



NAPA VALLEY TRANSPORTATION AUTHORITY Board Agenda Letter

TO: Board of Directors
FROM: Kate Miller, Executive Director
REPORT BY: Antonio Onorato, Director-Administration, Finance, and Policy
(707) 259-8779 / Email: anonorato@nvta.ca.gov
SUBJECT: Resolution 19-20 Adopting Federal Transit Administration (FTA)
Fiscal Years (FY) 2020-2022 Disadvantage Business Enterprise
(DBE) Triennial Goal and Policy

RECOMMENDATION

That the Napa Valley Transportation Authority (NVTA) Board approve Resolution No. 19-20 (Attachment 1) adopting the Disadvantaged Business Enterprise (DBE) program (Attachment 2) with a proposed triennial DBE goal of two point eight percent (2.8%) for Federal Transit Administration (FTA) projects for Fiscal Years 2020-22.

OTHER OPTIONS FOR CONSIDERATION

Option 1: Do not submit a DBE policy and goal to FTA. Consequently, NVTA will not be compliant with FTA regulations which may result in the suspension of federal reimbursements and the approval of FTA grants.

COMMITTEE RECOMMENDATION

None

EXECUTIVE SUMMARY

As a recipient of federal financial assistance in excess of \$250,000 from the Federal Transit Administration (FTA), NVTA is required to submit its triennial plan for the FY 2020-22 with a proposed goal of 2.8%.

PROCEDURAL REQUIREMENTS

1. Staff Report
2. Public Comments
3. Motion, Second, Discussion and Vote

FISCAL IMPACT

Is there a Fiscal Impact? No, not for the adoption of the program, however, DBE goals for contract may influence cost for future transit contracts with federal funding.

STRATEGIC GOALS MET BY THIS PROPOSAL

Goal 4: Support Napa County's economic vitality. The DBE program grants additional leverage for socially and economically disadvantaged firms to work with NVTA and its contractors and consultants.

CEQA REQUIREMENTS

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (California Environmental Quality Act (CEQA) Guidelines) and therefore CEQA is not applicable

BACKGROUND AND DISCUSSION

Department of Transportation (DOT) DBE regulations require state and local transportation agencies who receive DOT financial assistance to establish goals for participation of DBE's. The DBE program helps establish a level playing field for socially and economically disadvantaged firms to compete for transit contracting opportunities. The DBE program provides a vehicle for increasing participation by small firms, owned and controlled by a socially and economically disadvantaged individual(s), certified to participate as DBE's in Department of Transportation (DOT) federally assisted programs.

FTA regulations require grantees to establish a three-year DBE overall goal setting methodology and submitted to FTA by August 1, 2019. To that end, staff completed the FY 2020 through FY 2022 DBE Overall Goal and Goal Setting Methodology (DBE Program) and recommended a goal of 2.8% for FTA assisted contracts.

The goals are not quotas, but simply an estimate, based on relative availability, of what DBE participation would be expected in the absence of discrimination. NVTA's contractors must make good faith efforts to meet the overall agency DBE goal, and account for situations where they fall short of the DBE participation goal.

SUPPORTING DOCUMENTS

Attachments: (1) Resolution 19-20
(2) DBE Policy and Goal for Fiscal Year 2020-2022

RESOLUTION No. 19-20

**A RESOLUTION OF THE
NAPA VALLEY TRANSPORTATION AUTHORITY (NVTB)
ADOPTING A DISADVANTAGED BUSINESS ENTERPRISE (DBE)
OVERALL GOAL FOR FISCAL YEAR (FY) 2020 THROUGH FISCAL YEAR 2022**

WHEREAS, the Napa Valley Transportation Authority (NVTB) is designated the countywide transportation planning agency responsible for Highway, Street and Road, transit, bicycle, and pedestrian planning and programming within Napa County; and

WHEREAS, NVTB is a sub-recipient of federal funding in excess of \$250,000 annually (excluding vehicle purchases) and therefore is required to establish a Disadvantaged Business Enterprise DBE program, established by 49 C.F.R. Part 26; and

WHEREAS, the U.S. Department of Transportation (DOT) issued Regulations (49 CFR Part 26), establishing Disadvantaged Business Enterprises (DBEs) participation in federally assisted contracts; and

WHEREAS, it is NVTB's policy to ensure that DBEs defined in 49 C.F.R. Part 26, have an equal opportunity to receive and participate in United States Department of Transportation (DOT) assisted contracts. It is also policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 C.F.R. Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts, and
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE program.

WHEREAS, the Regulations require that NVTB establish a three-year DBE overall goal for FY 2020-2022; and

WHEREAS, the NVTB FY 2020 through FY 2022 DBE Overall Goal and Goal Setting Methodology (as set forth in the DBE Report) recommends the establishment of the DBE overall goal of two point eight percent (2.8%) applicable to contracting opportunities assisted by the U.S. DOT pursuant to requirements in the Regulations; and

NOW, THEREFORE, BE IT RESOLVED, that the Board of Directors hereby adopts the 2.8% DBE overall goal for FY 2020 through FY 2022 applicable to U.S. DOT assisted contracts; and

BE IT FURTHER RESOLVED that the Board of Directors directs the Executive Director, or designee, to submit the DBE Report to the U.S. DOT through the Federal Transit Administration by August 1, 2019, so as to assure continued eligibility for the receipt of federal financial assistance.

THE FOREGOING RESOLUTION WAS DULY AND REGULARLY ADOPTED by the Board of Directors of the Napa Valley Transportation Authority, at a regular meeting held on November 20, 2019, by the following vote:

Ayes:

Chris Canning, NVTA Chair

Nays:

Absent:

ATTEST:

Karalyn E. Sanderlin, NVTA Board Secretary

APPROVED:

DeeAnne Gillick, NVTA Legal Counsel



Disadvantaged Business Enterprise Program

FY 2020-2022

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Napa Valley Transportation Authority

POLICY STATEMENT

Section 26.1, 26.23 Objectives / Policy Statement

The Napa Valley Transportation Authority (NVTA or Agency) has established a Disadvantaged Business Enterprise (DBE) program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The NVTA has received Federal financial assistance from the Department of Transportation, and as a condition of receiving this assistance, the NVTA has signed an assurance that it will comply with 49 CFR Part 26.

It is the policy of the NVTA to ensure that DBEs are defined in part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also NVTA's policy:

1. To ensure nondiscrimination in the award and administration of DOT – assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT assisted contracts; and
6. To assist the development of firms that can compete successfully in the market place outside the DBE Program.

Renée Kulick, Senior Administrative Technician, has been delegated as the DBE Liaison Officer. In that capacity, she is responsible for implementing all aspects of the DBE program. Implementation of the DBE program is accorded the same priority as compliance with all other legal obligations incurred by the NVTA in its financial assistance agreements with the Department of Transportation.

NVTA has disseminated this policy statement to the NVTA Board of Directors and to all of the departments within the Agency. NVTA has distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts in the following manner:

1. A copy of the policy statement has been posted on NVTA's websites: www.nvta.ca.gov and www.vinetransit.com.
2. A copy of this policy statement is made available to each attendee of all pre-bid meetings dealing with covered contracting opportunities.
3. Distribution channels include trade associations, online publications, and electronic notification via stakeholder distribution lists.

Kate Miller, Executive Director

07/31/2019
Date



SUBPART A – GENERAL REQUIREMENTS

Section 26.1, 26.23 Objectives

The objectives are found in the policy statement on the first page of this program.

