SIDE FRAME
CDRJC7-45-4-04-PC-FRONT AND REAR DOOR SIDE FRAME
CDRJC7-45-4-05-PC-FRONT DOOR LINTEL
CDRJC7-45-4-06-PC-REAR DOOR LINTEL
CDRJC7-45-4-07-PC-REAR DOOR
CDRJC7-45-4-08-PC-FRONT DOOR
CDRJC7-45-4-09-PC-FRONT WINDOW AND TRIM
CDRJC7-45-4-10-PC-REAR WINDOW AND TRIM
CDRJC7-45-4-11-PC-LARGE SIDE WINDOW AND TRIM
CDRJC7-45-4-12-PC-REAR SIDE WINDOW AND TRIM
CDRJC7-45-4-13-PC-FRONT SIDE WINDOW AND TRIM
CDRJC7-45-4-14-PC-SMALL SIDE WINDOW AND TRIM
CDRJC7-45-4-15-PC-DRIVERS SEAT
CDRJC7-45-4-16-PC-PASSENGERS SEAT
CDRJC7-45-4-17-PC-REAR PASSENGERS SEAT
CDRJC7-45-4-18-PC-ROOF
CDRJC7-45-4-19-PC-ROOF RACK

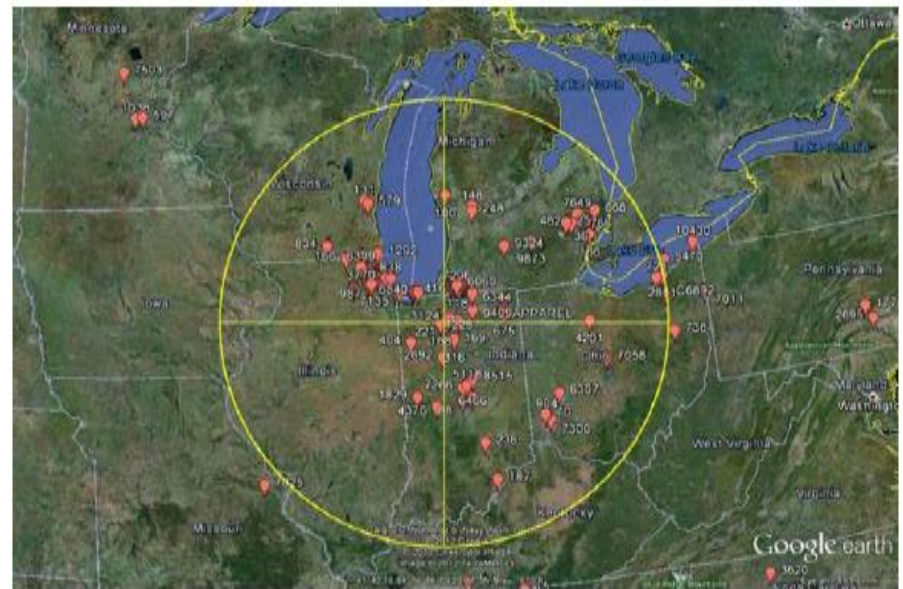
2. Geographic Market Area

- Your geographic market area (GMA) is the area(s) that you award a substantial majority of your contracts.
- Considered the geographic location of your largest suppliers or the areas where the majority of your products are sourced
 - The GMA does not have to be the same geographic location as your facility



2. Geographic Market Area

- Clearly identify your geographic market area as an individual state, a group of states, or a specific region
- Clearly explain how you determined geographic market area



3. Step 1 Base Figure

- Clearly identify the number of ready, willing, and able **DBEs** by North American Industry Classification System (NAICS) codes for your contracting opportunities
 - Search State UCP Directories, bidders list, or other reliable sources to locate DBEs
- Identify the number of ready, willing, and able **All Firms** by NAICS codes for the same contracting opportunities
 - Search Census data, bidders list, or other reliable sources to locate all firms (DBE and non-DBEs)
- Include clear calculations that determine **relative availability** and the **percentage of funds** you anticipate awarding
- A clear narrative how you arrived at your base figure should accompany the data and math equation

