

**Shasta Regional Transportation Agency (SRTA)**  
**DBE Goal and Methodology**  
**Federal Fiscal Years 2015, 2016, and 2017**

To: Caltrans, District 2  
 Office of Community and Regional Planning

In accordance with Title 49 of the Code of Federal Regulations (CFR), Part 26, and the State of California Department of Transportation (Caltrans) Disadvantaged Business Enterprise (DBE) Program Plan, the Shasta Regional Transportation Agency’s (SRTA) Triennial DBE Goal and corresponding goal methodology are presented herein.

SRTA has established a three-year DBE goal of 5.1% for federal fiscal years 2015/2016/2017 beginning October 1, 2014 and ending on September 30, 2017.

**Methodology**

The following represents SRTA’s estimated annual Federal Highway Administration (FHWA)- and Federal Transit Administration (FTA)-funded contracts and expenditures by work category and corresponding North American Industry Classification System (NAICS) code for federal fiscal years (FFYs) 2015/2016/2017. Per Caltrans, the FHWA funds are classified as FTA funds for purposes of DBE reporting and goal setting.

Work Category	NAICS Category	Est. Annual \$	Weight %
Commercial/Institutional Building Construction	236220	185,000	37.1
Lawyers	541110	5,000	1.0
CPAs	541211	6,000	1.2
Architectural Services	541310	12,500	2.5
Computers	541519	15,000	3.0
Environmental Consulting	541620	35,500	7.1
Marketing Research and Public Opinion Polling	541910	6,750	1.4
Other	541990	233,311	46.7
Total Annual Projected Budget		499,061	100.0

**Step 1: Determination of a Base Figure**

Numerator: Caltrans’ DBE Database ([http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm)) to determine available DBEs in relation to all comparable firms available in Shasta County.

- a) First, SRTA used the NAICS categories 23 – Construction and 54 – Professional, Scientific, and Technical Services.
- b) Second, this was then filtered by telephone area code (530) to better limit results to DBE firms within Shasta County.
- c) Third, Shasta County firms were screened from the area code 530 filtering.
- d) This selection and filtering resulted in no DBE firms in the above work categories in Shasta County.

Denominator: The U.S. Census Bureau's County Business Pattern (CBP) Database for Shasta County (<http://censtats.census.gov/cgi-bin/cbpnaic/cbpsect.pl>).

- a) First, SRTA filtered by NAICS codes: 236220 (Commercial/Institutional Building Construction); 541110 (Lawyers); 541211 (CPAs); 541310 (Architectural Services); 541519 (Computers); 541620 (Environmental); 541910 (Marketing Research and Public Opinion Polling); and 541990 (Other). These code filters represent the type of work SRTA would typically make available to consultants for the three-year period.
- b) These selections cumulatively resulted in 199 available firms within these code types in Shasta County.

<b>Determination of Base Figure (Comparison of Shasta County Firms)</b>		
NAICS Code Title	Caltrans DBE Database	US Census Bureau CBP Database
Commercial/Institutional Building Construction	0	24
Lawyers	0	87
CPAs	0	33
Architectural Services	0	5
Computers	0	4
Environmental Consulting	0	13
Marketing Research – Public Opinion Polling	0	29
Other	0	4
Total	0	199
DBE Goal Methodology Formula $\% \text{ DBEs per work category} = \left( \frac{\text{No. of DBEs in a Work Category} \times \text{weight}}{\text{No. of All Firms in Same Work Category}} \right) \times 100$		
<b>Calculation of % DBE (Base Figure) by NAICS Code Title (8 Total)</b>		
Commercial/Institutional Building Construction: $(0 \text{ DBEs} \times 36.5\%) / 24 \times 100 = 0$		
Lawyers: $(0 \text{ DBEs} \times 1.0\%) / 87 \times 100 = 0$		
CPAs: $(0 \text{ DBEs} \times 1.2\%) / 33 \times 100 = 0$		
Architectural Services: $(0 \text{ DBEs} \times 2.5\%) / 5 \times 100 = 0$		
Computers: $(0 \text{ DBEs} \times 3.0\%) / 4 \times 100 = 0$		
Environmental Consulting: $(0 \text{ DBEs} \times 7.1\%) / 13 \times 100 = 0$		
Marketing Research – Public Opinion Polling: $(0 \text{ DBEs} \times 1.4\%) / 29 \times 100 = 0$		
Other: $(0 \text{ DBE} \times 47.3\%) / 4 \times 100 = 0$		
<b>Base Figure = <math>(0+0+0+0+0+0+0+0) \times 100 = 0\%</math></b>		

