

**California Department of Transportation (Caltrans)
Federal Highway Administration (FHWA)
Overall Disadvantaged Business Enterprise (DBE) Goal and Methodology Proposal
Federal Fiscal Years 2022-2024**

Executive Summary

The California Department of Transportation (Caltrans) submits this overall Disadvantaged Business Enterprise (DBE) Goal and Methodology Proposal to the Federal Highway Administration (FHWA) pursuant to 49 Code of Federal Regulations (CFR) section 26.45, for federal-aid highway projects for Federal Fiscal Years (FFYs) 2022-2024. For FFYs 2022-2024, Caltrans proposes to implement an overall DBE goal of 22.2 percent, which is the Base Figure without any Step 2 adjustments.

Goal Setting Methodology – Section 26.45

Caltrans complied with 49 CFR 26.45 by following a two-step process for analyzing relevant data to establish its overall DBE goal:

- Step 1 describes the calculation of a base figure for the relative availability of minority- and woman-owned firms.
- Step 2 is the examination of all the evidence available to determine if an adjustment to the base figure is needed to arrive at the overall goal. If the examination shows no need for an adjustment, then no adjustment is to be made.

Step 1: Base Figure – Section 26.45(c)

To establish the base figure, Caltrans commissioned an Availability and Disparity Study (Study) that was completed by BBC Research & Consulting (BBC) on July 30, 2021.

The Study:

- Analyzed the use and availability of minority- and women-owned firms in California public highway transportation construction and professional services contracts.
- Examined other quantitative analyses of marketplace conditions.
- Reviewed anecdotal information from data collected through:
 - In-depth interviews (62 participants)
 - Availability surveys (971 participants who submitted anecdotal information)
 - Focus groups (five focus groups with 29 participants)
 - Oral or written testimony during a public forum (85 participants)
 - Written testimony via fax or email (seven participants).

Summary of the Base Figure Analysis

To examine the relative availability of minority- and women-owned firms, a custom-census approach was used that focused on work related to the types of public highway transportation construction and professional services prime contracts and subcontracts that Caltrans and sub-recipients awarded during the study period (January 1, 2015 – December 31, 2019). The Study identified the types of work where most contracting dollars are spent and determined that Caltrans' relevant geographic market area in the state of California. A marketplace conditions analysis and an availability analysis were also completed as part of the Study. For the availability analysis, BBC developed an

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availability database through surveys of businesses that are in the relevant geographic market area, and either perform work in highway transportation construction or professional services industries relevant to Caltrans' construction contracts.

To provide a more accurate estimate of the availability of minority- and women-owned firms for Caltrans and sub-recipient local agencies' transportation-related contracts and procurements, the Study analyzed more than 24,300 highway transportation-related construction and professional services prime contracts and subcontracts awarded by Caltrans and sub-recipients from January 1, 2015, through December 31, 2019. The Study determined that the dollar-weighted availability of minority- and women-owned firms are 26.8 percent. This analysis considered firms from the availability database, which indicated they have performed and bid on the type work and contract sizes in the geographic market area; of the transportation construction and professional services contracts and subcontracts awarded during the Study period. Further, this analysis included all contracts regardless of funding source (Federal and State). When performing a similar analysis, but only accounting for firms that are considered "potential DBEs," and only projects with Federal funding, the availability of minority- and women-owned businesses is 22.2 percent.

Available Firms Surveyed for Public Highway Transportation Construction and Professional Services Work

To identify minority- and woman-owned firms relatively available for public highway transportation construction and professional services work in California, BBC conducted a telephone survey of California businesses that perform public highway transportation construction and professional services work. California was determined to be the relevant geographic market area for the availability analysis because the majority of all transportation construction and professional services contract dollars were awarded to prime contractors and subcontractors with offices in California for the study period. Firms contacted in the survey were those listed by Dun & Bradstreet as doing business most pertinent to Caltrans' highway construction and professional services prime contracts and subcontracts.