Section 26.3 Applicability

NVTA has established a Disadvantaged Business Enterprise (DBE) program in accordance with Title 49 Code of Federal Regulations, Part 26: Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs. AVTA receives Federal financial assistance from the U.S. Department of Transportation (U.S. DOT) and as a condition of receiving this assistance; NVTA has signed an assurance that it will comply with Title 49 CFR Part 26. The DBE Program applies to all of AVTA's U.S. DOT-assisted projects.

It is the policy of NVTA to ensure that DBEs, as defined in Part 26, have an equitable opportunity to compete for and participate in the performance of all NVTA U.S. DOT-assisted contracts and subcontracts.

Section 26.5 Definitions

Any terms used in this DBE Program that are defined in 49 CFR § 26.5 or elsewhere in the Regulations shall have the meaning set forth in the Regulations. Some of the most common terms are defined below.

Disadvantaged Business Enterprise or DBE means a for-profit small business concern:

- That is at least 51 percent owned by one (1) or more individuals who are both socially and economically disadvantaged or, in the case of a corporation, in which 51 percent of the stock is owned by one (1) or more such individuals; and
- Whose management and daily business operations are controlled by one or more of the socially and economically disadvantaged individuals who own it; and
- Has been certified as Disadvantaged in accordance with Title 49 CFR Part 26.

Socially and Economically Disadvantaged Individual: Any individual who is a citizen (or lawfully admitted permanent resident) of the United States and who is:

1. Found by AVTA to be socially and economically disadvantaged on a case by case basis by a certifying agency pursuant to the standards of the U.S. DOT Title 49 CFR Part 26.
2. A member of any one (1) or more of the following groups, members of which are rebuttably presumed to be socially and economically disadvantaged:
 - (i) "Black Americans" which includes persons having origins in any of the Black racial groups of Africa;
 - (ii) "Hispanic Americans" which includes persons of Mexican, Puerto Rican, Cuban, Dominican, Central or South American, or other Spanish or Portuguese culture or origin, regardless of race;
 - (iii) "Native Americans" which includes persons who are American Indians, Eskimos, Aleuts or Native Hawaiians;
 - (iv) "Asian Pacific Americans" which includes persons whose origins are from Japan, China, Taiwan, Korea, Burma (Myanmar), Vietnam, Laos, Cambodia (Kampuchea), Thailand, Malaysia, Indonesia, Philippines, Brunei, Samoa, Guam, the U.S. Trust Territories of the



Pacific Islands (Republic of Palau), the commonwealth of the Northern Marianas Islands, Macao, Fiji, Tonga, Kiribati, Juvalu, Nauru, Federated States of Micronesia or Hong Kong;
(v) "Subcontinent Asians Americans" which includes persons whose origins are from India, Pakistan, Bangladesh, Bhutan, the Maldives Islands, Nepal or Sri Lanka;
(vi) Women; and
(vii) Any additional group whose members are designated as socially and economically disadvantaged by the SBA, at such time as the SBA designation becomes effective.

NVTA has adopted and uses the definitions related to the DBE program found in 49 CFR Part 26.5.

Section 26.7 *Non-discrimination Requirements*

NVTA will not exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of age, disability, race, color, sex, or national origin.

In administering its DBE program, NVTA will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE program with respect to individuals of a particular age, disability, race, color, sex, or national origin.

Section 26.11 *Record Keeping Requirements*

Uniform Report of DBE Awards or Commitments and Payments - 26.11(a)

NVTA will report DBE participation to the relevant operating administration- *FHWA and/or FTA* using the Uniform Report of DBE Awards or Commitments and Payments, found in Appendix B to the DBE regulation.

Division of Mass Transportation (DMT) subrecipients of Federal Transit Administration (FTA) funds must report on Disadvantaged Business Enterprises (DBE) participation in their contracting opportunities. Twice yearly, subrecipients must submit a completed Awards/Commitments and Actual Payments spreadsheet.

The spreadsheets are due to the transit program representative on April 15 for the period of October 1 to March 31 and October 15 for the period of April 1 to September 30. See Attachment 9 and 10 for reporting forms.

Bidders List - 26.11(c)

NVTA will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The purpose of this requirement is to allow use of the bidder list approach to calculating overall goals. The bidder list will include the name, address, DBE non-DBE status, age, and annual gross receipts of firms.

We will collect this information in the following ways:

NVTA will collect this information by having bidders/proposers complete and submit to NVTA a bidders/proposers information form. See Attachment 8 for a sample form.



Section 26.13 Assurances

NVTA has signed the following assurances, applicable to all DOT assisted contracts and their administration:

Federal Financial Assistance Agreement Assurance - 26.13(a)

“NVTA shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of DOT assisted contracts. The recipient’s DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the NVTA of its failure to carry out its approved program, the Department may impose sanction as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).”

This language will appear in financial assistance agreements with sub-recipients.

Contract Assurance - 26.13b

We will ensure that the following clause is placed in every DOT assisted contract and subcontract:

“The contractor, sub-recipient, or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.”



SUBPART B – ADMINISTRATIVE REQUIREMENTS

Section 26.21 DBE Program Updates

Since the NVTa has received a grant of \$250,000 or more for FTA planning capital and maintenance in a federal fiscal year, and for FHWA authorized by the statute for which this part applies, NVTa will continue to carry out this program until all funds from DOT financial assistance have been expended. We will provide to DOT updates representing significant changes in the program.

Section 26.25 DBE Liaison Officer (DBELO)

NVTa has designated the following individual as the DBE Liaison Officer:

Renée Kulick
Senior Administrative Technician
625 Burnell Street
Napa, CA 94559-3420
T: (707) 259-8780
E: rkulick@nvta.ca.gov

In that capacity, the DBELO is responsible for implementing all aspects of the DBE program and ensuring that the NVTa complies with all provision of 49 CFR Part 26. The DBELO has direct, independent access to the Executive Director concerning DBE program matters. An organization chart displaying the DBELO's position in the organization is found in Attachment 1 to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE program, in coordination with other appropriate officials. The duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required by DOT.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals attainment and identifies ways to improve progress.
6. Analyzes NVTa's progress toward attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the Executive Director\governing body on DBE matters and achievement.
9. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
10. Plans and participates in DBE training seminars.
11. Certifies DBEs, if allowed, according to the criteria set by DOT and acts as liaison to the Uniform Certification Process in California.
12. Provides outreach to DBEs and community organizations to advise them of opportunities.
13. Maintains the NVTa's updated directory on certified DBEs.



NVTA Board of Directors

The Board of Directors ultimately is responsible for ensuring that the DBE Program has a high priority at NVTA.

Executive Director (ED)

The ED designates the DBELO, grants to that DBELO direct, independent access to him or her concerning DBE matters and ensures the DBELO has sufficient resources to implement the DBE program in compliance with the provisions of 49 CFR Part 26.

Chief Financial Officer (CFO) or equivalent and Grants Management

1. Contacts the DBELO for the names of DBE financial institutions, uses their services in connection with DOT assisted projects and periodically reports the level of use of DBE financial institutions to Board of Directors.
2. Assists the DBELO in compiling federal funding data to calculate NVTA's overall DBE goal.
3. Promotes a level playing field for DBE financial advisors, investment bankers and bond counsel.
4. Assists the DBELO in developing financing, bonding and insurance programs to help increase the number of DBEs participating in DOT assisted contracts.