3. Step 1 Base Figure

- **NOTE:**
Select NAICS codes that best describe your contracting opportunities without generalizing
- For example:
NAICS code 336320, Vehicular Lighting Fixtures Manufacturing, should be used instead of 3363, Motor Vehicle Parts Manufacturing
 - Visit <http://www.census.gov/eos/www/naics/> for the latest NAICS Manual

3. Step 1 Base Figure

- Locating DBEs:
 - Unified Certification Program (UCP) DBE directories in your geographic market area
 - Bidders list
 - Other reliable sources
- Locating All Firm
 - Census Bureau data: <http://www.census.gov/>
 - Bidders list
 - Other reliable sources
- ***The important key:* Make sure you are using an apples-to-apples comparison**

3. Step 1 Base Figure

- Example:
NAICS 336320 Vehicular Lightning Fixtures Manufacturing
 - DBEs Firms \div All Firms (DBEs + non-DBEs) = Base Figure
 - **DBEs in your GMA:** 17 from UCPs
 - **All Firms in your GMA:** 67 from Census
 -
 - $17 \text{ (DBEs)} \div 67 \text{ (DBEs + non-DBEs)} = .2537$ or 25.37%
- **NOTE:**
 - Displaying your data in table format makes for effective reporting
 - If you weigh your figure against other contracting opportunities and the funds associated with those contracts, your figure may change

3. Step 1 Base Figure

Example:

	NAICS Code	Project	Number of DBEs available to perform this work	Number of all firms available (including DBEs)	Relative Availability
1)	335312		2	13	0.15
2)	331511		0	1	0.00
3)	238210		16	1,113	0.01
4)	331513		0	16	0.00
5)	335931		2	23	0.09
6)	336510		8	15	0.53
7)	336510		2	3	0.67
8)	335311		0	4	0.00
9)	484121		5	1,072	0.00
10)	561621		0	138	0.00
Combined Totals			35	2,398	0.01
					Overall availability of DBEs
Step 1c - (Weight) x (Availability) = Weighted Base Figure					
	NAICS Code	Project	Weight	Availability	Weighted Base Figure
1)	335312		0.41	0.15	0.06
2)	331511		0.14	0.00	
3)	238210		0.04	0.01	0.00
4)	331513		0.04	0.00	
5)	335931		0.03	0.09	0.00
6)	336510		0.24	0.53	0.13
7)	336510		0.06	0.67	0.04
8)	335311		0.01	0.00	
9)	484121		0.02	0.00	0.00
10)	561621		0.01	0.00	
Total					0.23
Expressed as a % (*100)					23.32%

3. Step 1 Base Figure

- **NOTE:** If you have multiple states within your GMA, report the number of firms for each state by NAICS code
 - Indicate the number of “DBEs” and “All Firms” by state
 - Add total columns for your calculations

	NAICS Codes	Code Description	Rolling Stock Component	Relative Availability													
				Establishment in							DBE in						
				CA	CT	IL	MD	NC	PA	Total	CA	CT	IL	MD	NC	PA	Total
1	336510	Railroad rolling stock manufacturing	Others	12	1	25	6	3	39	86	5	1	4	6	3	6	25
2	335929	Other communication and energy wire manufacturing	Power communication & control cabling	42	17	9	3	7	17	95	-	1	1	-	-	-	2
3	335314	Relay and industrial control manufacturing	Motors, relays, circuit breakers, switches	109	27	57	6	24	58	281	1	-	2	1	2	2	8
4	335911	Storage battery manufacturing	Batteries	17	3	11	-	-	7	38	1	-	-	-	-	-	1
5	335999	All other miscellaneous electrical equipment and component manufacturing	Miscellaneous electronics & electrical equipments	163	15	45	6	27	39	295	5	1	1	1	2	3	13
6	339991	Gaskets, packing and sealing device manufacturing	Gaskets	64	11	42	6	13	27	163	2	-	-	-	-	-	2
7	332722	Bolt, nut, screw, rivet and washer manufacturing	General assembly parts	129	38	99	2	15	44	327	-	-	2	2	3	1	8
8	332996	Fabricated pipe and pipe fitting manufacturing	Fab pipes, fitting, tubes & couplings	75	9	30	5	18	46	183	12	-	-	5	1	6	24