BBC began the survey process by identifying 28,993 businesses listed, which included construction and professional services firms. From the initially identified businesses, 5,126 were eliminated due to being out of business or otherwise did not have valid phone numbers, leaving 23,867 businesses to contact for the survey. BBC successfully contacted 5,181 of these firms and 3,755 (21.7 percent) completed the survey. From the firms that completed surveys, 1,412 firms were shown to be potentially available for Caltrans work, minority- and women-owned firms made up 587 (41.6 percent) of the 1,412 firms.

Weighted Relative Availability

To determine the base figure, the Study weighted the relative availability of minority- and women-owned firms using a methodology that builds upon guidance the United States Department of Transportation (USDOT) provided in "*Tips for Goals Setting in the*

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*Disadvantaged Business Enterprise (DBE) Program.*¹ The study examined the type of work, contract size, contractor role, and location of work involved in Caltrans' and sub-recipient local agencies' transportation-related contracts and procurements regardless of funding source (Federal and State) and the relative availability of minority-, woman-, and majority-owned firms to perform that work. Examples of construction projects include the widening and rehabilitating of roadways, repairing storm damage, replacing bridges, constructing high-occupancy vehicle lanes, installing and/or repairing median barriers, and converting two-lane to four-lane expressways. Examples of professional services projects include architectural and engineering, archaeological, construction management, environmental research and mitigation, traffic studies, surveying, and inspection and testing. The Study developed information from more than 24,300 contracts during the study period.

The study determined that 26.8 percent of dollars would be expected to go to potential DBEs if the future contracts and subcontracts are similar to the type of work, contract size, and locations awarded during the study period. A business is defined as a potential DBE if they are a minority- or woman-owned business that is DBE-certified, or it appears that they could be DBE-certified based on ownership and annual revenue limits described in 13 CFR Part 121 and 49 CFR Part 26.

FFYs 2015-2019 FHWA-Assisted Contracts

Caltrans receives approximately \$3 billion in federal-aid highway program assistance each FFY. Future federal-aid projects are expected to be similar to the highway transportation construction and professional services projects reviewed in the Study in terms of the type of work, contract size, and locations. When examining the contracts that only used Federal-aid dollars and applying the same methodology used for projects from all funding sources, it was found that 22.2 percent of the dollars would be expected to go to potential DBE firms.

Resulting Baseline Goal

When examining contracts utilizing any funding source (Federal or State) by Caltrans and sub-recipients, the Study determined that 26.8 percent of dollars would be expected to go to potential DBE firms. When examining only those contracts receiving *federal aid dollars*, the study determined that 22.2 percent of the dollars would be expected to go to potential DBEs. Based on the federal-aid contracts requiring set DBE goals, Caltrans considers 22.2 percent as the base figure for its three-year annual overall DBE goal for FFYs 2022-2024.

¹ Tips for Goals Setting in the Disadvantaged Business Enterprise (DBE) Program,
<http://www.transportation.gov/osdbu/disadvantaged-business-enterprise/tips-goal-setting-disadvantaged-business-enterprise>.

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Step 2 Adjustments – Section 26.45(d)

In alignment with 49 CFR 26.45 (d) Caltrans examined a broad range of evidence in the Study when considering possible Step 2 adjustments to the base figure. The Study contained the types of information for possible Step 2 adjustments that are outlined in the DBE Program, including:

- Current capacity of DBEs “ready, willing, and able” to perform work, as measured by past DBE attainment values for recent years.
- Data on education, employment, self-employment, training, and unions
- Any disparities in the ability of DBEs to obtain financing, bonding, and insurance
- Other relevant data

Summary of Step 2 Considerations

When examining the capacity of DBE firms by reviewing the volume of work DBEs have performed during FFYs 2015 through 2019, Caltrans achieved a median annual DBE participation of 14.0 percent. Based on accounting for past levels of DBE participation, a downward adjustment to the overall DBE goal to 18.1 percent may be considered. Currently, through July 21, 2021, Caltrans has attained a DBE commitment of 14.94 percent against a DBE goal of 17.6 percent.