Other Support Personnel

NVTA personnel from other departments share the responsibility for ensuring the effective implementation of the DBE Program. They are expected to give their full cooperation and active support to the DBELO in this effort. Following are the support personnel and examples of their respective responsibilities.

Project Managers

1. Provides the DBELO with draft scopes of work and engineering estimates to enable the DBELO to actively engage in goal setting, outreach and the development of appropriate DBE language in solicitation documents.
2. Develop a working knowledge of the DBE program's policies, practices and procedures including race neutral and race conscious methods of achieving DBE participation, by reading the DBE program, and/or the project's solicitation documents and/or the contract manual and by attending DBE orientation sessions presented by the DBELO and staff members.
3. Notify the DBELO in a timely manner of their project's Pre-Proposal or Pre-Bid Conferences and "Kick-Off" Meetings.
4. Structure individual contracting actions to create a level playing field and participation by DBE firms wherever possible. This includes dividing a contract statement of work, where possible, into portions that will enable DBE firms to compete as prime contractors. Proper use of this structuring for DBE participation shall not result in the avoidance of proper approval authority. This also includes, if not prohibited by state law, waiving or reducing bonding requirements or allowing for incremental bonding.
5. Participate with the DBELO in monitoring that DBE firms are used and DBE records and reports are prepared and submitted in accordance with the terms of the contract.
6. Identify and refer potential DBE utilization problems promptly to the DBELO.



Client / Vendor Services

1. The NVTA website (www.nvta.ca.gov) provides up-to-date information electronically about NVTA contracting opportunities, upcoming events at NVTA and current program information.
2. Provides technical assistance over the telephone to firms requesting to be placed on the mailing list, provides NVTA vendor database information, including detailed step by step instructions on how to register on NVTA's vendor database, and responds to questions about doing business with NVTA.

Risk Management

1. Provides periodic reports on industry insurance and bonding standards and requirements to the DBELO. Provides information about insurance and bonding trends relevant to DBE firms for the coming year, if available, to the DBELO.
2. Participates with the DBELO and with legal counsel in the structuring of bonding and insurance requirements and standards in individual contracting actions to create a level playing field and participation by DBE firms wherever possible. This includes dividing a contract statement of work, where possible, into portions that will enable DBE firms to compete as prime contractors. Proper use of this structuring for DBE participation shall not result in the avoidance of proper approval authority. This also includes, if not prohibited by state law, waiving or reducing bonding requirements or allowing for incremental bonding.

General Counsel

1. Addresses small business matters relating to procurement and the implementation of the DBE program.
2. Renders legal opinions regarding the interpretation of DBE solicitation and contract provisions.
3. Advises the DBELO or his/her designees and the CEO regarding imposition of administrative sanctions against contractors that fail to comply with DBE requirements.
4. Represents NVTA in all legal actions involving DBE issues.
5. Provides the DBELO with legal opinions relevant to DBE certification.

Reconsideration Official

In accordance with 49 CFR §§ 26.53(d)(2) and 26.87(e), all proceedings by NVTA regarding the reconsideration of compliance with provisions of the DBE regulations concerning a contract award or the DBE status of a firm shall be made by the Executive Director or his/her designated representative who did not take part in the original determination. This official shall preside over NVTA hearings that may be held pursuant to this DBE Program, including administrative reconsideration of the DBELO's determination of a bidder's or proposer's compliance with good faith efforts or the DBELO's proposal to remove certification from a DBE firm.

Section 26.27 DBE Financial Institutions

It is the policy of the NVTA to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT



assisted contract to make use of these institutions. We have made the following efforts to identify and use such institutions:

NVTA staff completed a Federal Reserve Board website search www.fdic.gov/regulations/resources/minority/mdi.html and www.federalreserve.gov/publications/files/preserving-minority-depository-institutions-2019.pdf to identify the minority-owned banks derived from the Consolidated Reports of Condition and Income filed quarterly by banks. NVTA staff identified the following institution, listed in Attachment 7, titled "Minority Owned Banks."

NVTA will re-evaluate the availability of the DBE financial institutions on an annual basis. Information on the availability of such institutions is available upon request from the DBE Liaison Officer.

Section 26.29 Prompt Payment Mechanisms

Prompt Payment - 26.29(a)

The NVTA will include the following clause in each DOT assisted prime contract:

"The prime contractor agrees to pay each subcontractor under this prime contract for satisfactory performance of its contract no later than thirty (30) days from the receipt of each payment the prime contract receives from NVTA. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the NVTA."

This clause applies to both DBE and non-DBE subcontracts.

Retainage - 26.29(b)

"The prime contractor agrees to return retainage payments to each subcontractor within thirty (30) days after the subcontractors work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the NVTA."

This clause applies to both DBE and non-DBE subcontracts.

Monitoring and Enforcement - 26.29(d)

If NVTA determines that the prime contractor has failed to comply with the prompt payment provisions set forth above, NVTA may give written notice to the prime contractor and the prime contractor's surety that, if the default is not remedied within thirty (30) days, the contract may be terminated. NVTA may also impose penalties and sanctions for non-compliance with the prompt payment clause contained in Section 26.37, Monitoring and Enforcement Mechanisms.

Section 26.31 Directory

NVTA use the California Unified Certification Program (CUCP) database directory identifying all firms eligible to participate as DBEs. The directory lists firms' names, addresses, phone numbers, dates of the most recent certification, and the type of work the firm has been certified to perform as a DBE. The CUCP website link is at <https://dot.ca.gov/programs/business-and-economic-opportunity/dbe>.



Section 26.33 Overconcentration

NVTA has not identified that overconcentration exists in the types of work that DBEs perform. However, if NVTA finds that DBE overconcentration has occurred to such an extent as to unduly burden the opportunity of non-DBE firms to participate in the highway design or construction program, it will develop procedures to address this. The procedures will be submitted to the appropriate operating administration for review and approval prior to implementation.

Section 26.35 Business Development Programs

NVTA has not established a business development program. We will re-evaluate the need for such a program every three (3) years.

Section 26.37 Monitoring and Enforcement Mechanisms

NVTA will take the following monitoring and enforcement mechanisms to ensure compliance with 49 CFR Part 26. NVTA will implement appropriate mechanisms, including sanctions, suspension, debarment, and application of legal and contractual remedies available under federal, state, and local law, as deemed appropriate and necessary, to ensure compliance with the requirements by all program participants.

Specifically, NVTA will take the following monitoring and enforcement steps to ensure compliance with 49 CFR Part 26:

- Bring to the attention of the Department of Transportation any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g., referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in 26.109.
- Consider similar action under its own legal authorities, including responsibility determinations in future contracts.
- Provide a monitoring and enforcement mechanism to verify that work committed to DBEs at contract award is actually performed by the DBEs. This will be accomplished via onsite visits conducted by NVTA Civil Rights and construction field personnel. Written certification of compliance will be provided for each onsite visit.
- Keep a running tally of actual payments to DBE firms for work committed to them at the time of contract award.

NVTA sub-recipients agree to work collaboratively with the California DOT to ensure monitoring and enforcement mechanisms take place on every federal aid project.

Section 26.39 Small Business Participation

NVTA has incorporated the following non-discriminatory element to its DBE program, in order to facilitate competition on DOT-assisted public works projects by small business concerns (both DBE and non-DBE small businesses):

NVTA will take all reasonable steps to eliminate obstacles to SBE participation, including unnecessary and unjustified bundling of contract requirements that may preclude small business participation in procurements as prime contractors or subcontractors. The NVTA Civil Rights Office will work with affected program areas to ensure that technical staff members are aware of and have given consideration to eliminating obstacles to SBE participation.