3. Step 1 Base Figure

- Weighting approach
 - Provides a more narrowly-tailored model of availability
 - Weights used are proportion of dollars spent within each industry: resulting percentage is more heavily influenced by availability in industries where more dollars are spent
- Decide which work types best represent your DOT-assisted contracts (NAICS Codes)
- Tally the dollars spent in each work type category as a percentage of the total contract dollars spent
- Assign work types to each DBE and non-DBE firm

3. Step 1 Base Figure

- Base Figure:

$$15 \text{ total DBEs} / 125 \text{ total firms} = 12\%$$

- Weighted Base Figure:

$$.7(10 \text{ asphalt DBEs} / 100 \text{ total}) + .3(5 \text{ trucking DBEs} / 25 \text{ total}) = 13\%$$



Asphalt

$$7\% + 6\% = 13\%$$

Trucking

3. Step 1 Base Figure

1C (Weight) x (Availability) = Weighted Base Figure

	NAICS Code	Project	Weight	x	Availability	Weighted Base Figure
1)	236210	Asphalt	0.7000	x	0.1000	0.0700
2)	484220	Trucking	0.3000	x	0.2000	0.0600
Total			1.0000			0.1300
					Expressed as a %	13.00%
			Rounded, Weighted Base Figure:			13%

3. Step 1 Base Figure

Example:

NAICS Code	Work Category	A # of DBE Firms certified in NAICS Code	B # of overall Firms (Cook County) NAICS Code	C DBE Firms/ All Firms Ratio based on NAICS Code (A / B)	D Budget Amount	E Weighted % = (D / Total Contracts Value)	F Weighted % Goal (C x E x 100)
423120	Automotive Body Painting	56	1218	4.6%	\$3,517,851.48	1.8%	0.1%
237310	Concrete	625	931	67.1%	\$8,594,270.00	4.3%	2.9%
238120	Metals	52	142	36.6%	\$7,532,664.00	3.8%	1.4%
238130	Wood, Plastics, and Composites (Rough Carpentry, Finish Carpentry)	96	636	15.1%	\$142,188.00	0.1%	0.0%
238140	Masonry	202	549	36.8%	\$4,009,202.00	2.0%	0.7%

4. Step 2 Adjustment

- You must examine all evidence available to determine if an adjustment to the base figure is needed
 - Clearly explain in a narrative the process used in the determination as well as the evidence and reasons for the adjustment
 - If the evidence does not suggest an adjustment is necessary, thoroughly explain the evidence and the reason for not adjusting the goal
- Although the Step 2 adjustment is not required, **the assessment must be done and clearly documented**

4. Step 2 Adjustment

- Evidence to consider:
 - Option 1: Past Participation
 - Clear and concise calculations must be provided
 - Option 2: Disparity Studies
 - An explanation for study's applicability is required
 - Option 3: Other TVM Goals
 - Option 4: Vetting
 - Must vet both DBEs and non-DBEs used to calculate goal (e.g., removed DBEs that were unable to perform on my contracts)

4. Step 2 Adjustment

- Option 1: Past Participation
 - Determine past participation median (historical median)
 - Identify your DBE participation the past 3-5 years
 - Arrange participation values low to high
 - Take the average of your Step 1 base figure and historical median
 - $(\text{Base figure} + \text{historical median}) \div 2$
 - Base figure: 8%
 - Past participation: 5%, 10%, 12% (median = 10%)
 - $(8\% + 10\%) \div 2 = 9\%$

4. Step 2 Adjustment

- Option 1: Past Participation

Example:

Past participation:

2015 - 14%

2016 - 3%

2017 - 7%

Historical median:

(3, 7, 14) = 7%

Base figure: 13%

Sum: 7% + 13% = 20%

DBE GOAL?: 20% ÷ 2 = **10%**

4. Step 2 Adjustment

- Option 2: Disparity studies
 - Disparity studies are jurisdictional surveys of minority- and women-owned businesses, the availability of these business to perform contracts, and the effect of past discrimination towards these groups
 - Locate disparity studies within your GMA
 - Determine applicability to your goal by identifying similar NAICS codes or work categories discussed in the disparity study
 - Clearly indicate if and how disparity studies impact your goal

4. Step 2 Adjustment

- Option 3: Other TVM Goals
 - If you use another TVM's goal during Step 2 adjustment, you must analyze and ensure similarities within:
 - TVM's geographic market area
 - TVM's work scope within their goal methodology
 - Vehicles manufactured
 - Factors considered in their Step 2 adjustment
- Option 4: Vetting Process
 - If you use a vetting process in your goal adjust to make sure that all DBEs listed are indeed “ready, willing, and able,” you must perform a similar vetting process for all firms

5. Race-Conscious/Race-Neutral Breakdown

- Projection of race-neutral and race-conscious participation you foresee meeting your set DBE goal
- Clearly **list the race-neutral measures** to be used in FY
 - Consider the race-neutral suggestions listed in 49 CFR 26.51(b)
- Clearly state the **percentage of your goal** to be achieved using **race-neutral measures** in FY
 - **Maximum feasible portion** of overall goal should be met using race-neutral measures
- Clearly state the **percentage of your goal** to be achieved using **race-conscious measures** in FY
 - Clearly explain how you determined the race-conscious percentage

5. Race-Conscious/Race-Neutral Breakdown

- Race-Neutral:
 - Outreach, technical assistance, procurement process modification, or other measures that can be used to increase opportunities for all small businesses, **not just DBEs**
 - Incorporate race-neutral measures that meet the needs of **your small business community**
- Race-Conscious:
 - Any measure that seeks to assist **DBEs only**. Currently, contract goals are the only FTA approved race-conscious measures. (Please seek FTA approval prior to establishing any other DBE-focused initiatives that you would categorize as race-conscious measures.)



6. List of Sources used to Establish the Goal

- List the sources used to locate DBEs and provided links where appropriate
 - Link to UCP DBE Directory website
 - Bidders list
- List the sources used to locate non-DBEs and provided links where appropriate
 - U.S. Census Data
- List the sources used for the Step 2 adjustment and provide links of all additional evidence
 - Disparity studies

7. Evidence of Meaningful Consultation

- Consultation with whom?
 - Minority and women business associations
 - Community organizations
 - General contractor groups
 - Transit agencies (e.g., DBELO)

*Groups with knowledge of availability of DBEs
- Purpose?
 - To receive feedback on your DBE goal methodology and implementation
 - Discuss contracting opportunities with DBEs and non-DBEs
- How?
 - Interactive exchanges (e.g. outreach events)
 - Scheduled meetings



7. Evidence of Meaningful Consultation

- What counts as sufficient evidence?
 - Invitation or flyer to notify of the event
 - Sign-in sheets of attendees
 - Email notice/communication
 - Document your efforts to search for DBE attendees to invite to your outreach events
 - Summarize all comments received and explained how these comments impacted your goal
 - Must provide evidence of correspondence sent/received during consultation



7. Evidence of Meaningful Consultation

- Effective Practices:
 - Disseminate targeted correspondence to small business, minority, and women advocacy groups to solicit comments and feedback from DBE and small business stakeholders
 - Develop and maintain relationships with national advocacy and small business organizations throughout the fiscal year
 - Send a list of upcoming contracting opportunities to national small business organizations and request that these opportunities are shared with members