Analyses of local marketplace data reveal barriers to entering the California construction and professional services industries. Identified barriers include low rates of business ownership, lower earnings for certain groups, and less access to capital. These factors, overall, indicate an upward adjustment to the baseline DBE goal may be needed to account for the barriers. The study quantified the effects of barriers in business ownership; and, based on business ownership alone, an upward adjustment to 29.4 percent could be considered.²

Past Five Federal Fiscal Years DBE Attainment.

Caltrans considered its past DBE participation over the last five FFYs as reported to FHWA in Caltrans’ Uniform Reports of DBE Awards/Commitments and Payments submissions. The following table summarizes Caltrans’ DBE attainment as reported for that period:

Federal Fiscal Year	Goal	DBE Attainment	Race-Neutral Portion
2020	17.6%	17.5%	4.90%
2019	17.6%	18.9%	3.97%
2018	12.5%	14.0%	4.34%
2017	12.5%	12.1%	3.40%
2016	12.5%	13.2%	3.33%

² BBC Research & Consulting, CALTRANS 2021 DISPARITY STUDY, Chapter 9, page 6.

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As outlined in the USDOT's "*Tips for Goals Setting in the Disadvantaged Business Enterprise (DBE) Program*," if warranted, a Step 2 adjustment for past participation may be made by calculating a median past participation percentage. Based on DBE attainment data for the last five years, the median attainment is 14.0 percent. Caltrans could consider 18.1 percent as its potential overall DBE goal, which is the average of the 22.2 percent base figure and 14.0 percent past participation median value rounded to the nearest tenth percent.

Barriers and Disparity Data

The study suggests that barriers exist for certain minority and women groups to enter and move up in the transportation construction and professional services industries, which could allow for an upward Step 2 adjustment to the base figure.

Education. The study shows data that disparities in educational attainment for Black Americans, Hispanic Americans, and Native Americans. This appears at the high school level as these groups have substantially higher drop-out rates compared to non-Hispanic whites. The Study also provides analyses of the California labor force during the Study period that indicates Black American, Hispanic American, Native American, and other racial minority workers are substantially less likely than non-Hispanic white workers to possess a four-year degree. Many occupations require, at minimum, high school education and professional services occupations require a minimum four-year college degree. In California, the lack of college education appears to be a barrier for Black Americans, Hispanic Americans, and Native Americans, which ultimately affects the representation of these groups in the California professional services industry. As educational attainment is typically associated with increased income and wealth, barriers to education for these groups could negatively affect their business ownership and success.

Employment. Prior industry experience is important for business ownership and success. Due to the effects of discrimination, minorities and women are often unable to obtain relevant work experience or be employed in industries with high numbers of minorities and women. Nationwide, data shows that incarceration rates are higher for minorities than non-Hispanic whites, which leads to difficulty in finding employment and slower wage growth.

The Study's analyses of the California labor force support these findings. Industries with the lowest concentrations of minority workers included professional services. The employment of Black Americans, Hispanic Americans, and women in the professional services industry is significantly lower than their employees in all industries. Employment of Black Americans in the construction industry is relatively low compared to other industries in California, even within entry-level jobs. The employment of women in the California construction industry is relatively low. The employment of Hispanic Americans in the California construction industry is considerably higher than their employees in all industries.

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Advancement. In California and nationwide, non-Hispanic white men are more likely to work in management positions than minorities and women. Compared to non-Hispanic white males, there are significantly smaller percentages of Black Americans, Asian Pacific Americans, Hispanic Americans, and other racial minorities working as managers in the California construction industry; and, in California's professional services industry, there are significantly smaller percentages of Asian Pacific Americans and Hispanic Americans working as managers. Women were also less likely than non-Hispanic white men to work as managers in California's professional services industry.