### **Step 2: 2<sup>nd</sup> Attempt at a Base Figure**

As demonstrated above, using the Caltrans DBE Directory and US Census Bureau County Business Pattern (CBP) database produces a DBE base figure of 0%. Therefore, in the next step of the analysis, SRTA staff used a bidder's list based on Request for Proposals and Qualification (RFPs/RFQs) issued in Fiscal Year 2013-14.

During 2013-14, SRTA issued three cumulative RFPs/RFQs and received fourteen total respondents. Of the fourteen respondents, two were certified DBE firms. This theoretically represents a relevant availability of DBE firms of 14.3% to SRTA. The DBE firms were located in El Paso, Texas and Chicago, Illinois. While the 14.3% may arguably represent a 14.3% DBE availability to SRTA, adopting that participation rate would be akin to SRTA committing to hiring 100% of DBE firms responding to RFPs/RFQs—without regard to how the DBE firms' proposals rank in comparison to other non-DBE firms' proposals. Therefore, the 14.3% figure is also not satisfactory as a base figure.

### **Step 3: 3<sup>rd</sup> Attempt at a Base Figure**

With both the Caltrans DBE Directory – US Census CBP Database analysis (Step 1) and the bidders list methodology (Step 2) not yielding satisfactory base figures, SRTA staff turned to contracts executed during the prior goal period (FFYs 2012-2014) to ascertain DBE participation rates. During that time period, SRTA executed ten contracts for project-related technical assistance, of which one firm was a certified DBE and one firm was a certified DBE subcontractor. On the basis of the cumulative share amount of the DBE contracts (\$37,715.00) compared to the total of the ten executed contracts (\$1,098,769.00), this represents a 3.4% DBE rate.

$$\$37,715.00/\$1,098,769.00 = 3.4\% \text{ achieved DBE rate for FFYs 2012-2014}$$

### **Step 4: Adjustment to Base Figure**

Only Step 3 provided a somewhat realistic base figure. There are no disparity studies applicable to Shasta's market area.

During the period FFY 2012-2014, SRTA's established annual DBE goal was 9.0%, while SRTA achieved a 3.4% annual rate. However, adopting a 3.4% DBE annual goal for the ensuing 3-year period does not challenge SRTA to increase DBE participation in its contract opportunities over the 3-year period. Clearly, 9% DBE participation is too high for a market that does not include registered DBEs in the categories of contract assistance SRTA expects to use within the FFY 2015-17 time period. An increase to the 3.4% achieved rate that is aggressive, yet potentially achievable, is recommended. Therefore, SRTA staff recommends boosting the attempt for DBE participation by increasing the previously achieved 3.4% rate by 50%--to establish a 5.1% DBE goal for FFY 2015-2017:

- a)  $3.4\% \times 0.5 = 1.7\%$
- b)  $3.4\% + 1.7\% = 5.1\%$

### Establishment of Triennial Anticipated DBE Participation Goal

With only Step 3 producing a realistic base figure, and Step 4 recommending an upward adjustment to the base figure, **SRTA hereby recommends a 5.1% DBE rate for Federal Fiscal Years 2015-2017.**

With the recommended 5.1% DBE rate, the average annual volume of work that DBEs are expected to perform for the SRTA's federally-assisted contracting program during FFYs 2015-2017 is as follows:

Work Category	Estimated Annual Payments to Contractors	Estimated Annual Payments to DBE Firms	DBE Goal Attainment
Combined	\$499,061	\$25,452	5.1%

### Planned Race Neutral Measures

SRTA will accomplish its goals through race-neutral means.