8. Proof of Publication

- Publish your goal on your company's webpage
 - Publish prior to submitting to FTA (update if changes are made upon goal approval)
 - Accept public comments for at least **30 days**
- Summarize all comments received based on the publication and explained how these comments impacted your goal
 - OR, clearly state that you did not receive any comments based on the publication
- *Optional:* Publish your goal in on media outlets
 - (e.g., general circulation media, one minority-focused media, and one trade publication)
 - Accept public comments for at least **30 days**

8. Proof of Publication

Industry Inc. – DBE Goal Notice

Industry Inc. – DBE Goal Notice

In accordance with the regulations of the U.S. Department of Transportation, 49 CFR Part 26, Industry Inc., hereby proposes an overall goal of 5.69 percent for Disadvantaged Business Enterprise (DBE) participation in contracting opportunities during Fiscal Year 2018 (October 2017 – September 2018). The goal and its rationale are available for public review for 30 days from the date of this notice, at the address listed below. Hours of operation are Monday through Friday from 9 a.m. to 5 p.m.

Please address comments to:

Ms.

Industry Inc.

Sacramento, CA 95828

(916)

E-mail: @.com

actively encourages DBEs that design, manufacture and/or service components which are generally accepted in the transit manufacturing industry to submit their current certification from a UCP authorized agency.

DBE Goal Approval/Disapproval Process

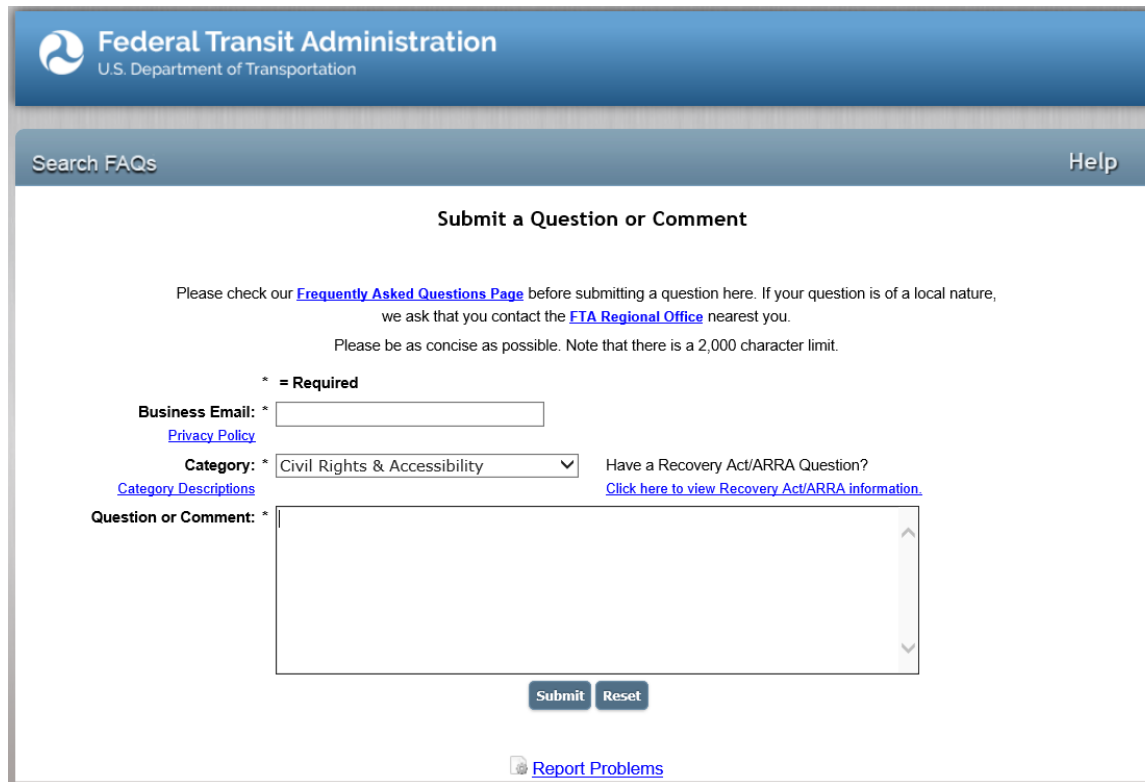
- On August 1 each year, TVMs submit the annual DBE goal methodology to FTA at FTATVMSubmissions@dot.gov
- FTA will either approve the goal and issue a “**TVM Concurrence letter**” or identify deficiencies and issue an “**In Review letter**”
- TVMs will be given *30 days* to correct all noted deficiencies
- TVMs that do not address all deficiencies within 30 days will receive an “**Ineligible letter**” making them ineligible to bid on federally funded contracts
- FTA will post approved TVMs on the FTA TVM webpage
- A firm may also receive an ineligible status, for failure to submit Semi-annual Uniform Report of DBE Awards/Commitments and Payments