Business formation and ownership. The Study used regression analyses to identify statistically significant disparities in business ownership rates in California after controlling for the race- and gender-neutral factors, such as income, education, and familial status. After accounting for these factors, being Black American, Hispanic American, or Native American was associated with a lower likelihood of owning a construction business compared to being a non-Hispanic white male who shares the same personal characteristics. Similarly, women own construction businesses at about one-half the rate that would be expected based on non-Hispanic white males who share the same personal characteristics.

In the professional services industry in California, the Study's regression analyses show that Asian Pacific Americans, Black Americans, Hispanic Americans, and Subcontinent Asian Americans exhibited lower rates of business ownership compared to non-Hispanic white males who share the same personal characteristics. Similarly, women own professional services businesses at a rate that is significantly less than that of non-Hispanic white males who share the same personal characteristics.

The Study's regression analyses show that significant disparities exist in both construction and professional services business ownership for several groups, even after accounting for the race- and gender-neutral factors.

Business success. Nationally, Black Americans, Native Americans, Hispanic Americans, and women exhibit higher rates of moving from business ownership to unemployment than non-Hispanic white males. Minority- and women-owned firms have also been shown to be less successful in terms of profits, closure rates, and business size. The Study showed similar results in California. The study analyses found that Black American and Hispanic American-owned firms in California appeared to close at higher rates than non-Hispanic white-owned firms. Similarly, woman-owned firms in California appeared to close at higher rates than firms owned by men. Examining business receipt data, the study found that all relevant minority groups in California showed lower average annual receipts than firms owned by non-Hispanic whites. Similarly, woman-owned businesses in California showed lower average annual business receipts than firms owned by men. The Study reviewed earnings data, as well, and found the following groups earned less on average from their businesses than non-Hispanic whites: Black Americans, Asian Pacific Americans, Hispanic Americans, Native Americans, and other racial minorities. Similarly, women in California earned less from their businesses than men.

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Access to capital. Financial capital can be accumulated through wages, personal wealth, homeownership, and financing. The Study examined these areas to determine California-specific data, which may show disparities.

Related to personal wealth, it was found that nationwide, and similarly in California, minorities earn less than non-Hispanic whites; and, women earn less than men. In California, more than one-fifth of Black Americans and one-sixth of Hispanic Americans are living in poverty, about double the rate for non-Hispanic whites.

Related to homeownership, the Study found relatively smaller percentages of Asian Americans, Black Americans, Hispanic Americans, and Native Americans in California own homes than non-Hispanic whites. Those who do own homes tend to have homes that are worth substantially less than homes owned by non-Hispanic whites. In California, Black Americans and Native Americans exhibit higher home loan denial rates than non-Hispanic whites. Also, in California, Black Americans, Hispanic Americans, Native Americans were awarded subprime home loans at a higher rate than non-Hispanic white Americans.

Related to business credit, the Study determined minority- and woman-owned businesses face substantial difficulties accessing business credit. Research has shown that Black-American-owned and Hispanic-American-owned businesses are more likely to be denied business credit, even after accounting for various race- and gender-neutral factors. Relatively, more Black American- and Hispanic American-owned firms that need credit do not apply for loans due to fear of denial. In addition, women are less likely to apply for credit and receive smaller loans. Without equal access to business capital, minority- and women-owned businesses must rely more on personal finances for their businesses, which leaves them at a disadvantage when trying to start and operate successful businesses.

Related to bonding and insurance, the Study interviewed minority- and women-owned firms, where it was reported they have difficulty obtaining bonding, particularly for newer, smaller, and poorly capitalized construction businesses. Minority- and women-owned firms in the transportation contracting industry in California are more likely to be small businesses than majority-owned firms and, therefore, may be adversely affected by barriers in obtaining bonding. Similarly, some minority- and woman-owned businesses reported problems obtaining insurance as required for Caltrans' projects. Some minority- and woman-owned businesses believed that the cost of insurance was a barrier to sustaining their business or bidding on certain projects.