NVTA will actively implement the program elements to foster small business participation. Doing so is a requirement of good faith implementation of NVTA's DBE program.

The small business element is included to ensure that small businesses have an equitable opportunity to participate and receive a fair share in procurement programs under NVTA's authority.

NVTA follows 49 CFR Part 26.5 in defining a Small Business Concern. This means, with respect to firms seeking to participate as DBEs in DOT-assisted contracts, a small business concern as defined pursuant to Section 3 of the Small Business Act and Small Business Administration regulations implementing it that also does not exceed the cap on the average annual gross receipts specified in Section 26.65(b). By the use of this definition, it ensures that all small businesses are subject to the same size standards and can compete with similarly-sized businesses. According to the DOT, a small business is one that:

- Is organized for profit;
- Has a place of business in the United States;
- Makes a significant contribution to the U.S. economy by paying taxes or using American products, material or labor;
- Does not exceed the numerical size standard for its industry; and
- Can be a sole proprietorship, partnership, corporation, or any other legal form.

In order to prevent abuse and minimize fraud in determining eligibility of small businesses, firms will not be allowed to self-verify or self-certify themselves. NVTA will accept the certifications/verifications process used by another credible entity.

NVTA follows the Policies, Practices and Procedures Manual Section 5: Contracting and Procurement. The Policy governs the purchase of all goods, supplies, equipment, materials, construction and services for the Agency, regardless of funding sources, except as otherwise provided by law. Therefore, NVTA may not always have the authority to structure contracts to benefit small businesses.

NVTA is committed to maintaining the integrity of the process, maintaining favorable business relationships, fostering fair and open competition and maximizing value. In this regard, NVTA will attempt to attract small business participation, including businesses owned by women, minorities, socially and economically disadvantage individuals, and service-disabled veterans. NVTA is aware that race or gender can not be used as an eligibility criteria for a small business concern. Race Neutral measures implemented include but not limited to:

- Recommend prime contracts provide subcontracting opportunities of a size that small businesses can reasonably perform, rather than self-performing all the work involved.
- Recommend large subcontractors who have won bids to provide opportunities for small businesses.
- Whenever practicable, remove unnecessary burdens i.e. bonding, insurance, etc. so that competition is encouraged.
- Post solicitations online at www.nvta.ca.gov and www.publicpurchase.com so that local vendors have an equal opportunity.
- NVTA's online bid distribution system provides equal access to all solicitations (formal and informal) at no cost to vendors. Interested parties are required to register for access to the procurement information, but there is no fee and all interest parties have free



access.

- Utilize unbundling by including line items in some construction grants for materials and labor.
- Attempt to identify alternative acquisition strategies and structure procurements to facilitate the ability for small businesses, including DBE's to compete for and perform prime contracts.

As several of the above listed steps have already been implemented, NVTA will take steps to implement the remainder as purchasing/bidding opportunities become available. NVTA staff will meet annually with procurement and fiscal staff to assess and discuss the types of contracts that will be available and what actions will need to be taken to meet the above listed steps. Since NVTA does not use set-asides, other strategies will be utilized to assist small businesses. NVTA will collect data on small business participation for review at triennial audits.

Although NVTA is a government agency with few construction projects, in order to meet the requirements of Section 26.39, NVTA will implement the following program initiatives to increase small business participation:

- Partner with other regional transit agencies to increase small business enterprise participation.
- List upcoming contracting opportunities on the NVTA website.
- Participate in pre-bid or pre-proposal meetings.
- Search the California UCP for small businesses when making purchases within their field of products/services.
- Participate in vendor workshops to raise awareness and encourage small business vendors to participate.
- Constantly reviewing solicitation requirements (bid and performance surety; insurance coverage limits, etc.) to make sure they are practical and not unduly burdensome.
- Post small business workshop notices on NVTA's website calendar.
- Email notices to all major and local Chamber of Commerce and other service groups that have expressed interest over the years to reach out to small businesses.
- Conduct training for vendors, as requested, to educate them about the processes and assist them with setting up access to the online procurement system.
- Advertising all formal solicitations in local newspapers, including Spanish language papers, and for specialized contracts, in trade magazines that may have a larger audience and glean additional responses.
- When services/products are needed, NVTA staff will attempt to contact businesses on the current DBE/Small Business listing that are coded under that particular category. These DBEs and small businesses are all given opportunities to quote their prices for any given service/product.

As mentioned above, NVTA is a small government agency. As opportunities become available, within its authority, NVTA will encourage and allow small businesses to partake in any bids for future construction projects or other services required to expand its service offerings.



SUBPART C – GOALS, GOOD FAITH EFFORTS, AND COUNTING

Section 26.43 Set-asides or Quotas

The NVTa does not use quotas in any way in the administration of this DBE program.

Section 26.45 Overall Goals

A description of the methodology to calculate the overall goal and the goal calculations can be found in Attachment 4 to this program. This section of the program will be updated tri-annually.

In accordance with Section 26.45 NVTa will submit its overall goal to DOT on August 1 every third year specified by DOT. Before establishing future goals, NVTa will consult with the any new DBEs or DBE groups in the area, to obtain information concerning the availability of disadvantaged and non-disadvantaged businesses, the effects of discrimination on opportunities for DBEs, and NVTa's efforts to establish a level playing field for the participation of DBEs.

Following this consultation, a notice of the proposed overall goals, will be published informing the public that the proposed goal and its rationale are available for inspection during normal business hours at NVTa's administrative offices for thirty (30) days following the date of the notice, and informing the public that comments will be accepted on the goals for 45 days from the date of the notice. Normally, the notice will be issued by June 1 every three (3) years thereafter. The notice will include addresses to which comments may be sent and addresses where the proposal may be reviewed. These notices will be published in local newspapers, including Spanish language publications, and trade media.

NVTa's overall goal submission to DOT will include a summary of information and comments received during this public participation process and our responses. We will begin using our overall goal on October 1 of each year, unless other instructions are received from DOT. If we establish a goal on a project basis, we will begin using our goal by the time of the first solicitation for a DOT-assisted contract for the project.

Our overall goal submission to DOT will include: the goal (including the breakout of estimated race-neutral and race-conscious participation, as appropriate); a copy of the methodology, worksheets, etc., used to develop the goal; a summary of information and comments received during this public participation process and our responses; and proof of publication of the goal in media outlets listed above.

NVTa will begin using its overall goal on October 1 of the specified year, unless alternative instructions from DOT are received. If NVTa establishes a goal on a project basis, it will begin using the established goal by the time of the first solicitation for a DOT-assisted contract for the project. Our goal will remain effective for the duration of the three-year period established and approved by FTA or FHWA.

Section 26.47 Goal Setting and Accountability

If the awards and commitments shown on NVTa's Uniform Report of Awards or Commitments and Payments at the end of any fiscal year are less than the overall applicable to that fiscal year, NVTa will:

1. Analyze in detail the reason for the difference between the overall goal and the actual awards/commitments.
2. Establish specific steps and milestones to correct the problems identified in the analysis.
3. As NVTA does not have one of the 50 largest transit service providers, NVTA will conduct an annual analysis on whether or not it is meeting its DBE goal. If the goal is not being met, NVTA will establish and implement a corrective action plan. This information will be kept for review should FTA request it during its triennial review.