- Must Follow USDOT’s “Tips for Goal-Setting in the DBE Program” <http://www.transportation.gov/osdbu/disadvantaged-business-enterprise/tips-goal-setting-disadvantaged-business-enterprise>
- FTA using same guidance when reviewing goals

Questions?

Submit your questions to Contact Us at
<https://ftawebprod.fta.dot.gov/ContactUsTool/Public/NewRequest.aspx>



The screenshot shows the Federal Transit Administration's 'Submit a Question or Comment' web form. At the top is the FTA logo and the text 'Federal Transit Administration U.S. Department of Transportation'. Below this is a search bar labeled 'Search FAQs' and a 'Help' link. The main heading is 'Submit a Question or Comment'. The form includes instructions to check the 'Frequently Asked Questions Page' and to contact the 'FTA Regional Office' for local issues. It also states a 2,000 character limit. The form fields are: 'Business Email' (required, with a 'Privacy Policy' link), 'Category' (a dropdown menu currently showing 'Civil Rights & Accessibility', with a 'Category Descriptions' link), and 'Question or Comment' (a large text area). There is a checkbox for 'Have a Recovery Act/ARRA Question?' with a link to 'Click here to view Recovery Act/ARRA information'. At the bottom are 'Submit' and 'Reset' buttons, and a 'Report Problems' link.

Federal Transit Administration
U.S. Department of Transportation

Search FAQs Help

Submit a Question or Comment

Please check our [Frequently Asked Questions Page](#) before submitting a question here. If your question is of a local nature, we ask that you contact the [FTA Regional Office](#) nearest you.

Please be as concise as possible. Note that there is a 2,000 character limit.


* = Required

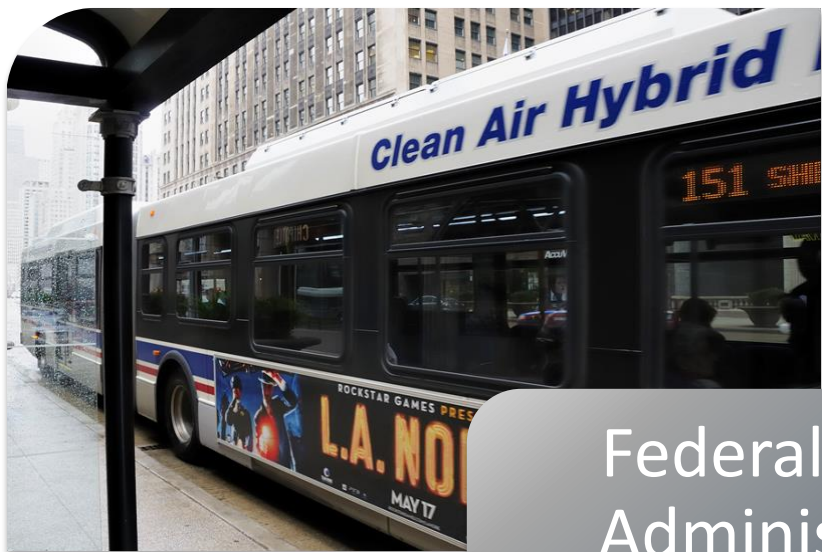
Business Email: *

[Privacy Policy](#)

Category: * Civil Rights & Accessibility Have a Recovery Act/ARRA Question?
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