Based on the results of the Study's "but for" analysis, examining the presented barriers to business ownership and available human capital, Caltrans may consider adjusting its base figure upward to 29.4 percent. Such an adjustment would correspond to a

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“determination of the level of DBE participation you would expect absent the effects of discrimination.”³

Evidence from other disparity studies. BBC reviewed the methodology and results from the availability, utilization, and disparity analyses from recent disparity studies, including studies published by the San Diego Association of Governments and the Los Angeles County Metropolitan Transportation Authority.

The study did not include specific results from these analyses for several reasons, including, but not limited to:

- Marketplace for other studies was a smaller geographic region than the state of California.
- Agencies involved in the studies may have had different sizes and types of contracts than the contracts analyzed for Caltrans' 2021 Study.
- Agencies involved often used different bid or proposal processes.
- Availability data was not gathered as recently as the Caltrans' availability data.

Resulting Step 2 Considerations

Evidence from the Study exists for Caltrans to consider both upward adjustments and downward adjustments to the baseline goal figure. Evidence for a downward adjustment to 18.1 percent is present from the capacity analysis, which reviewed past attainment levels. Evidence for an upward adjustment to 29.4 percent is present in the “but for” analysis, which reviewed potential discriminatory barriers that exist for minority- and women-owned businesses related to human capital and business ownership. Caltrans considers the two possible adjustment figures to cancel or offset each other, which makes the compelling reason to not make any Step 2 adjustment.

Public Participation – Section 26.45(g)

Consultation. On August 16, 2021, Caltrans posted its 2021 Study and 2022-2024 DBE Goal and Methodology Proposal, including the 22.2 percent base figure, on the OCR website. Due to the COVID-19 pandemic, Caltrans held a series of six virtual public comment meetings from August through September 2021. Though these meetings were held virtually, there was a 176% increase in attendees (69 vs. 25) from the last public comment meetings held in 2016.

Caltrans provided information about the Study and the proposed overall DBE goal during the meeting. Industry representatives, community and minority business organizations, and the public were invited to learn about the Study, its results, and recommendations, as well as ask questions and provide comments. Caltrans also

³ 49 CFR Section 26.45 (b).

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published information on how to submit written comments on its website and various social media channels.

As a result of the virtual public meetings, Caltrans received 11 comments: the bulk of engagement w questions and program concerns. The comments received are consistent with the comments received during the anecdotal interviews and public hearing testimony collected in the Study. Therefore, no evidence was received that would lead Caltrans to adjust its overall DBE goal of 22.2 percent for 2022-2024.

Caltrans also held 12 public engagement meetings from October 2020 through February 2021 to discuss barriers and challenges faced by small businesses, DBEs, and potential DBE firms, as they sought help on how to do business with Caltrans. Based on the public consultations and discussions in 2020 and 2021, DBEs and non-DBEs identified barriers such as:

- Access to capital and financial limitations
- Prompt payment
- Bonding
- Access to insurance and/or limit requirements being too high
- Projects being too large, therefore, very few DBEs can act as primes
- Primes not engaging in genuine “good faith efforts”
- Better compliance of the “good faith effort” from Primes
- Bidding process is time and labor intensive

Caltrans consulted continuously with minority- and woman-owned business organizations, as well as industry partners (listed below), to discuss the overall DBE goal, DBE availability, and utilization.

- Associated General Contractors
- Associated General Contractors of San Diego
- United Contractors Association
- American Council of Engineering Companies – California
- Southern California Contractors Association

Caltrans hosted bi-monthly meetings with its Statewide and District Small Business Councils (SBC), which consists of small, disadvantaged, and disabled veteran business organizations. In turn, the SBC's members and committee members met with their organizations and provided feedback to Caltrans.