### Implementation Agreement for Local Agencies

**Prompt Pay:** Federal regulation (49 CFR 26.29) requires one of three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor (attached). SRTA has selected the first method—no retainage withholding.

### Prompt Pay Enforcement Mechanism

49 CFR, Part 26.29(d) requires providing appropriate means to enforce prompt payment. These means may include appropriate penalties for failure to comply with the terms and conditions of the contract. The means may also provide that any delay or postponement of payment among the parties may take place only for good cause with the local agency's prior written approval. SRTA requests that all prime contractors' requests for reimbursement shall include documents supporting proof of payment to subcontractors.

### Public Consultation and Publication

In accordance with the 49 CFR, Subtitle A, Part 26, Subpart C, Section 26.45(g)(1) SRTA must provide for consultation and publication in establishing an overall DBE goal. SRTA followed these consultation and publication requirements in development of the overall goal:

**Consultation:** SRTA staff developed an email distribution of various firms/agencies within Shasta County of business interests, women's groups, etc. who might be anticipated to have:

- information concerning the availability of DBEs, and non DBEs;
- the effects of discrimination on DBE opportunities; and
- efforts to establish a level playing field for DBEs.

To the firms on this distribution, which included the builder's exchange, chambers of commerce, Rotary, American Association of University Women, and Soroptomist service organizations, SRTA sent a July 14, 2015 email invitation to a meeting at the SRTA office. The email also included the newspapers public notice, and the draft DBE goal and methodology as attachments to the distribution. Calling in to the meeting was an option also provided to those

unable or unwilling to participate in-person. For the August 14, 2015 scheduled meeting, no businesses or organizations elected to participate to provide their insight.

**Publication:**

On July 9, 2015 SRTA posted its FFY 2015-2017 DBE goal and methodology to its website, indicating that the goal and methodology were available for review and feedback through August 16, 2015. Although not required, SRTA also published a notice of consultation and opportunity to comment to the general public on July 13, 2015 with the following local publications: Record Searchlight; Ridge Rider; Shasta Lake Bulletin; Intermountain News; and the Mountain Echo. As some of the publications are weeklies, the publication dates ranged from Monday, July 13, 2015 through Wednesday, July 15, 2015. As stipulated in the regulations, the notice included the address to which comments could be directed, as well as an email address to SRTA's contact person. No comments were received.

**Disadvantaged Business Enterprise Liaison Officer (DBELO)**

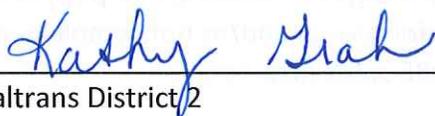
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Date 8-17-15

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ADMINISTERING AGENCY



Date 8-17-15

Caltrans District 2  
Office of Community and Regional Planning

### Prompt Payment of Funds to Subcontractors

Per federal regulations (49 CFR 26.29), SRTA will include the following clause in each DOT-assisted prime contract:

*A prime contractor or subcontractor shall pay to any subcontractor not later than 10-days of receipt of each progress payment, in accordance with the provision in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10-day rule is applicable unless a longer period is agreed to in writing. Any delay or postponement of payment over 30-days may take place only for good cause and with the agency's prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies of that Section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.*

### Prompt Payment of Withheld Funds to Subcontractors

Federal regulation (49 CFR 26.29) requires one of the following three methods be used in federal-aid contracts to ensure prompt and full payment of any retainage kept by the prime contractor or subcontractor to a subcontractor. SRTA adheres to the first method below.

No retainage will be held by the agency from progress payments due to the prime contractor. Prime contractors and subcontractors are prohibited from holding retainage from subcontractors. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor, deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

The agency shall hold retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency of the contract work

and pay retainage to the prime contractor based on these acceptances. The prime contractor or subcontractor shall return all monies withheld in retention from all subcontractors within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Any delay or postponement of payment may take place only for good cause and with the agency's prior written approval. Any violation of these provisions shall subject the violating prime contractor to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the contractor; deficient subcontractor performance, and/or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.