Section 26.49 Transit Vehicle Manufacturers Goals

Each transit vehicle manufacturer shall establish and submit an annual DBE goal for the NVTA's approval. In setting the annual goal, the manufacturer should be guided by the provisions in Title 49 CFR Part 26.49. NVTA will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on FTA assisted transit vehicle procurements, to certify that it has complied with the requirements of Section 26.49. Alternatively, NVTA may, at its discretion and with FTA approval, establish project-specific goals for DBE participation in the procurement of transit vehicles in lieu of the transit vehicle manufacturer complying with this element of the Program. Work performed outside the United States and its territories and commonwealths shall be excluded.

Section 26.51(a-c) Breakout of Estimated Race-Neutral & Race Conscious Participation

NVTA will meet the maximum feasible portion of its overall goal using race-neutral means of facilitating DBE participation. In order to do so, NVTA will use contract goals to help meet any portion of the overall goal NVTA does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of our overall goal that is not projected to be met through the use of race-neutral means.

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if we use contract goals we will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation and we will track and report race-neutral and race conscious participation separately.

For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following: DBE participation through a prime contract a DBE obtains through customary competitive procurement procedures; DBE participation through a subcontract on a prime contract that does not carry DBE goal; DBE participation on a prime contract exceeding a contract goal; and DBE participation through a subcontract from a prime contractor that did not consider a firm's DBE status in making the award.

NVTA will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.

Section 26.51(d-g) Meeting Overall Goals / Contract Goals

NVTA will use contract goals to meet any portion of the overall goal the Agency does not project being able to meet using race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any



portion of our overall goal that is not projected to be met through the use of race-neutral means.

NVTA will establish contract goals only on those DOT assisted contracts that have subcontracting possibilities. It is not necessary to establish a contract goal on every DOT contract, and the size of contract goals will be adapted to the circumstances of each such contract; e.g., type and location of work, availability of DBEs to perform the particular type of work. NVTA will express our contract goals as a percentage of total amount of a DOT assisted contract.

NVTA will express our contract goals as a percentage of the Federal share of a DOT-assisted contract.

The following language shall be incorporated in all specifications for formal bids of activities identified for a DBE goal:

“Bidders are hereby advised that NVTA has adopted a Disadvantage Business Enterprise (DBE) program which established a goal for maximizing participation of disadvantage business enterprises in all contracts and subcontract projects. Each bidder should become aware of the percentage goal for DBE opportunities currently applicable to the proposed bid. It shall be the responsibility of the successful bidder to take affirmative action and to assist NVTA in complying with the meeting its DBE goal.”

Section 26.53 Good Faith Efforts Procedures

Award of Contracts with a DBE Contract Goal - 26.53(a)

In those instances where a contract-specific DBE goal is included in a procurement/solicitation, NVTA will not award the contract to a bidder who does not either: (1) meet the contract goal with verified, countable DBE participation; or (2) documents it has made adequate good faith efforts to meet the DBE contract goal, even though it was unable to do so. It is the obligation of the bidder to demonstrate it has made sufficient good faith efforts prior to submission of its bid.

Demonstration of Good Faith Efforts - 26.53(a) & (c)

The obligation of the bidder/proposer is to make good faith efforts. The bidder/proposer can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26.

The DBELO Officer is responsible for determining whether a bidder/proposer who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsible.

We will ensure that all information is complete and accurate and adequately documents the bidder/offer's good faith efforts before we commit to the performance of the contract by the bidder/proposer.

Information to be Submitted - 26.53(b)

NVTA treats bidder/proposers' compliance with good faith efforts' requirements as a matter of responsibility.

Each solicitation for which a contract goal has been established will require the bidders/offers' to submit the following information:



1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participating;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractors commitment; and
6. If the contract goal is not met, evidence of good faith efforts.

Administrative Reconsideration - 26.53(d)

Within ten (10) days of being informed by NVTA that it is not responsible because it has not documented sufficient good faith efforts, a bidder/offer may request administrative reconsideration. Bidder/proposer's should make this request in writing to the following reconsideration official: Kate Miller, Executive Director, 625 Burnell Street, Napa, CA 94559-3420, telephone (707) 259-8631 or email kmiller@nvta.ca.gov. The reconsideration official will not have played any role in the original determination that the bidder/proposer did not document sufficient good faith efforts.

As part of this reconsideration, the bidder/proposer will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/proposer will have the opportunity to meet in person with our reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do. We will send the bidder/proposer a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to the Department of Transportation.

Good Faith Efforts when a DBE is Terminated/Replaced on a Contract with Contract Goals - 26.53(f)

NVTA requires that prime contractors not terminate a DBE subcontractor listed on a bid/contract with a DBE contract goal without NVTA's prior written consent. Prior written consent will only be provided where there is "good cause" for termination of the DBE firm, as established by Section 26.53(f)(3) of the DBE regulation.

Before transmitting to NVTA its request to terminate, the prime contractor must give notice in writing to the DBE of its intent to do so. A copy of this notice must be provided to NVTA prior to consideration of the request to terminate. The DBE will then have five (5) days to respond and advise NVTA of why it objects to the proposed termination. *Note:* The five (5) day period may be reduced if the matter is one of public necessity i.e., safety.

In those instances where "good cause" exists to terminate a DBE's contract, NVTA will require the prime contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. We will require the prime contractor to notify the DBELO immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, we will require the prime contractor to obtain our prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good faith efforts.



If the contractor fails or refuses to comply in the time specified, our contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

Sample Bid Specification:

“The requirements of 49 CFR Part 26, Regulations of the U.S. Department of Transportation, apply to this contract. It is the policy of NVTa to practice nondiscrimination based on race, color, sex, or national origin in the award or performance of this contract. All firms qualifying under this solicitation are encouraged to submit bids/proposals. Award of this contract will be conditioned upon satisfying the requirements of this bid specification. These requirements apply to all bidders/proposer’s, including those who qualify as a DBE. A DBE contract goal of _____ percent has been established for this contract. The bidder/proposer shall make good faith efforts, as defined in Appendix A, 49 CFR Part 26 (Attachment 1), to meet the contract goal for DBE participation in the performance of this contract.

The bidder/proposer will be required to submit the following information: (1) the names and addresses of DBE firms that will participate in the contract; (2) a description of the work that each DBE firm will perform; (3) the dollar amount of the participation of each DBE firm participating; (4) Written documentation of the bidder/proposer’s commitment to use a DBE subcontractor whose participation it submits to meet the contract goal; (5) Written confirmation from the DBE that it is participating in the contract as provided in the commitment made under (4); and (5) if the contract goal is not met, evidence of good faith efforts.”

The sample specification is intended for use in both non-construction and construction contracts for which a contract goal has been established. Thus, it can be included in invitations for bid for construction, in requests for proposals for architectural/engineering and other professional services, and in other covered solicitation documents. A bid specification is required only when a contract goal is established.

Section 26.55 Counting DBE Participation

We will count DBE participation toward overall and contract goals as provided in 49 CFR Part 26.55.

Section 26.81 Unified Certification Programs

NVTa is the member of a California Unified Certification Program (CUCP) administered by California Department of Transportation and members of the CUCP. The CUCP will meet all of the requirements of this section. NVTa will use and count for DBE credit only those DBE firms certified by the CUCP.