Publication. Multiple notices of Caltrans' public comment meeting schedule and reminders of the written comment period deadline were posted on Caltrans' website, social media channels, and sent via email to:

- Certified DBEs in the California Unified Certification Program (CUCP) database with confirmed email addresses.
- CUCP Partner Agencies

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- Caltrans' 12 District Small Business Liaisons' email distribution lists, including partner organizations and agencies.
- Caltrans' Statewide Small Business Council members for distribution to their respective member organizations.
- Caltrans' DBE Participation Committee members.
- Caltrans' industry liaisons to forward to construction and engineering organization contacts representing organizations, such as the Associated General Contractors (AGC), United Contractors (UCON), Southern California Contractors Association (SCCA), and American Council of Engineering Companies (ACEC).
- Caltrans' Division of Local Assistance list-serve subscribers.
- Caltrans' Public Affairs division to forward to media outlets.
- Caltrans' Legislative Affairs division to forward to legislative committees, leadership, and caucuses.
- California Chambers of Commerce
- California Small Business Development Centers

Race-/Gender-Neutral and Race/Gender Conscious Measures – Sections 26.45(e) and 26.51

Race-/Gender-Neutral and Race-/Gender-Conscious DBE Goal Projections

Based on the information collected and data reviewed, Caltrans has established a goal of 22.2 percent for its FFYs 2022-2024 overall DBE goal and methodology submission. This overall goal is expected to be achieved in proportions of 3.9 percent with race- and gender-neutral measures (4.2 percent median by past participation: FFY 2016–3.3 percent, FFY 2017–3.4 percent FFY 2018–4.3 percent FFY 2019–3.9 percent FFY 2020–4.9 percent) and the remaining balance of 18.3 percent with race- and gender-conscious measures.

Race-/Gender-Neutral Measures

Caltrans currently has a broad range of race- and gender-neutral measures in place to encourage the participation of all small businesses—including DBEs—in its construction and professional services contracts. Caltrans plans to continue the use of those measures in the future. Caltrans' race- and gender-neutral efforts can be classified into these categories:

- Business outreach and communication
- Technical assistance and training
- Improved contracting processes
- Finance and bonding programs
- Prompt payment
- Data collection, monitoring, and reporting

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Small business program highlights in FFY 2021:

- Implemented the Minor B program for certified small businesses only while continuing to waive Performance Bond requirements for these projects.
- Developed a partnership with the Contractors State License Board to assist in reaching all potential DBEs interested in public highway transportation construction work in California.
- Assisted with mandatory Pre-Bid Conferences for appropriate projects in Caltrans' districts.
- Implemented a new online system for DBE applications and certification (B2Gnow).

Small business program considerations for FFYs 2022-2024:

- Continue outreach to internal and external stakeholders through meetings, conference calls, and trainings.
- Deliver certification training available for small businesses, including potential DBEs.
- Identify opportunities to package smaller contracts.
- Develop strategies for prequalification of firms.
- Improve the process for gathering data for future Availability and Disparity Studies
- Provide DBE Supportive Services to assist DBE and small business firms in expanding their capacity to perform work on Caltrans construction projects.
- Engagement and recruitment of targeted firms through consultant outreach contracts.
- Expand Caltrans' OCR website for easier access to information needed by SB and DBE firms and providing links to other supportive services, local agencies, and District Small Business Liaisons.
- Increase utilization of diverse media outlets for public notices of bid opportunities and other relevant information.
- Establish relationships with financial institutions, surety companies, and insurance companies to market Caltrans opportunities in conjunction with SBs and DBEs.

Race-/Gender-Conscious Measures

The race-/gender-conscious portion of the overall DBE goal will be achieved by:

- Setting a DBE contract goal on contracts with subcontracting opportunities.
- Using Appendix A to 49 CFR Part 26, "*Guidance Concerning Good Faith Efforts.*" to justify a contract award when the DBE goal is not met.
- Providing education and training to internal stakeholders, such as Caltrans resident engineers and contract managers in the DBE Program.
- Providing training to external stakeholders, including sub-recipients and prime contractors, regarding DBE Program compliance.