The CUCP provides "one-stop shopping" certification services to small, minority and women businesses seeking to participate as a Disadvantaged Business Enterprise (DBE) on contracts funded by the United States Department of Transportation. The CUCP also provides one-stop shopping certification services for businesses seeking to participate as an Airport Concessionaire Disadvantaged Business Enterprise (ACDBE) on airport concessions and leases.



The CUCP is charged with the responsibility of certifying firms and compiling and maintaining a single statewide database of certified DBEs, pursuant to 49 CFR Part 26. The database is intended to expand the use of DBE firms by maintaining complete and current information on those businesses and the products and services they can provide to all U.S. DOT grantees in California. For more information on the CUCP, see website at Caltrans Officer of Business Economic Opportunity at <https://dot.ca.gov/programs/business-and-economic-opportunity/dbe> .

Section 26.83 (a-c) Procedures for Certification Decisions

Re-certifications: NVTA is not a certifying agency. For information about the certification process or to apply for certification, firms should visit the California Unified Certification Program (CUCP) website: <https://dot.ca.gov/programs/business-and-economic-opportunity/dbe-certification-information> .

“No Change” Affidavits and Notices of Change (Section 26.83(j)): NVTA is not a certifying agency. For information about the certification process or to apply for certification, firms should visit the California Unified Certification Program (CUCP) website: <https://dot.ca.gov/programs/business-and-economic-opportunity/dbe-certification-information> .

Section 26.85 Denials of Initial Requests for Certification

NVTA is not a certifying agency. For information about the certification process or to apply for certification, firms should visit the California Unified Certification Program (CUCP) website: <https://dot.ca.gov/programs/business-and-economic-opportunity/dbe-certification-information> .

Section 26.87 Removal of a DBE's Eligibility

NVTA is not a certifying agency. For information about the certification process or to apply for certification, firms should visit the California Unified Certification Program website: <https://dot.ca.gov/programs/business-and-economic-opportunity/dbe-certification-information> .

Section 26.89 Certification Appeals

NVTA is not a certifying agency. For information about the certification process or to apply for certification, firms should visit the California Unified Certification Program (CUCP) website: <https://dot.ca.gov/programs/business-and-economic-opportunity/dbe-certification-information>

Any firm or complainant may appeal the CUCP's decision in a certification matter to DOT. Such appeals may be sent to:

U.S. Department of Transportation
Departmental Office of Civil Rights
Disadvantaged Business Enterprise Division (S-33)
1200 New Jersey Avenue, S.E.
Washington, DC 20590

We will promptly implement any DOT certification appeal decisions affecting the eligibility of DBEs for our DOT assisted contracting (e.g., certify a firm if DOT has determined that our denial of its application was erroneous).



SUBPART F – COMPLIANCE AND ENFORCEMENT

Section 26.109 Information, Confidentiality, Cooperation

NVTA will safeguard from disclose to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local law

Notwithstanding any contrary provisions of state or local law, we will not release personal financial information submitted in response to the personal net worth requirement to a third party (other than DOT) without the written consent of the submitter.

Monitoring Payments to DBEs

NVTA will require prime contractors to maintain records and documents of payments to DBEs for three (3) years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the NVTA or DOT. This reporting requirement also extends to any certified DBE subcontractor.

NVTA will perform interim audits of contract payments to DBEs. The audit will review payments to DBE subcontractors to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts states in the schedule of DBE participation.

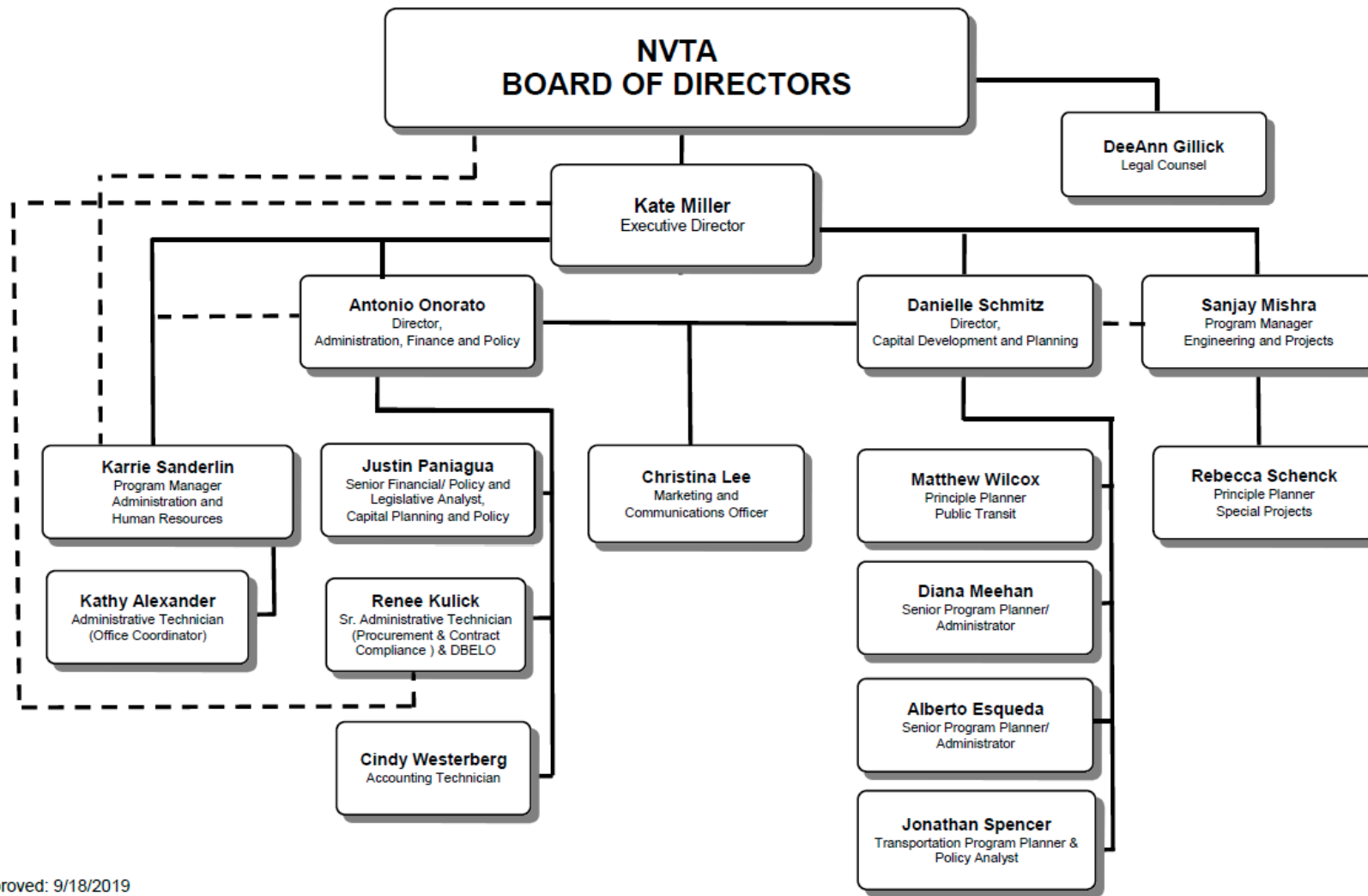
ATTACHMENTS

- Attachment 1: Organizational Chart
- Attachment 2: DBE Directory
- Attachment 3: Monitoring and Enforcement Mechanisms/Legal Remedies
- Attachment 4: Goal Setting Methodology
- Attachment 5: Good Faith Efforts Forms
- Attachment 6: DBE Regulation - 49 CFR Part 26
- Attachment 7: Minority Owned Banks
- Attachment 8: General Information Form (Bidders Information)
- Attachment 9: FTA – DBE Reporting Procedure
- Attachment 10: FTA DBE Semi-Annual Report Deadline Calendar for FFY 2020-2022



ATTACHMENT 1

NVTA Organizational Chart



Approved: 9/18/2019



DBE Directory

Caltrans Unified Certification Program

<https://dot.ca.gov/programs/business-and-economic-opportunity/dbe>

US Census Bureau Data

<https://factfinder.census.gov/faces/nav/jsf/pages/index.xhtml>

as of July 1, 2019 under <https://data.census.gov>



ATTACHMENT 3

Monitoring and Enforcement Mechanisms/Legal Remedies

Regulator Provisions

NVTA has available several remedies to enforce the DBE requirements contained in its contracts, including, but not limited to, the following:

- Breach of contract action, pursuant to the terms of the contract.
- 49 CFR Part 26 – Participation by Disadvantage Business Enterprises in Department of Transportation Financial Assistance Programs, particularly Subpart F, Compliance and Enforcement.
- 49 CFR Part 29 – Government-wide Debarment and Suspension (Non-Procurement) and Government-wide requirements for Drug Free Workplace.
- 49 CFR Part 31 – Program Fraud Civil Remedies.

Enforcement Mechanisms

In addition, the federal government has available several **enforcement mechanisms** that it may apply to firms participating in the DBE problem, including, but not limited to, the following:

- Suspension or debarment proceedings pursuant to 49 CFR Part 26.
- Enforcement action pursuant to 49 CFR Part 31.
- Prosecution pursuant to 18 USC 1001.

Legal and Contract Remedies

If at any time NVTA has reason to believe that the successful proposer is in violation of its obligations under the DBE contract provisions, or has otherwise failed to comply with the provisions thereof, NVTA may, in addition to pursuing any other available legal remedy, commence proceedings to impose sanctions on the successful proposer. Such sanctions may include, but are not limited to, one of more of the following:

1. The suspension of any payment of part thereof until such time that compliance is demonstrated.
2. The termination or cancellation of the contract in whole or in part unless compliance is demonstrated within a reasonable time.
3. The denial of that contractor to participate in any further DOT contracts awarded by NVTA.



ATTACHMENT 4

Section 26.45 - Overall Goal Calculation

Amount of Goal

1. NVTAs overall goal for FY 2020-2022 is the following: 2.8 % of the Federal Financial assistance we will expend in DOT-assisted contracts exclusive of FTA funds to be used for the purchase of transit vehicles.

or

1. NVTAs overall goal for the following time period 2020-2022 is 2.8% of the Federal financial assistance we will expend in DOT assisted contracts *exclusive of FTA funds to be used for the purchase of transit vehicles*.

2. \$7,556,000 is the dollar amount of DOT assisted contracts that NVTAs expects to award during FY 2020-2022. This means that NVTAs has set a goal of expending \$192,680 with DBEs during this fiscal year/project.

Methodology used to Calculate Overall Goal

Step 1 - 26.45(c)

Determine the base figure for the relative availability of DBEs.

The base figure for the relative availability of DBEs was calculated as follows:

Base figure =
$$\frac{\text{Ready, willing and able DBEs}}{\text{All firms ready, willing and able}}$$

The data source or demonstrable evidence used to derive the numerator was:

When we divided the numerator by the denominator we arrived at the base figure for our overall goal and that number was ____.

Step 2 - 26.45(d)

After calculating a base figure of the relative availability of DBEs, evidence was examined to determine what adjustment was needed to the base figure in order to arrive at the overall goal.

In order to reflect as accurately as possible the DBE participation we would expect in the absence of discrimination we have adjusted our base figure by ____%.

The data used to determine the adjustment to the base figure was:

The reason we chose to adjust our figure using this data was

because: From this data, we have adjusted our base figure to:



CONTRACT DESCRIPTION	EST PROGRAM COST	FTA \$
	\$	\$
TRANSIT OPERATIONS SERVICES	29,300,000.00	6,325,000.00
	\$	\$
MOBILITY MANAGEMENT	360,000.00	216,000.00
	\$	\$
LoNo EMISSIONS PROGRAM	1,100,000.00	400,000.00
	\$	\$
ADA BUS STOP IMPROVEMENT	135,000.00	108,000.00
	\$	\$
IMOLA PARK+RIDE	3,000,000.00	507,000.00
	\$	\$
TOTAL	33,895,000.00	7,556,000.00

PROJECT DESCRIPTION	NAICS	DBE	ALL BUSINESS CENSUS	RELATIVE AVAILABLE
TRANSIT SERVICE OPERATIONS	485113	0	74	0
	485991	5	74	0.0676
MOBILITY MANAGEMENT	561110	93	1116	0.0833
LoNo EMISSIONS PROGRAM	541611	625	3486	0.1793
ADA BUS STOP IMPROVEMENTS	238990	14	671	0.0209
	562119	18	35	0.5143
IMOLA PARK+RIDE	237311	170	371	0.4582
	238210	111	2094	0.0530
	562119	18	35	0.5143
COMBINED TOTAL		1054	7956	0.1325
				OVERALL
				AVAIL
				DBEs

PROJECT DESCRIPTION	NAICS	WEIGHT X	AVAIL	WEIGHTED BASE
TRANSIT SERVICE OPERATIONS	485113	0.66556	0	0
	485991	0.17152	0.06757	0.0116
MOBILITY MANAGEMENT	561110	0.02859	0.08333	0.0024
LoNo EMISSIONS PROGRAM	541611	0.05294	0.17929	0.0095
ADA BUS STOP IMPROVEMENTS	238990	0.01143	0.02086	0.0002
	562119	0.00286	0.51429	0.0015
IMOLA PARK+RIDE	237311	0.04697	0.45822	0.0215
	238210	0.01342	0.05301	0.0007
	562119	0.00671	0.51429	0.0035
			TOTAL	0.0509
			%	5.09
			ROUNDED, WEIGHTED BASE FIGURE	5.1%

Base Figure 5.1% plus Median of Past Participation of 0.4% divided by 2% = **2.8%**



Public Participation

NVTA published its goal information in these publications: nvta.ca.gov (website)

NVTA received comments from these individuals or organizations: Awaiting comments

Summaries of these comments are as follows: Awaiting comments

Our responses to these comments are: Awaiting comments

Section 26.51- Breakout of Estimated Race-Neutral & Race Conscious Participation

NVTA will meet the maximum feasible portion of its overall goal by using race-neutral means of facilitating DBE participation. The NVTA uses the following race-neutral means to increase DBE participation:

- Arranging solicitations, time of bids, quantities, etc., to facilitate DBEs
- Assistance to DBEs for bonding, financing, and surety costs.
- Technical assistance and other services to DBEs
- Providing DBEs information on contract opportunities
- DBE supportive services program
- Services to help DBEs expand and achieve self sufficiency
- Assist DBE start-up firms in fields with low participation.
- Ensure adequate knowledge regarding the State of California UCP

NVTA estimates that, in meeting our overall goal of 2.8% NVTA will obtain 2.8% from race-neutral participation and 0% through race-conscious measures.

In order to ensure that our DBE program will be narrowly tailored to overcome the effects of discrimination, if NVTA uses contract goals the Agency will adjust the estimated breakout of race-neutral and race-conscious participation as needed to reflect actual DBE participation (see 26.51(f)) and the Agency will track and report race-neutral and race conscious participation separately. For reporting purposes, race-neutral DBE participation includes, but is not necessarily limited to, the following:

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

NVTA will maintain data separately on DBE achievements in those contracts with and without contract goals, respectively.



ATTACHMENT 5

Forms 1 and 2 for Demonstration of Good Faith Efforts

(Forms 1 and 2 should be provided as part of the solicitation documents)

FORM 1: DISADVANTAGED BUSINESS ENTERPRISE (DBE) UTILIZATION

The undersigned bidder/proposer has satisfied the requirements of the bid specification in the following manner (please check the appropriate space):

_____ The bidder/proposer is committed to a minimum of _____ % DBE utilization on this contract.

_____ The bidder/proposer (if unable to meet the DBE goal of ____%) is committed to a minimum of ____% DBE utilization on this contract a submits documentation demonstrating good faith efforts.

Name of Bidder/Proposer's Firm: _____

State Registration No. _____

By _____
(Signature)

(Name and Title)



FORM 2: LETTER OF INTENT

Name of Bidder/Proposer's Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Name of DBE Firm: _____

Address: _____

City: _____ State: _____ Zip: _____

Telephone: _____

Description of work to be performed by DBE firm:

The bidder/proposer is committed to utilizing the above-named DBE firm for the work described above. The estimated dollar value of this work is \$ _____

Affirmation

The above named DBE firm affirms that it will perform the portion of the contract for the estimated dollar value as stated above.

By _____

(Signature)

(Title)

If the bidder/proposer does not receive award of the prime contract, any and all representations in this Letter of Intent and Affirmation shall be null and void.

(Submit this page for each DBE subcontractor.)



ATTACHMENT 6

Regulations - 49 CFR Part 26

To view or download the Federal Register for 49 CFR Part 26 go to:

<https://www.transit.dot.gov/regulations-and-guidance/civil-rights-ada/dbe-regulations>

or Electronic Code of Federal Regulations (e-CFR) at

<https://www.ecfr.gov/cgi-bin/text-idx?region=DIV1;type=boolean;c=ecfr;cc=ecfr;sid=14e071f96d5d61cb9d2410ed56c59d3d;q1=dbe;rgn1=Section%20Heading;op2=and;rgn2=Section;op3=and;rgn3=Section;view=text;idno=49;node=49%3A1.0.1.1.20;rgn=div5>



ATTACHMENT 7

Minority Owned Banks

We have identified the following such institutions from the Federal Reserve Board website at <https://www.fdic.gov/regulations/resources/minority/mdi.html> or <https://www.federalreserve.gov/publications/files/preserving-minority-depository-institutions-2019.pdf> Check websites often for updates.

California Banks (List as of December 31, 2018):

AMERICAN CONTINENTAL BANK
AMERICAN PLUS BANK N A
ASIAN PACIFIC NATIONAL BANK
BANK OF HOPE
BANK OF THE ORIENT
BANK OF WHITTIER NA
BROADWAY FEDERAL BANK FSB
CALIFORNIA BUSINESS BANK
CALIFORNIA INTERNATIONAL BANK, N.A.
CALIFORNIA PACIFIC BANK
CATHAY BANK
COMMERCIAL BANK OF CA
COMMONWEALTH BUSINESS BANK
COMMUNITY COMMERCE BANK
CTBC BANK CORP USA
EAST WEST BANK
EASTERN INTERNATIONAL BANK
EVERTRUST BANK
FIRST CHOICE BANK
FIRST COMMERCIAL BANK USA
FIRST GENERAL BANK
GATEWAY BANK FSB
HANMI BANK
MEGA BANK
METROPOLITAN BANK
MISSION NATIONAL BANK
NEW OMNI BANK NATIONAL ASSN
OPEN BANK
PACIFIC ALLIANCE BANK
PACIFIC CITY BANK
PREFERRED BANK
ROYAL BUSINESS BANK
UNITED PACIFIC BANK
UNITI BANK
UNIVERSAL BANK
US METRO BANK



ATTACHMENT 8

GENERAL INFORMATION FORM

(To be completed by the Proposer and placed at the front of the RFP/RFQ/IFB)

Legal Name of Proposer: _____ Date: _____

DBA: _____

Street Address: _____ Telephone Number: _____

City, State, Zip: _____ Fax Number: _____

DBE ☐ Certification #: _____ Non-DBE ☐

Certified by: _____

Type of Organization: ☐ Corporation ☐ LPA ☐ Sole Proprietorship

☐ Partnership

☐ Other: _____

Business License No. (documented): _____

Taxpayer ID No. (Federal): _____

Name and Title of Manager: _____

Name, Title, E-mail Address, and Phone Number of Person correspondence should be directed to:

Signature, Name and Title of Officer



ATTACHMENT 9

FTA - DBE Reporting Procedure

In accordance with the Department of Transportation (DoT) regulation 49 CFR Part 26 there are two (2) reporting periods per federal fiscal year (FFY) for the submittal of the DBE Semi-Annual Report. This report must be submitted by the agency to FTA if federal funds are received in support of projects within that FFY. *It is pertinent that the reporting deadlines established by FTA are met in order to prevent delays or even the disapproval of current or future FTA funded projects.*

Below is a synopsis of the internal office procedures on how the semi-annual report is generated and submitted electronically to FTA via TrAMS entry.

- FTA filing deadlines:
 - June 1 (reporting period October – March 31)
 - December 1 (reporting period April 1 – September 30)
- TrAMS report entry should be made no later than:
 - May 15 (for reporting period June 1)
 - November 15 (for reporting period December 1)
- A detailed DBE Semi-Annual Report Calendar for FFY 2020-2022 is available at Attachment 10.
- The DBELO will receive the monthly FTA funded payment amount(s) made to qualified DBE(s) from the NVTA Finance Officer or his/her designee by the end of each month.
- The reported amount(s) are captured in a spread sheet that can be easily monitored and transferred into FTA's electronic reporting form (TrAMS). The spread sheet is available on NVTA's shared drive at H:\NCTPA\2000_Civil Rights (ADA, Title VI, DBE, LEP)\02_DBE\DBE_Reports_FTA
- Enter the funding amounts, contract and applicable race/gender information for current and closed contracts utilizing DBEs during that time period into the electronic filing report under TrAMS. For proper entry assistance go to www.transit.dot.gov/funding/grantee-resources/teamtrams/trams-guidance-training .
- Relay any message(s) you wish to inform FTA of in the "Grantee's Remark" block.
- Review entries made in the report, make any necessary corrections, press "save" and then "submit".
- A confirmation notification will appear on the screen when the report was successfully submitted.

ATTACHMENT 10



**FTA DBE SEMI-ANNUAL REPORT DEADLINE CALENDAR FOR FFY
2020-2022**

REPORTING PERIOD	SUBMIT TO FTA BY	DEADLINE DUE AT FTA
October 1, 2019 - March 31, 2020 April 1, 2020 - September 30, 2020	May 15, 2020 November 1, 2020	June 1, 2020 December 1, 2020
October 1, 2020 – March 31, 2021 April 1, 2021 - September 30, 2021	May 15, 2021 November 1, 2021	June 1, 2021 December 1, 2021
October 1, 2021 - March 2022 April 1, 2022 - September 30, 2022	May 15, 2022 November 1, 2022	June 1, 2022 December 1, 2022

